

## 10 §1023-D. UNDERGROUND OIL STORAGE REPLACEMENT FUND

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**1. Creation.** The Underground Oil Storage Replacement Fund is created and established under the jurisdiction and control of the authority.

[ 1989, c. 543, §3 (AMD) .]

**2. Sources of money.** There must be paid into the fund the following:

A. All money appropriated for inclusion in the fund or appropriated to the authority for use in providing financial assistance to owners of underground oil storage facilities or tanks, subject to any restrictions applicable to the appropriation; [1989, c. 543, §3 (AMD) .]

B. Subject to any pledge, contract or other obligation, all interest, dividends or other pecuniary gains from investment of money of the fund; [1987, c. 521, §4 (NEW) .]

C. Subject to any pledge, contract or other obligations, any money the authority receives in repayment of advances from the fund; and [1995, c. 399, §1 (AMD); 1995, c. 399, §21 (AFF) .]

D. Any other money available to the authority and directed by the authority to be paid into the fund. [1987, c. 521, §4 (NEW) .]

Without limiting the generality of any other power or authority given to or conferred upon the authority in anticipation of the appropriation or transfer of any money for inclusion in the fund, the authority may borrow funds for application to the fund. All funds borrowed pursuant to this authorization, including interest on the borrowed funds, must be repaid from such fees or by other appropriation.

[ 1999, c. 505, Pt. A, §6 (AMD) .]

**3. Application of fund.** Money in the fund may be applied to carry out any power of the authority under this section or under or in connection with section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b), including, but not limited to, to pledge or transfer and deposit money in the fund as security for and to apply money in the fund in payment of principal, interest and other amounts due on insured loans. Except as otherwise prohibited under this subsection, money in the fund may be used for direct loans or grants for all or part of underground oil storage facility projects, underground oil storage tank projects, aboveground oil storage tank or facility construction or replacement projects or gasoline service station vapor control or petroleum liquids transfer vapor recovery projects when the authority determines that:

A. One or more of the following circumstances exists:

(1) The underground oil storage facility or tank is leaking or has been identified by the Department of Environmental Protection as posing an environmental threat, or removal is required by applicable law;

(2) The applicant is required to install equipment related to the improvement of air quality pursuant to requirements for gasoline service station vapor control and petroleum liquids transfer vapor recovery;

(3) The applicant is constructing, replacing or renovating a tank or facility used for the aboveground storage of oil and the work is supervised by a state-registered professional engineer with training and experience in aboveground oil storage facility installation; or

(4) The applicant is renovating an underground oil storage tank or facility, the work is supervised by an underground oil storage tank installer certified by the Board of Underground Storage Tank Installers under Title 32, chapter 104-A and the estimated cost of the work exceeds \$1,000;

[2003, c. 537, §20 (AMD); 2003, c. 537, §53 (AFF) .]

B. The applicant, if the applicant is not a unit of local government, demonstrates financial need for the assistance; and [1993, c. 601, §2 (RPR).]

C. If the assistance includes a loan, there is a reasonable likelihood that the applicant will be able to repay the loan. [1993, c. 601, §2 (RPR).]

D. [1989, c. 543, §3 (RP).]

E. [1993, c. 601, §2 (RP).]

Applicants demonstrating the requirement to install equipment related to the improvement of air quality pursuant to section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b) and who own fewer than 15 service stations, and who are not able to repay a loan, are eligible to receive no more than \$35,000 per service station in grants for the payment of expenses relating to the installation of this equipment.

The authority, pursuant to Title 5, chapter 375, subchapter 2, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans and grants. In the case of loans, the authority may charge an interest rate that may be as low as 0% and may be greater, depending on the financial ability of the applicant to pay as determined by the authority, up to a maximum of the prime rate of interest charged by major New York banks. The maximum the authority may loan or grant to any one borrower, including related entities as determined by the authority, is \$600,000. Loans or grants for the purposes listed in paragraph A, subparagraph (3) may not exceed \$1,000,000 in a 12-month period. Grants may not be made for the purpose listed in paragraph A, subparagraph (4). Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested as permitted by law.

[ 2003, c. 537, §20 (AMD); 2003, c. 537, §53 (AFF) .]

**4. Accounts within fund.** The authority may divide the fund into such separate accounts as it determines are necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds or grants for underground oil storage facility removal and direct loan funds or grants for tank removal.

[ 1989, c. 543, §3 (AMD) .]

**5. Revolving fund.** The fund is a nonlapsing, revolving fund. All money in the fund must be continuously applied by the authority to carry out this section and section 1026-A, subsection 1, paragraph A, subparagraph (1), division (b).

[ 2003, c. 537, §21 (AMD); 2003, c. 537, §53 (AFF) .]

#### SECTION HISTORY

1987, c. 521, §4 (NEW). 1989, c. 543, §3 (AMD). 1991, c. 439, §5 (AMD). 1993, c. 601, §2 (AMD). 1995, c. 399, §1 (AMD). 1995, c. 399, §21 (AFF). 1997, c. 613, §1 (AMD). 1999, c. 505, §A6 (AMD). 2001, c. 231, §3 (AMD). 2003, c. 537, §§20,21 (AMD). 2003, c. 537, §53 (AFF).

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