

Chapter Comm 106

WISCONSIN DEVELOPMENT FUND

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Note: Chapter DOD 6 was repealed and recreated by emergency rule effective 5-18-83. Chapter DOD 6 was renumbered chapter Comm 106 under s. 13.93 (2m) (b) 1., Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, June, 1997, No. 498. Sections Comm 106.01 to 106.34 were repealed, Register, October, 1997, No. 502, eff. 11-1-97. See ch. Comm 108 for replacement rules.

Subchapter IV — Customized Labor Training Fund

Comm 106.40 Purpose. The purpose of this subchapter is to establish the procedure for the administration of labor training fund grants or loans by the department, as provided by s. 560.63, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.405 Policy and plan. (1) APPLICABILITY. The provisions of this section apply to this subchapter, and subch. V, ch. 560, Stats.

(2) POLICY STATEMENT. As the state economic development agency, the department shall administer and coordinate economic and business development programs to foster investment, job creation, and diversification of the state's economy. The department shall provide financial and technical assistance to businesses for economic development, labor training, and technology related projects. The department shall place special emphasis on the financing needs of small businesses, women and minority owned businesses, and firms located in targeted areas of the state. Through the use of the Wisconsin development fund, the department shall seek to maximize the use of limited funds by leveraging private investment and utilizing other sources of available funds.

(3) BIENNIAL PLAN. The department shall develop and submit funding goals to the board for awarding grants and loans that allocate available funds for economic development, labor training, and technology related projects for each fiscal biennium. The board shall consider the recommendations of the department based upon grant and loan criteria as provided in s. 560.605, Stats., and the goals established by other state administered financial assistance programs. Following board approval and before the commencement of each odd-numbered fiscal year the department shall submit the goals to the governor and chief clerk of each house.

History: Cr. Register, November, 1993, No. 455, eff. 12-1-93; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.41 Definitions. The definitions in this section apply only in this subchapter.

(1) "Application" means a proposal from an eligible applicant as specified in s. Comm 106.42 containing all elements required in s. Comm 106.46.

(2) "Board" means the development finance board as defined in s. 15.155 (1), Stats.

(2m) "Brownfields" has the meaning given in s. 560.60 (1v), Stats.

(3) "Business" has the meaning given in s. 560.60 (2), Stats.

(4) "Department" means the department of commerce.

(5) "Financial audit" means an audit performed to the requirements and satisfaction of the department.

(6) "Financing is unavailable from any other source on reasonably equivalent terms" means the maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedule offered on the financing are materially different from the financing available from the Wisconsin development fund.

(7) "Fund" means the labor training fund.

(8) "Job" has the meaning given in s. 560.60 (10), Stats.

(10) "Program report" means a report to the department describing progress made toward achieving goals specified under s. Comm 106.46.

(10m) "Targeted area" means an area identified by the board pursuant to s. 560.605 (2m), Stats.

(11) "Training" means to teach or to demonstrate skills necessary for successfully performing a task associated with a product, process or service of a business.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; cr. (2m) and (10m), r. and recr. (3) and (5), am. (6) and (8), r. (9), Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.42 Eligible applicants. Any business that has made a firm commitment to locate in Wisconsin, a business that is expanding within Wisconsin, or a business that is upgrading a product, process or service that requires training for its employees in technology and industrial skills or manufacturing processes that are new to the business and in which advances have been made, or with job training in other employment-related skills or techniques in which advances have been made may apply for a grant or loan under this subchapter.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.43 Eligible providers. Applicant businesses may provide the training funded under the program utilizing their own resources, another business, a consultant or contractor, a local vocational, technical and adult education school, or a public or private secondary or post-secondary school.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88.

Comm 106.44 Grant and loan amounts and restrictions. (1) The amount of funding for a project and a determination as to whether the project will be funded as a grant or loan will be at the discretion of the board. Insofar as it is practical, the board will require repayment of the funds plus a reasonable return on the investment. The repayment provisions shall be determined on a case-by-case basis by the board.

(2) As provided by s. 560.63 (3), Stats., funds shall not be available for any of the following costs incurred by a Wisconsin technical college system or by a public secondary or post-secondary institution:

- (a) The cost, incurred before the beginning of the labor training program, of recruiting program instructors.
- (b) The cost of developing a labor training program curriculum.
- (c) The cost of recruiting, screening and counseling program trainees.
- (d) The cost of a financial audit.
- (e) The cost of renting instructional equipment and training facilities owned or leased by the district or institution, unless the equipment or facilities are rented only for the labor training program.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. (2) (intro.), Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.45 Match requirements. The applicant shall provide a match for the grant or loan received. The match shall be in cash and shall not be less than 25% of the eligible project costs. The board may require a higher match to the extent that the financial documentation in the application indicates the ability on the part of the business to finance a greater share of the project. Up to 20% of the contribution of a participating business may consist of funds which the business receives under the federal job training partnership act, 29 USC 1501 to 1781.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1992, No. 433, eff. 2-1-92; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.46 Application manual. The department shall prepare an application manual which it may update as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

Note: Written instructions for applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266-1018.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.47 Evaluation criteria. (1) The board shall make the determinations required under s. 560.605 (1), Stats., before funding a project.

(2) The board shall consider the criteria under s. 560.605 (2), (2m), (4), (5), (5m) and (6), Stats., before funding a project.

(a) The extent to which the project will contribute to the economic growth of this state and the well-being of the residents of this state.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; cr. (2) (1), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.48 Contracts. Successful applicants shall be required to enter into a contract with the department for the purpose of implementing the proposed grant or loan. The contract shall be signed by the secretary of the department and the person or persons authorized by the applicant to enter into a contract. The

contract shall contain default provisions relating to nonperformance of the provisions of the contract. Amendments to these contracts may be adopted by the consent of both of the parties.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.49 Reporting and auditing. Successful applicants shall provide the department periodic reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of the contract. The financial audit shall be performed to the requirements and satisfaction of the department. The cost of the audit may be covered by the grant or loan except as provided under s. Comm 106.44 (2) (d). The reimbursement documentation, audit and the program reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.50 Administration. (1) The department shall solicit applications review applications, recommendations to the board on the disposition of applications, enter into contracts with successful applicants, authorize payments and otherwise implement contractual obligations entailed in grants or loans made under the terms of this subchapter, monitor the provision of the training, receive and review the reimbursement documentation and program reports submitted under s. Comm 106.49 and collect any repayments of grants and loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program.

(2) The department may charge a successful recipient of an award of over \$200,000 an origination fee of 1.5% of the funds received under this subchapter.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; renum. to be (1) and am., cr. (2), Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.51 Board operations. The board shall consider the recommendation of the department relating to the criteria under s. Comm 106.47. The board shall approve an application before the department can enter into a contract under this subchapter. The department shall maintain records of the board proceedings and provide staff support as may be necessary to the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1992, No. 433, eff. 2-1-92; am. Register, November, 1998, No. 515, eff. 12-1-98.

Subchapter V — Technology Development

Comm 106.60 Purpose. The purpose of this subchapter is to establish the procedure for the administration of technology development grants and loans and technology development commercialization loans by the department, as provided by s. 560.62, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.61 Definitions. In this subchapter:

- (1)** "Application" means a proposal from an eligible applicant as specified in s. Comm 106.62 (1) or (2) containing all applicable elements required in s. Comm 106.65.
- (2)** "Board" means the development finance board.
- (2m)** "Brownfields" has the meaning given in s. 560.60 (1v), Stats.
- (3)** "Business" has the meaning provided in s. 560.60 (2), Stats.
- (4)** "Consortium" has the meaning provided in s. 560.60 (3), Stats.
- (5)** "Department" means the department of commerce.

(6) "Financial audit" means an audit performed to the requirements and satisfaction of the department.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means the maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available from the Wisconsin development fund.

(8) "Fund" means the technology development fund.

(9) "Higher educational institution" has the meaning provided in s. 560.60 (8), Stats.

(10) "Job" has the meaning provided in s. 560.60 (10), Stats.

(11) "Program report" means a report to the department describing progress made toward achieving goals specified under s. Comm 106.65.

(12) "Royalty" means a share of future profits from, or an interest in, a product or process.

(13) "Targeted area" means an area identified by the board pursuant to s. 560.605 (2m), Stats.

(14) "Technology development commercialization loan" means a loan made under this subchapter as described in s. Comm 106.62 (2).

(15) "Technology development fund" means the total of all grant and loan funds awarded under s. 560.62, Stats., and this subchapter.

(16) "Technology development grant or loan" means a grant or loan made under this subchapter as described in s. Comm 106.62 (1).

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94; r. and recr. (2) and (11), cr. (2m), am. (5), (6), (7), (14) and (15), r. (12), Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.62 Eligible applicants. (1) Any business or consortium with a proposed technical research project that is intended to result in the development of a new, or the improvement of, an existing industrial product or process may apply for a technology development grant or loan under this subchapter.

(2) Any business which has successfully developed a new, or improved an existing, industrial product or process may apply for a loan under this subchapter for the initial commercialization of the new product or process.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94; am. (1), r. and recr. (2), Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.63 Grant and loan amounts and restrictions. (1) The amount of funding for a project and the determination as to whether a technology development fund project shall be funded as a grant or loan shall be at the discretion of the board. Insofar as it is practical, the board shall require repayment of technology development fund loans and technology development commercialization loans plus a reasonable return on the investment. The repayment provision shall be determined on a case by case basis by the board.

(2) The proceeds of a technology development commercialization loan may be used only to pay those costs identified in s. 560.62 (1) (b), Stats., and only in accordance with the terms of the contract required under s. Comm 106.67. The terms and conditions of each technology development commercialization loan, including repayment terms, shall be determined on a case by case basis by the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. (1), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94; r. (1), renum. (2) and (3) to be (1) and (2) and am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.64 Match requirements. (1) The business or consortium shall provide a match for the technology development grant or loan received. The match shall not be less than 25%

of the eligible project costs. The board may establish a higher match requirement to the extent that the financial documentation in the application indicates the ability on the part of the consortium to finance a greater share of the project.

(2) The business shall provide a match for the technology development commercialization loan received. The match shall not be less than 25% of the eligible project costs. The board may require a higher match to the extent that the financial documentation in the application indicates the ability on the part of the business to finance a greater share of the project.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. (2), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.65 Application content. The department shall prepare an application manual which it may update as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

Note: Written instructions for applications may be obtained at no charge from the Department of Commerce, Bureau of business finance, P. O. Box 7970, Madison, Wisconsin 53707.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. February, 1994, No. 461, eff. 6-1-94; r. and recr. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.66 Evaluation criteria. (1) The board shall make the determinations required under s. 560.605 (1), Stats., before funding a technology development grant or loan or technology development commercialization loan project.

(2) The board shall consider the criteria under s. 560.605 (2), (2m), (4), (5), (5m), and (6), Stats., before funding a technology development grant or loan or technology development commercialization loan project.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; cr. (2) (n), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94; r. and recr. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.67 Contracts. Each successful applicant shall enter into a contract with the department for the purpose of implementing the proposed grant or loan under this subchapter. Each contract shall be signed by the secretary of the department and the person or persons authorized by the applicant to enter into a contract. The contract shall contain default provisions relating to nonperformance of the provisions of the contract.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.68 Reporting and auditing. A successful applicant for a grant or loan under this subchapter shall provide the department periodic reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of each contract. The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the grant or loan. The reimbursement documentation, financial audit and the program reports shall be submitted to the department by a date specified in the contract. The reimbursement documentation, financial audit and the program reports become the property of the department and are open to public inspection.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, eff. 6-1-94; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.69 Administration. The department shall solicit applications; review applications; make recommendations to the board on the disposition of applications; enter into contracts with successful applicants; authorize payments and otherwise implement contractual obligations entailed in grants or loans made under this subchapter; receive and review the reimbursement documentation and program reports submitted under s. Comm 106.68; and collect any repayments of loans from successful applicants. The department shall report semiannually to the

chairs of the economic development standing committees of the legislature on the status of the technology development fund program.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, May, 1994, No. 461 eff. 6-1-94; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.70 Board operations. The board shall consider the recommendation of the department relating to the criteria under s. Comm 106.66. The board shall approve an application before the department enters into a contract under this subchapter. The department shall maintain records of the board proceedings and provide staff support as may be necessary to the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; am. Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, May, 1994, No. 461, eff. 6-1-94; am. Register, November, 1998, No. 515, eff. 12-1-98.

Subchapter VI — Major Economic Development Fund

Comm 106.80 Purpose. The purpose of this subchapter is to establish a procedure for the administration of major economic development grants or loans by the department, as provided by s. 560.66, Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.81 Definitions. The definitions in this section apply only in this subchapter.

(1) "Application" means a proposal from an eligible applicant as specified in s. Comm 106.82 containing all elements required in s. Comm 106.84.

(2) "Board" means the development finance board as defined in s. 15.155 (1), Stats.

(3) "Business" has the meaning given in s. 560.60 (2), Stats.

(5) "Department" means the department of commerce.

(6) "Financial audit" means an audit performed to the requirements and satisfaction of the department.

(7) "Financing is unavailable from any other source on reasonably equivalent terms" means the maturity, rate or the amount of available financing or requirements related to the financing, such as collateral, equity, closing costs, service charges and repayment schedules offered on such financing are materially different from the financing available from the Wisconsin development fund.

(8) "Governing body" has the meaning given in s. 560.60 (6), Stats.

(10) "Job" has the meaning given in s. 560.60 (10), Stats.

(11) "Local infrastructure" means the real property, buildings and improvements owned, constructed, managed, or operated by a political subdivision.

(12) "Major economic development project" has the meaning given in s. 560.60 (11), Stats.

(13) "Political subdivision" has the meaning given in s. 560.60 (13), Stats.

(13m) "Program report" means a report to the department describing the results of the project supported by a major economic development grant or loan.

(14) "Project" has the meaning given in s. 560.60 (14), Stats.

(15) "Targeted area" means an area identified by the board pursuant to s. 560.605 (2m), Stats.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. (4), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. (3), (6), (8), (10), (12), (13) and (14), r. (4), and (9), cr. (13m) and (15), Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.82 Eligible applicants. Any business or governing body may apply for a grant or loan under this subchapter.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, February, 1991, No. 422, eff. 3-1-91; r. and recr. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.825 Grant and loan amounts and restrictions. The amount of funding for a project and a determination as to whether the project is funded as a grant or loan will be at the discretion of the board. Insofar as it is practical, the board shall require repayment of the funds plus a reasonable return on the investment. The repayment provision shall be determined on a case-by-case basis by the board.

History: Cr. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.83 Match requirements. Applicants shall provide a match for the grant or loan received. The match shall be in cash and shall be a minimum of 25% of the eligible project costs. The board may establish a higher match requirement to the extent that the financial documentation in the application indicates the ability on the part of the business to finance a greater share of the project.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1992, No. 433, eff. 2-1-92; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.84 Application manual. The department shall prepare an application manual which it may update as needed. The manual shall contain the application procedures, requirements and instructions for funding under this chapter.

Note: Written instructions for applications may be obtained at no charge from the Department of Commerce, Bureau of Business Finance, P. O. Box 7970, Madison, Wisconsin 53707, telephone 608/266-1018.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.85 Evaluation criteria. (1) The board shall make the determinations required under s. 560.605 (1), Stats., before funding a project.

(2) The board shall consider the criteria under s. 560.605 (2), (2m), (4), (5), (5m), (6) and 560.66, Stats., before funding a project.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; cr. (2) (o), Register, January, 1992, No. 433, eff. 2-1-92; r. and recr. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.86 Contracts. Successful applicants shall to enter into a contract with the department for the purpose of implementing the proposed grant or loan. The contract shall be signed by the secretary of the department and the person or persons authorized by the applicant to enter into a contract. The contract shall contain default provisions relating to nonperformance of the provisions of the contract. Amendments to the contract may be adopted by the consent of both parties.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.87 Reporting and auditing. Successful applicants will be required to provide the department periodic reimbursement documentation and program reports. A financial audit and final program report shall be submitted at the end of the contract. The financial audit shall be performed to the satisfaction of the department. The cost of the audit may be covered by the grant or loan. The reimbursement documentation, audit and the program reports shall be submitted to the department by a date specified in the contract.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; r. and recr. Register, November, 1998, No. 515, eff. 12-1-98; am. Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.88 Administration. (1) The department shall solicit applications, review applications, make recommen-

dations to the board on the disposition of applications, enter into contracts with successful applicants, authorize payments and otherwise implement contractual obligations entailed in grants or loans made under the terms of this subchapter, monitor project activities, receive and review the reimbursement documentation and program reports submitted under s. Comm 106.87, and collect any repayments of grants and loans from successful applicants. The department shall report semiannually to the chairs of the economic development standing committees of the legislature on the status of the program.

(2) The department may charge a successful recipient of an award of over \$200,000 an origination fee of 1.5% of the funds

received under this subchapter.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; renum. to be (1) and am., cr. (2), Register, November, 1998, No. 515, eff. 12-1-98.

Comm 106.89 Board operations. The board shall consider the recommendations of the department relating to the criteria under s. Comm 106.85. The board shall approve an application before the department can enter into a contract under s. Comm 106.86. The department shall maintain records of the board's proceedings and provide staff support as may be necessary to the board.

History: Cr. Register, March, 1988, No. 387, eff. 4-1-88; am. Register, January, 1992, No. 433, eff. 2-1-92; am. Register, November, 1998, No. 515, eff. 12-1-98.