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By: **Delegate Hixson (By Request)**

Introduced and read first time: January 25, 2000

Assigned to: Environmental Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Clean Air Fund - Reimbursement for Legal Expenses**

3 FOR the purpose of requiring the Maryland Department of the Environment to  
4 reimburse a qualified applicant from the Maryland Clean Air Fund for legal  
5 expenses reasonably incurred under certain circumstances in closing a source of  
6 air pollution that operated in an illegal manner to produce the air pollution;  
7 limiting the amount of the reimbursement and the period of time in which the  
8 qualified applicant may be reimbursed; allowing the Department to reimburse  
9 the qualified applicant in installments; defining a certain term; providing for  
10 the termination of this Act; requiring the Department to notify the Department  
11 of Legislative Services of final reimbursement under this Act; and generally  
12 relating to the reimbursement of certain legal expenses from the Maryland  
13 Clean Air Fund.

14 BY repealing and reenacting, with amendments,  
15 Article - Environment  
16 Section 2-107  
17 Annotated Code of Maryland  
18 (1996 Replacement Volume and 1999 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Environment**

22 2-107.

23 (a) There is a Maryland Clean Air Fund.

24 (b) All application fees, permit fees, renewal fees, and funds collected by the  
25 Department under this title or Title 6, Subtitle 4 of this article, including any civil or  
26 administrative penalty or any fine imposed by a court under these provisions, shall be  
27 paid into the Maryland Clean Air Fund.

1 (c) (1) Subject to the appropriation process in the annual operating budget,  
2 the Department shall use the Maryland Clean Air Fund for:

3 (i) Activities conducted under this title that are related to  
4 identifying, monitoring, and regulating air pollution in this State, including program  
5 development of these activities as provided in the State budget; [and]

6 (ii) Providing grants to local governments to supplement funding  
7 for programs conducted by local governments that are consistent with this title and  
8 the State program; AND

9 (III) PROVIDING A REIMBURSEMENT UNDER SUBSECTION (D) OF  
10 THIS SECTION.

11 (2) Subject to Title 10, Subtitle 1 of the State Government Article  
12 (Administrative Procedure Act -- Regulations), the Department shall adopt rules and  
13 regulations for the management and use of the money in the Fund.

14 (3) At the end of the fiscal year, the Department shall prepare an annual  
15 report on the Maryland Clean Air Fund that includes an accounting of all financial  
16 receipts and expenditures to and from the Fund and shall:

17 (i) Provide a copy of the report to the General Assembly, as  
18 provided under § 2-1246 of the State Government Article; and

19 (ii) Upon request, make the report available to permit holders  
20 under this title.

21 (4) When the Fund equals or exceeds a maximum limit of \$750,000,  
22 additional moneys received for the Fund by the Department shall be deposited to the  
23 General Fund.

24 (D) (1) IN THIS SUBSECTION, "QUALIFIED APPLICANT" MEANS AN  
25 INDIVIDUAL WHO:

26 (I) EXPENDED PERSONAL MONEYS ON LEGAL EXPENSES, ON OR  
27 AFTER JANUARY 1, 1984, AND ON OR BEFORE OCTOBER 1, 2000, TO FORCE THE  
28 CLOSING OF A SOURCE WHICH:

29 1. OPERATED IN AN ILLEGAL MANNER; AND

30 2. AS A RESULT OF THAT ILLEGAL OPERATION, PRODUCED  
31 AIR POLLUTION; AND

32 (II) BECAUSE OF THE INDIVIDUAL'S PERSONAL OR FAMILY  
33 HISTORY, SUFFERED EMOTIONAL OR PSYCHOLOGICAL TRAUMA AS A RESULT OF THE  
34 PRODUCTION OF THE AIR POLLUTION BY THE SOURCE.

35 (2) (I) ON APPLICATION BY THE QUALIFIED APPLICANT, THE  
36 DEPARTMENT SHALL REIMBURSE A QUALIFIED APPLICANT FROM THE FUND ON OR

1 BEFORE SEPTEMBER 30, 2001, FOR LEGAL EXPENSES REASONABLY INCURRED BY THE  
2 APPLICANT IN FORCING THE CLOSING OF THE SOURCE.

3 (II) THE DEPARTMENT MAY NOT REIMBURSE A QUALIFIED  
4 APPLICANT FROM THE FUND UNDER THIS SUBSECTION AN AMOUNT THAT IS MORE  
5 THAN \$150,000.

6 (3) (I) THE DEPARTMENT MAY NOT REIMBURSE A QUALIFIED  
7 APPLICANT AFTER SEPTEMBER 30, 2001.

8 (II) NOTWITHSTANDING SUBPARAGRAPH (I) OF THIS PARAGRAPH,  
9 IF THE DEPARTMENT SIGNS A WRITTEN AGREEMENT TO REIMBURSE A QUALIFIED  
10 APPLICANT BEFORE SEPTEMBER 30, 2001, THE DEPARTMENT MAY REIMBURSE THE  
11 QUALIFIED APPLICANT IN ANNUAL INSTALLMENTS UNTIL THE REIMBURSEMENT IS  
12 COMPLETE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2000. It shall remain effective until the later of final reimbursement of any  
15 qualified applicant that the Department agrees to reimburse from the Fund or a  
16 period of one year. At the end of September 30, 2001, or the final reimbursement of a  
17 qualified applicant, whichever occurs later, and with no further action required by the  
18 General Assembly, this Act shall be abrogated and of no further force and effect. The  
19 Department shall notify the Department of Legislative Services on the date that it  
20 makes final reimbursement under this Act.