



General Assembly

January Session, 2001

**Raised Bill No. 6915**

LCO No. 4360

Referred to Committee on Environment

Introduced by:  
(ENV)

**AN ACT CONCERNING THE RESIDENTIAL UNDERGROUND STORAGE TANK AMNESTY PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (a) As used in this section, "registered contractor"  
2 means a person registered with the Commissioner of Environmental  
3 Protection pursuant to section 22a-449k of the general statutes,  
4 "qualifying income" means the owner's adjusted gross income, as  
5 defined by 26 USC 62, for the calendar year immediately preceding the  
6 year for which reimbursement is sought under this section and "costs  
7 eligible for payment" means costs that are reasonable for payment, as  
8 determined by the guidelines established pursuant to section 22a-449d  
9 of the general statutes, as amended by this act.

10 (b) If, in the course of removing or replacing a residential  
11 underground heating oil storage tank system, a registered contractor  
12 finds that there has been a spill, as defined in section 22a-452c of the  
13 general statutes, attributable to such a system, in either (1) an area  
14 classified as "GA" by the Water Quality Standards adopted pursuant to  
15 section 22a-426 of the general statutes, if such contractor estimates that  
16 the remediation of such spill is likely to cost more than ten thousand

17 dollars, or (2) in an area classified as "GB" or "GC" under such  
18 standards, then such contractor shall immediately notify the  
19 Department of Environmental Protection regarding such spill. The  
20 department may assess the spill and confirm that the remediation  
21 proposed by the contractor is appropriate and necessary, or may  
22 authorize an environmental professional licensed under section 22a-  
23 133v of the general statutes to assess the spill and make such  
24 confirmation. Any such remediation shall be subject to approval by the  
25 department. The department may authorize an environmental  
26 professional licensed under section 22a-133v of the general statutes to  
27 make a recommendation regarding such approval. The costs of an  
28 inspection pursuant to this section shall be eligible for payment under  
29 the residential underground heating oil storage tank system clean-up  
30 subaccount established under subsection (b) of section 22a-449c of the  
31 general statutes, as amended by this act.

32 (c) An owner shall not be responsible to the registered contractor or  
33 any subcontractor of the registered contractor for any eligible costs in  
34 accordance with the following: (1) If an owner's qualifying income is  
35 less than or equal to one hundred thousand dollars, then the owner  
36 shall not be responsible for eligible costs in excess of one thousand  
37 dollars, (2) if an owner's qualifying income is less than or equal to two  
38 hundred fifty thousand dollars, then the owner shall not be  
39 responsible for eligible costs in excess of five thousand dollars, (3) if an  
40 owner's qualifying income is less than or equal to five hundred  
41 thousand dollars, then the owner shall not be responsible for eligible  
42 costs in excess of fifteen thousand dollars, and (4) if an owner's  
43 qualifying income is less than or equal to one million dollars, then the  
44 owner shall not be responsible for eligible costs in excess of twenty-  
45 five thousand dollars. The registered contractor or any subcontractor  
46 of the registered contractor shall not bill the owner for any costs  
47 eligible for payment from said subaccount in excess of the amounts for  
48 which the owner is responsible, as determined by this subsection,  
49 unless the contractor or subcontractor enters into a separate written  
50 contract with the owner, on a form prescribed by the commissioner,

51 authorizing the contractor or subcontractor to bill the owner for such  
52 costs, and such separate contract gives the owner the right to cancel  
53 such contract up to three days after entering into it.

54 (d) (1) On or after the effective date of this act, a registered  
55 contractor shall submit to the Underground Storage Tank Petroleum  
56 Clean-Up Account Review Board established under section 22a-449d  
57 of the general statutes, as amended by this act, for a disbursement  
58 from the residential underground heating oil storage tank system  
59 clean-up subaccount, documentation of all eligible costs for work  
60 performed pursuant to a contract with the owner for the remediation  
61 of a residential underground heating oil storage tank system for the  
62 purpose of providing payment for the costs of such remediation,  
63 provided such owner has complied with the provisions of subdivisions  
64 (1) and (2) of subsection (a) of section 22a-449j of the general statutes.  
65 Such reimbursements shall be made in accordance with subsection (c)  
66 of this section. Such owner shall provide to the review board a  
67 statement confirming that the registered contractor has been engaged  
68 by such owner to remove or to replace such residential underground  
69 heating oil storage tank system and perform the remediation and shall  
70 execute an instrument which provides for payment to said account of  
71 any amounts realized by the owner, after any costs of litigation or  
72 attorney's fees have been paid, from a judgment or settlement  
73 regarding any claim for the costs of such remediation made against an  
74 insurance policy or any person.

75 (2) In any service contract entered into between a registered  
76 contractor and an owner for the remediation of a residential  
77 underground heating oil storage tank system, the registered contractor  
78 shall clearly identify all costs, including markup costs, that are not or  
79 may not be eligible for payment from said subaccount.

80 (3) The registered contractor shall submit documentation,  
81 satisfactory to the review board, of any costs associated with such  
82 remediation. The review board may deny remediation costs of the

83 registered contractor that the review board determines are  
84 unreasonable based on the guidelines established pursuant to  
85 subsection (c) of section 22a-449d of the general statutes, as amended  
86 by this act, on and after the date the review board establishes such  
87 guidelines, and may deny remediation costs if the site was not  
88 inspected and approved by the department in accordance with the  
89 provisions of subsection (b) of this section. The review board shall  
90 deny any such costs in excess of fifty thousand dollars unless the  
91 commissioner determines such additional costs are warranted to  
92 protect public health and the environment. If a registered contractor  
93 fails to submit to the review board documentation of costs associated  
94 with such remediation that may be eligible for payment from the  
95 residential underground heating oil storage tank system clean-up  
96 subaccount or if the registered contractor submits documentation of  
97 such costs but the board denies payment of such costs, the registered  
98 contractor shall be liable for such costs and shall have no cause of  
99 action against the owner of the underground petroleum storage tank  
100 except as provided in subsection (c) of this section.

101 (4) A copy of the review board's decision shall be sent to the  
102 Commissioner of Environmental Protection and to the registered  
103 contractor by certified mail, return receipt requested. The  
104 commissioner or any contractor aggrieved by a decision of the review  
105 board may, not more than twenty days after the date the decision was  
106 issued, request a hearing before the review board in accordance with  
107 chapter 54 of the general statutes. After such hearing, the board shall  
108 consider the information submitted to it and affirm or modify its  
109 decision on the reimbursement. A copy of the affirmed or modified  
110 decision shall be sent to the commissioner and any contractor by  
111 certified mail, return receipt requested.

112 Sec. 2. Subsection (b) of section 22a-449c of the general statutes is  
113 repealed and the following is substituted in lieu thereof:

114 (b) There is established a subaccount within the underground

115 storage tank petroleum clean-up account to be known as the  
116 "residential underground heating oil storage tank system clean-up  
117 subaccount" to be used solely for the provision of reimbursements  
118 under section 22a-449l, as amended by this act, and section 1 of this  
119 act, for the remediation of contamination attributed to residential  
120 underground heating oil storage tank systems. The subaccount shall  
121 hold the proceeds of the bond funds allocated pursuant to section 51 of  
122 public act 00-167\*.

123 Sec. 3. Section 22a-449d of the general statutes is repealed and the  
124 following is substituted in lieu thereof:

125 (a) There is established an Underground Storage Tank Petroleum  
126 Clean-Up Account Review Board to review applications for  
127 reimbursements and payments from the account established under  
128 section 22a-449c, as amended by this act. Upon application for  
129 reimbursement or payment pursuant to section 22a-449f, the board  
130 shall determine if a release occurred and damage resulted from such  
131 release and the amount of any such damage. The board shall have the  
132 authority to order payment from the residential underground heating  
133 oil storage tank system clean-up subaccount to registered contractors  
134 for reasonable costs associated with the remediation of a residential  
135 underground heating oil storage tank system based on the guidelines  
136 established pursuant to subsection (c) of this section; [22a-449d;] hold  
137 hearings, administer oaths, subpoena witnesses and documents  
138 through its chairperson when authorized by the board; designate an  
139 agent to perform such duties of the board as it deems necessary except  
140 the duty to render a final decision to order reimbursement or payment  
141 from the account; and provide by notice, printed on any form, that any  
142 false statement made thereof or pursuant thereto is punishable  
143 pursuant to section 53a-157b.

144 (b) The board shall consist of the Commissioners of Environmental  
145 Protection and Revenue Services, the Secretary of the Office of Policy  
146 and Management and the State Fire Marshal, or their designees; one

147 member representing the Connecticut Petroleum Council, appointed  
148 by the speaker of the House of Representatives; one member  
149 representing the Service Station Dealers Association, appointed by the  
150 majority leader of the Senate; one member of the public, appointed by  
151 the majority leader of the House of Representatives; one member  
152 representing the Independent Connecticut Petroleum Association,  
153 appointed by the president pro tempore of the Senate; one member  
154 representing the Connecticut Gasoline Retailers Association, appointed  
155 by the minority leader of the House of Representatives; one member  
156 representing a municipality with a population greater than one  
157 hundred thousand, appointed by the Governor; one member  
158 representing a municipality with a population of less than one  
159 hundred thousand, appointed by the minority leader of the Senate; one  
160 member representing a small manufacturing company which employs  
161 fewer than seventy-five persons, appointed by the speaker of the  
162 House of Representatives; one member experienced in the delivery,  
163 installation, and removal of residential underground petroleum  
164 storage tanks and remediation of contamination from such tanks,  
165 appointed by the president pro tempore of the Senate; and one  
166 member who is an environmental professional licensed under section  
167 22a-133v and is experienced in investigating and remediating  
168 contamination attributable to underground petroleum storage tanks,  
169 appointed by the Governor. The board shall annually elect one of its  
170 members to serve as chairperson.

171 (c) Not later than July 1, 2000, the board shall establish guidelines  
172 for determining what costs are reasonable for payment under section  
173 22a-449l, as amended by this act, and section 1 of this act, and shall  
174 establish requirements for financial assurance, training and  
175 performance standards for registered contractors, as defined in said  
176 section 22a-449l, as amended by this act, and section 1 of this act.

177 (d) To the extent that funds are available in the residential  
178 underground heating oil storage tank system clean-up subaccount, the  
179 board may order payment from such subaccount to registered

180 contractors for reasonable costs associated with the remediation of a  
181 residential underground heating oil storage tank system of an owner  
182 in accordance with section 22a-449l, as amended by this act, and  
183 section 1 of this act. No such payments shall be authorized unless the  
184 board deems the costs reasonably based on the guidelines established  
185 pursuant to subsection (c) of this section.

186 Sec. 4. Section 22a-449l of the general statutes is repealed and the  
187 following is substituted in lieu thereof:

188 (a) As used in this section, "registered contractor" means a person  
189 registered with the Commissioner of Environmental Protection  
190 pursuant to section 22a-449k.

191 (b) If, in the course of removing or replacing a residential  
192 underground heating oil storage tank system, a registered contractor  
193 finds that there has been a spill, as defined in section 22a-452c,  
194 attributable to such system and such contractor estimates that the  
195 remediation of such spill is likely to cost more than five thousand  
196 dollars, such contractor shall immediately notify the Department of  
197 Environmental Protection regarding such spill. If, after the contractor's  
198 initial estimate, the contractor subsequently determines that such cost  
199 will exceed five thousand dollars, the contractor shall upon that  
200 determination notify the Department of Environmental Protection. The  
201 department may assess the spill and confirm that the remediation  
202 proposed by the contractor is appropriate and necessary, or may  
203 authorize an environmental professional licensed under section 22a-  
204 133v to assess the spill and make such confirmation. Any such  
205 remediation shall be subject to approval by the department, except that  
206 the department may authorize an environmental professional licensed  
207 under section 22a-133v to make a recommendation regarding such  
208 approval. If a registered contractor estimates that the remediation of  
209 such spill is likely to cost more than ten thousand dollars, the  
210 commissioner or any agent of the commissioner or an environmental  
211 professional licensed under said section 22a-133v contracted by the

212 department shall inspect the site and confirm that such remediation is  
213 reasonable. The costs of such an inspection shall be eligible for  
214 payment under the residential underground heating oil storage tank  
215 system clean-up subaccount established under subsection (b) of section  
216 22a-449c, as amended by this act.

217 (c) (1) A registered contractor shall submit to the Underground  
218 Storage Tank Petroleum Clean-Up Account Review Board established  
219 under section 22a-449d, as amended by this act, for a disbursement  
220 from the residential underground heating oil storage tank system  
221 clean-up subaccount, all reasonable costs for work performed pursuant  
222 to a contract with the owner for the remediation of a residential  
223 underground heating oil storage tank system for the purpose of  
224 providing payment for the costs of such remediation. An owner of a  
225 residential underground heating oil storage tank system shall not be  
226 responsible to the registered contractor or any subcontractor of the  
227 registered contractor for any costs that are eligible for payment from  
228 the residential underground heating oil storage tank system clean-up  
229 subaccount over five hundred dollars. The registered contractor or any  
230 subcontractor shall not bill the owner for any costs eligible for  
231 payment from said subaccount over five hundred dollars unless the  
232 contractor or subcontractor enters into a separate written contract with  
233 the owner, on a form prescribed by the commissioner, authorizing the  
234 contractor or subcontractor to bill the owner more than five hundred  
235 dollars and such separate contract gives the owner the right to cancel  
236 such contract up to three days after entering into it. Such owner shall  
237 provide to the review board a statement confirming the registered  
238 contractor has been engaged by such owner to remove or to replace  
239 such residential underground heating oil storage tank system and  
240 perform the remediation and shall execute an instrument which  
241 provides for payment to said account of any amounts realized by the  
242 owner, after any costs of litigation or attorney's fees have been paid,  
243 from a judgment or settlement regarding any claim for the costs of  
244 such remediation made against an insurance policy or any party. In  
245 any service contract entered into between a registered contractor and

246 an owner for the remediation of a residential underground heating oil  
247 storage tank system, the registered contractor shall clearly identify all  
248 costs, including markup costs, that are not or may not be eligible for  
249 payment from said subaccount.

250 (2) The registered contractor shall submit documentation,  
251 satisfactory to the review board, of any costs associated with such  
252 remediation. The review board may deny remediation costs of the  
253 registered contractor that the review board determines are  
254 unreasonable based on the guidelines established pursuant to  
255 subsection (c) of section 22a-449d, as amended by this act, on and after  
256 the date the review board establishes such guidelines, and may deny  
257 remediation costs (A) in excess of five thousand dollars if the  
258 Department of Environmental Protection was not notified in  
259 accordance with the provisions of subsection (b) of this section, and (B)  
260 in excess of ten thousand dollars if the site was not inspected in  
261 accordance with the provisions of subsection (b) of this section. The  
262 review board shall deny any such costs in excess of fifty thousand  
263 dollars unless the commissioner determines such additional costs are  
264 warranted to protect public health and the environment. If a registered  
265 contractor fails to submit to the review board documentation of costs  
266 associated with such remediation that may be eligible for payment  
267 from the residential underground heating oil storage tank system  
268 clean-up subaccount or if the registered contractor submits  
269 documentation of such costs but the board denies payment of such  
270 costs, the registered contractor shall be liable for such costs and shall  
271 have no cause of action against the owner of the underground  
272 petroleum storage tank.

273 (3) A copy of the review board's decision shall be sent to the  
274 Commissioner of Environmental Protection and to the registered  
275 contractor by certified mail, return receipt requested. The  
276 commissioner or any contractor aggrieved by a decision of the review  
277 board may, not more than twenty days after the date the decision was  
278 issued, request a hearing before the review board in accordance with

279 chapter 54. After such hearing, the board shall consider the  
280 information submitted to it and affirm or modify its decision on the  
281 reimbursement. A copy of the affirmed or modified decision shall be  
282 sent to the commissioner and any contractor by certified mail, return  
283 receipt requested.

284 (d) Neither the Underground Storage Tank Petroleum Clean-up  
285 Account Review Board nor the Commissioner of Environmental  
286 Protection shall accept applications pursuant to this section on or after  
287 the effective date of this act.

288 Sec. 5. Subsection (a) of section 22a-449m of the general statutes is  
289 repealed and the following is substituted in lieu thereof:

290 (a) Any remediation of contaminated soil or groundwater the cost of  
291 which is to be paid out of the subaccount established under subsection  
292 (b) of section 22a-449c, as amended by this act, shall be performed by  
293 or under the direct onsite supervision of a registered contractor, as  
294 defined in section 22a-449l, as amended by this act, and section 1 of  
295 this act, and shall be performed in accordance with regulations  
296 adopted by the commissioner pursuant to section 22a-133k that  
297 establish direct exposure criteria for soil, pollutant mobility criteria for  
298 soil and groundwater protection criteria for GA and GAA areas. If the  
299 replacement of any such residential underground heating oil storage  
300 tank system performed pursuant to the provisions of this section  
301 involves installation of an underground petroleum storage tank, such  
302 tank shall conform to any standards which apply to new underground  
303 petroleum storage tanks.

304 Sec. 6. This act shall take effect from its passage.

***Statement of Purpose:***

To establish the maximum amount of costs for which an owner is responsible under the residential underground storage tank amnesty program.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*