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HOUSE OF REPRESENTATIVES

142nd GENERAL ASSEMBLY

HOUSE BILL NO. 192

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE ESTABLISHING A COMMUNITY  
ENVIRONMENTAL FUND.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1       Section 1. Amend § 6005, Title 7 of the Delaware Code, by inserting the phrase “75 percent of” between the words  
2       “or” and “civil”.

3       Section 2. Amend Chapter 60, Title 7 of the Delaware Code, by inserting therein a new § 6041 as follows:

4       “§ 6041. Civil and Administrative Penalties; Community Environmental Project Fund.

5       (a) There is hereby established a Community Environmental Project Fund, referred to herein as the “Fund”.

6       The Fund shall be held as a separate account within the Department and may be invested by the State  
7       Treasurer in securities consistent with investment policies established by the Cash Management Policy  
8       Board.

9       (b) The Fund shall consist of 25 percent of all civil or administrative penalties collected by the Department  
10       pursuant to §§ 4015, 6005, 6617, 7011, 7214, 7906, 9109, or 9111 of this Title. Twenty-five percent of such  
11       civil and administrative penalties are hereby appropriated to the Fund, subject to the requirements of this  
12       section.

13       (c) Moneys shall be expended from the Fund only for Community Environmental Projects, referred to herein as  
14       “Projects”. As used herein the term “Community Environmental Project” means a project that is undertaken  
15       for the purpose of effecting pollution elimination, minimization, or abatement, or improving conditions  
16       within the environment so as to eliminate or minimize risks to human health, or enhancement of natural

resources for the purposes of improving indigenous habitats or the recreational opportunities of the citizens of Delaware. The Secretary may, by regulation, provide for further definition of such Projects.

(d) The Fund shall be expended on Projects within the same community where the infraction(s) or violation(s) occurred that resulted in the civil or administrative penalty. The determination of whether a proposed Project is within the community where an infraction or violation occurred shall be determined in the reasonable discretion of the Secretary, after consultation with the Community Involvement Advisory Board established under § 8016A of Title 29. No provision of this section shall be construed to require the Department to expend funds from the Fund in the absence of a suitable Project within the community where the violation or infraction occurred. The Secretary may also determine that the requirements of this subsection cannot practicably be met with respect to expenditures from the Fund associated with a penalty from a facility or location because such amount is insufficient or too large to be an appropriate expenditure. The expenditure of funds required under this subsection may be waived by the Secretary, with the concurrence of the Budget Director and Comptroller General.

(e) In the event that the requirements of this § conflict with applicable federal or State of Delaware requirements pertaining to the establishment and collection of penalties or other assessments by the Department, such requirements shall take precedence over the conflicting requirements of this §.

(f) The Department shall submit quarterly reports on the progress of the expenditures and/or projects conducted with the Community Environmental Project Fund to the Governor and members of the General Assembly. All of the expenditures made by or on behalf of the Fund, together with an explanation the process utilized for selecting and prioritizing Projects, shall be reported annually to the Joint Finance Committee in the Department's budget presentation."

Section 3. This Act is effective upon its enactment into law. This Act shall not apply to funds collected prior to its effective date.

#### SYNOPSIS

The Community Environmental Project Fund is in addition to the Penalty Fund Account within the Department of Natural Resources and Environmental Control. The new Fund will consist of 25% of the civil and administrative penalties collected by DNREC, pursuant to its general enforcement authority, as well as specific statutory authority relating to sediment and erosion control, wetlands protection, coastal zone protection, chronic violators, and hazardous substance clean-up. This Act requires that all moneys within the new Fund to be applied to Community Environmental Projects, in the same community as where the violation occurred.