STATE OF NEW YORK

6152

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. K. BROWN -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to requiring the owner of certain sites to establish and maintain an environmental maintenance trust fund

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 9 of the environmental conservation law is amended by adding a new title 23 to read as follows:

TITLE 23

ENVIRONMENTAL MAINTENANCE TRUST FUND

Section 9-2301. Definitions.

9-2303. Environmental maintenance trust fund.

§ 9-2301. Definitions.

For the purposes of this title, the following terms shall have the following meanings:

1. "covered site" means a site upon which any action is or was taken which may have a significant impact on the environment.

2. "environmental maintenance" means the remediation and restoration of the environment.

§ 9-2303. Environmental maintenance trust fund.

1. (a) Each owner of a covered site shall establish and maintain an environmental maintenance trust fund which shall be held in a trust fund. Such trust fund shall not be used for any purpose other than those described in this section and shall only be dissolved in accordance with this section.

(b) Upon the completed use by the owner of a covered site, the department shall conduct an inspection of such site to determine if any environmental maintenance is required due to the actions of the owners. If after such inspection the department determines that the covered site does not require any environmental maintenance, the owner shall be

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD10116-01-3

permitted to dissolve the environmental maintenance trust fund for such covered site. If after such inspection the department determines environmental maintenance is required at such covered site, the environmental maintenance trust fund shall be used to finance such environmental maintenance. If the environmental maintenance trust fund is not sufficient to complete the environmental maintenance, the owner shall complete the environmental maintenance using other funds.

(c) If the owner of a covered site does not perform environmental maintenance on such covered site after the department determines environmental maintenance is required, the department shall use funds from the associated environmental maintenance trust fund to ensure the environmental maintenance is completed. Upon completion of such environmental maintenance, if the site is no longer considered a covered site, the environmental maintenance trust fund shall be dissolved and any remaining funds shall be distributed to the owner.

2. The principal of an environmental maintenance trust fund shall be invested in securities permitted for the investment of trust funds by sections 11-2.2 and 11-2.3 of the estates, powers and trusts law. The income in the form of interest and ordinary dividends therefrom shall be used solely for the environmental maintenance of the covered site.

3. The department shall promulgate rules and regulations regarding environmental maintenance trust funds including the size of such trust funds, the mechanism for ensuring funds in such trust funds are not able to be used until permitted under this section, and when environmental maintenance is required.

4. Nothing in this section shall prevent the department, the state, or any political subdivision thereof from recovering the costs of environmental maintenance under any other provision of law.

§ 2. This act shall take effect one year after it shall have become a law.