



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 in section 12-701 of the general statutes, for the calendar year
6 immediately preceding the year for which reimbursement is sought
7 under this section and "costs eligible for payment" means costs that are
8 reasonable for payment, as determined by the guidelines established
9 pursuant to section 22a-449d of the general statutes, as amended by
10 this act.

11 (b) On or after the effective date of this act, if, in the course of
12 removing or replacing a residential underground heating oil storage
13 tank system, a registered contractor finds that there has been a spill, as
14 defined in section 22a-452c of the general statutes, attributable to such
15 a system, in either (1) an area classified as "GA" by the Water Quality
16 Standards adopted pursuant to section 22a-426 of the general statutes,
17 if such contractor estimates that the remediation of such spill is likely
18 to cost more than ten thousand dollars, or (2) in an area classified as
19 "GB" or "GC" under such standards, then such contractor shall
20 immediately notify the Department of Environmental Protection

21 regarding such spill. The commissioner may assess the spill and
22 confirm that the remediation proposed by the contractor is appropriate
23 and necessary, or may authorize an environmental professional
24 licensed under section 22a-133v of the general statutes to assess the
25 spill and make such confirmation. Any such remediation shall be
26 subject to approval by the commissioner. The commissioner may
27 authorize an environmental professional licensed under section 22a-
28 133v of the general statutes to make a recommendation regarding such
29 approval. The costs of an inspection pursuant to this section shall be
30 eligible for payment under the residential underground heating oil
31 storage tank system clean-up subaccount established under subsection
32 (b) of section 22a-449c of the general statutes, as amended by this act.

33 (c) On or after the effective date of this act, to be eligible for
34 payment pursuant to this section, an owner shall submit the following
35 information to the Commissioner of Environmental Protection, in such
36 form as the commissioner may require, prior to entering into a contract
37 with a registered contractor for remediation of a spill attributable to a
38 residential underground heating oil storage tank system: (1) The name
39 and Social Security number of the property owner; (2) a verification
40 that such tank serves the owner's primary residence; (3) a verification
41 of the owner's qualifying income; and (4) the name of the registered
42 contractor who will perform the remediation. The commissioner shall,
43 not later than thirty days following receipt of such information, send a
44 written notice to the owner that specifies whether the owner is eligible
45 for payment under this section, whether funds are available for such
46 owner under this section and the amount of remediation costs for
47 which the owner is responsible prior to receiving reimbursement
48 under this section.

49 (d) On or after the effective date of this act, an owner shall not be
50 responsible to the registered contractor or any subcontractor of the
51 registered contractor for any costs eligible for payment in accordance
52 with the following: (1) If an owner's qualifying income is less than or
53 equal to fifty thousand dollars, the owner shall not be responsible for
54 costs eligible for payment in excess of five hundred dollars; (2) if an

55 owner's qualifying income is less than or equal to one hundred
56 thousand dollars, the owner shall not be responsible for costs eligible
57 for payment in excess of two thousand dollars; (3) if an owner's
58 qualifying income is less than or equal to one hundred fifty thousand
59 dollars, the owner shall not be responsible for costs eligible for
60 payment in excess of four thousand dollars; (4) if an owner's qualifying
61 income is less than or equal to two hundred thousand dollars, the
62 owner shall not be responsible for costs eligible for payment in excess
63 of five thousand dollars; (5) if an owner's qualifying income is less than
64 or equal to two hundred fifty thousand dollars, the owner shall not be
65 responsible for costs eligible for payment in excess of seven thousand
66 five hundred dollars; (6) if an owner's qualifying income is greater
67 than or equal to five hundred thousand dollars, the owner shall not be
68 responsible for costs eligible for payment in excess of twenty thousand
69 dollars. The registered contractor or any subcontractor of the
70 registered contractor shall not bill the owner for any costs eligible for
71 payment from said subaccount in excess of the amounts for which the
72 owner is responsible, as determined by this subsection, unless the
73 contractor or subcontractor enters into a separate written contract with
74 the owner, on a form prescribed by the commissioner, authorizing the
75 contractor or subcontractor to bill the owner for such costs, and such
76 separate contract gives the owner the right to cancel such contract up
77 to three days after entering into it. No registered contractor or any
78 subcontractor of a registered contractor shall accept payment for any
79 costs eligible for payment from said subaccount until it has provided
80 the owner with the information necessary to apply for a disbursement
81 pursuant to subsection (e) of this section.

82 (e) (1) On or after the effective date of this act, an owner shall submit
83 to the Underground Storage Tank Petroleum Clean-Up Account
84 Review Board established under section 22a-449d of the general
85 statutes, as amended by this act, an application that is postmarked no
86 later than January 1, 2002, for a disbursement from the residential
87 underground heating oil storage tank system clean-up subaccount,
88 documentation of all costs eligible for payment for work performed

89 pursuant to a contract with the owner for the remediation of a
90 residential underground heating oil storage tank system for the
91 purpose of providing payment for the costs of such remediation,
92 provided such owner has complied with the provisions of subdivisions
93 (1) and (2) of subsection (a) of section 22a-449j of the general statutes
94 and provided such remediation was completed on or before October 1,
95 2001. Such reimbursements shall be made in accordance with
96 subsection (d) of this section. Such owner shall provide to the review
97 board a statement confirming that the registered contractor has been
98 engaged by such owner to remove or to replace such residential
99 underground heating oil storage tank system and perform the
100 remediation and shall execute an instrument which provides for
101 payment to said account of any amounts realized by the owner, after
102 any costs of litigation or attorney's fees have been paid, from a
103 judgment or settlement regarding any claim for the costs of such
104 remediation made against an insurance policy or any person.

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

110 (3) The owner shall submit documentation, satisfactory to the
111 review board, of any costs associated with such remediation. The
112 review board may deny reimbursement of remediation costs that the
113 review board determines are unreasonable based on the guidelines
114 established pursuant to subsection (c) of section 22a-449d of the
115 general statutes, as amended by this act, on and after the date the
116 review board establishes such guidelines, and may deny remediation
117 costs if the site was not inspected and approved by the commissioner
118 in accordance with the provisions of subsection (b) of this section. The
119 review board shall deny any such costs in accordance with subsection
120 (c) of section 1 of this act and any such costs in excess of fifty thousand
121 dollars unless the commissioner determines such additional costs are
122 warranted to protect public health and the environment. If an owner

123 fails to submit to the review board documentation of costs associated
124 with such remediation that may be eligible for payment from the
125 residential underground heating oil storage tank system clean-up
126 subaccount or if the owner submits documentation of such costs but
127 the board denies payment of such costs, the registered contractor shall
128 be liable for such costs and shall have no cause of action against the
129 owner of the underground petroleum storage tank except as provided
130 in subsection (d) of this section.

131 (4) A copy of the review board's decision shall be sent to the
132 Commissioner of Environmental Protection and to the owner by
133 certified mail, return receipt requested. The commissioner or any
134 contractor aggrieved by a decision of the review board may, not more
135 than twenty days after the date the decision was issued, request a
136 hearing before the review board in accordance with chapter 54 of the
137 general statutes. After such hearing, the board shall consider the
138 information submitted to it and affirm or modify its decision on the
139 reimbursement. A copy of the affirmed or modified decision shall be
140 sent to the commissioner and any contractor by certified mail, return
141 receipt requested.

142 Sec. 2. Section 22a-449c of the general statutes is repealed and the
143 following is substituted in lieu thereof:

144 (a) (1) There is established an account to be known as the
145 "underground storage tank petroleum clean-up account". The
146 underground storage tank petroleum clean-up account shall be an
147 account of the Environmental Quality Fund. Notwithstanding any
148 provision of the general statutes to the contrary, any moneys collected
149 shall be deposited in the Environmental Quality Fund and credited to
150 the underground storage tank petroleum clean-up account. Any
151 balance remaining in said account at the end of any fiscal year shall be
152 carried forward in said account for the fiscal year next succeeding.

153 (2) The account shall be used by the Commissioner of
154 Environmental Protection to provide money for reimbursement or

155 payment to responsible parties or parties supplying goods or services,
156 or both, to responsible parties for costs, expenses and other obligations
157 paid or incurred, as the case may be, as a result of releases, and
158 suspected releases, costs of investigation of releases and suspected
159 releases, and third party claims for bodily injury, property damage and
160 damage to natural resources. Notwithstanding the provisions of this
161 section, the responsible party for a release shall bear all costs of the
162 release that are less than ten thousand dollars or more than one million
163 dollars, except that for any such release which was reported to the
164 department prior to December 31, 1987, and for which more than five
165 hundred thousand dollars has been expended by the responsible party
166 to remediate such release prior to June 19, 1991, the responsible party
167 for the release shall bear all costs of such release which are less than
168 ten thousand dollars or more than three million dollars. There shall be
169 allocated to the department annually, for administrative costs, [one
170 million one hundred fifty thousand] two million dollars.

171 (b) There is established a subaccount within the underground
172 storage tank petroleum clean-up account to be known as the
173 "residential underground heating oil storage tank system clean-up
174 subaccount" to be used solely for the provision of reimbursements
175 under section 22a-449l, as amended by this act, and section 1 of this
176 act, for the remediation of contamination attributed to residential
177 underground heating oil storage tank systems. The subaccount shall
178 hold the proceeds of the bond funds allocated pursuant to section 51 of
179 public act 00-167*.

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

182 (a) There is established an Underground Storage Tank Petroleum
183 Clean-Up Account Review Board to review applications for
184 reimbursements and payments from the account established under
185 section 22a-449c. Upon application for reimbursement or payment
186 pursuant to section 22a-449f, the board shall determine if a release
187 occurred and damage resulted from such release and the amount of

188 any such damage. The board shall have the authority to order payment
189 from the residential underground heating oil storage tank system
190 clean-up subaccount to registered contractors for reasonable costs
191 associated with the remediation of a residential underground heating
192 oil storage tank system based on the guidelines established pursuant to
193 subsection (c) of this section; [22a-449d;] hold hearings, administer
194 oaths, subpoena witnesses and documents through its chairperson
195 when authorized by the board; designate an agent to perform such
196 duties of the board as it deems necessary except the duty to render a
197 final decision to order reimbursement or payment from the account;
198 and provide by notice, printed on any form, that any false statement
199 made thereof or pursuant thereto is punishable pursuant to section
200 53a-157b.

201 (b) The board shall consist of the Commissioners of Environmental
202 Protection and Revenue Services, the Secretary of the Office of Policy
203 and Management and the State Fire Marshal, or their designees; one
204 member representing the Connecticut Petroleum Council, appointed
205 by the speaker of the House of Representatives; one member
206 representing the Service Station Dealers Association, appointed by the
207 majority leader of the Senate; one member of the public, appointed by
208 the majority leader of the House of Representatives; one member
209 representing the Independent Connecticut Petroleum Association,
210 appointed by the president pro tempore of the Senate; one member
211 representing the Connecticut Gasoline Retailers Association, appointed
212 by the minority leader of the House of Representatives; one member
213 representing a municipality with a population greater than one
214 hundred thousand, appointed by the Governor; one member
215 representing a municipality with a population of less than one
216 hundred thousand, appointed by the minority leader of the Senate; one
217 member representing a small manufacturing company which employs
218 fewer than seventy-five persons, appointed by the speaker of the
219 House of Representatives; one member experienced in the delivery,
220 installation, and removal of residential underground petroleum
221 storage tanks and remediation of contamination from such tanks,

222 appointed by the president pro tempore of the Senate; and one
223 member who is an environmental professional licensed under section
224 22a-133v and is experienced in investigating and remediating
225 contamination attributable to underground petroleum storage tanks,
226 appointed by the Governor. The board shall annually elect one of its
227 members to serve as chairperson.

228 (c) Not later than July 1, 2000, the board shall establish guidelines
229 for determining what costs are reasonable for payment under section
230 22a-449l, as amended by this act, and section 1 of this act and shall
231 establish requirements for financial assurance, training and
232 performance standards for registered contractors, as defined in said
233 section 22a-449l, as amended by this act, and section 1 of this act. The
234 board shall not reimburse an applicant for costs associated with the
235 removal of contaminated soil that are in excess of one hundred fifty-
236 seven dollars per ton of contaminated soil.

237 (d) To the extent that funds are available in the residential
238 underground heating oil storage tank system clean-up subaccount, the
239 board may order payment from such subaccount to registered
240 contractors for reasonable costs associated with the remediation of a
241 residential underground heating oil storage tank system of an owner
242 in accordance with section 22a-449l, as amended by this act, and
243 section 1 of this act. No such payment shall be authorized unless the
244 board deems the costs reasonably based on the guidelines established
245 pursuant to subsection (c) of this section.

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

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

251 (b) If, in the course of removing or replacing a residential
252 underground heating oil storage tank system, a registered contractor
253 finds that there has been a spill, as defined in section 22a-452c,

254 attributable to such system and such contractor estimates that the
255 remediation of such spill is likely to cost more than five thousand
256 dollars, such contractor shall immediately notify the Department of
257 Environmental Protection regarding such spill. If, after the contractor's
258 initial estimate, the contractor subsequently determines that such cost
259 will exceed five thousand dollars, the contractor shall upon that
260 determination notify the Department of Environmental Protection. The
261 commissioner may assess the spill and confirm that the remediation
262 proposed by the contractor is appropriate and necessary, or may
263 authorize an environmental professional licensed under section 22a-
264 133v to assess the spill and make such confirmation. Any such
265 remediation shall be subject to approval by the commissioner, except
266 that the commissioner may authorize an environmental professional
267 licensed under section 22a-133v to make a recommendation regarding
268 such approval. If a registered contractor estimates that the remediation
269 of such spill is likely to cost more than ten thousand dollars, the
270 commissioner or any agent of the commissioner or an environmental
271 professional licensed under said section 22a-133v contracted by the
272 commissioner shall inspect the site and confirm that such remediation
273 is reasonable. The costs of such an inspection shall be eligible for
274 payment under the residential underground heating oil storage tank
275 system clean-up subaccount established under subsection (b) of section
276 22a-449c, as amended by this act.

277 (c) (1) A registered contractor shall submit to the Underground
278 Storage Tank Petroleum Clean-Up Account Review Board established
279 under section 22a-449d, as amended by this act, for a disbursement
280 from the residential underground heating oil storage tank system
281 clean-up subaccount, all reasonable costs for work performed pursuant
282 to a contract with the owner for the remediation of a residential
283 underground heating oil storage tank system for the purpose of
284 providing payment for the costs of such remediation. An owner of a
285 residential underground heating oil storage tank system shall not be
286 responsible to the registered contractor or any subcontractor of the
287 registered contractor for any costs that are eligible for payment from

288 the residential underground heating oil storage tank system clean-up
289 subaccount over five hundred dollars. The registered contractor or any
290 subcontractor shall not bill the owner for any costs eligible for
291 payment from said subaccount over five hundred dollars unless the
292 contractor or subcontractor enters into a separate written contract with
293 the owner, on a form prescribed by the commissioner, authorizing the
294 contractor or subcontractor to bill the owner more than five hundred
295 dollars and such separate contract gives the owner the right to cancel
296 such contract up to three days after entering into it. Such owner shall
297 provide to the review board a statement confirming the registered
298 contractor has been engaged by such owner to remove or to replace
299 such residential underground heating oil storage tank system and
300 perform the remediation and shall execute an instrument which
301 provides for payment to said account of any amounts realized by the
302 owner, after any costs of litigation or attorney's fees have been paid,
303 from a judgment or settlement regarding any claim for the costs of
304 such remediation made against an insurance policy or any party. In
305 any service contract entered into between a registered contractor and
306 an owner for the remediation of a residential underground heating oil
307 storage tank system, the registered contractor shall clearly identify all
308 costs, including markup costs, that are not or may not be eligible for
309 payment from said subaccount.

310 (2) The registered contractor shall submit documentation,
311 satisfactory to the review board, of any costs associated with such
312 remediation. The review board may deny remediation costs of the
313 registered contractor that the review board determines are
314 unreasonable based on the guidelines established pursuant to
315 subsection (c) of section 22a-449d, as amended by this act, on and after
316 the date the review board establishes such guidelines, and may deny
317 remediation costs (A) in excess of five thousand dollars if the
318 Department of Environmental Protection was not notified in
319 accordance with the provisions of subsection (b) of this section, and (B)
320 in excess of ten thousand dollars if the site was not inspected in
321 accordance with the provisions of subsection (b) of this section. The

322 review board shall deny any such costs in excess of fifty thousand
323 dollars unless the commissioner determines such additional costs are
324 warranted to protect public health and the environment. If a registered
325 contractor fails to submit to the review board documentation of costs
326 associated with such remediation that may be eligible for payment
327 from the residential underground heating oil storage tank system
328 clean-up subaccount or if the registered contractor submits
329 documentation of such costs but the board denies payment of such
330 costs, the registered contractor shall be liable for such costs and shall
331 have no cause of action against the owner of the underground
332 petroleum storage tank.

333 (3) A copy of the review board's decision shall be sent to the
334 Commissioner of Environmental Protection and to the registered
335 contractor by certified mail, return receipt requested. The
336 commissioner or any contractor aggrieved by a decision of the review
337 board may, not more than twenty days after the date the decision was
338 issued, request a hearing before the review board in accordance with
339 chapter 54. After such hearing, the board shall consider the
340 information submitted to it and affirm or modify its decision on the
341 reimbursement. A copy of the affirmed or modified decision shall be
342 sent to the commissioner and any contractor by certified mail, return
343 receipt requested.

344 (d) Neither the Underground Storage Tank Petroleum Clean-Up
345 Account Review Board nor the Commissioner of Environmental
346 Protection shall accept applications pursuant to this section on or after
347 the effective date of this act.

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

350 (a) Any remediation of contaminated soil or groundwater the cost of
351 which is to be paid out of the subaccount established under subsection
352 (b) of section 22a-449c, as amended by this act, shall be performed by
353 or under the direct onsite supervision of a registered contractor, as

354 defined in section 22a-449l, as amended by this act, and section 1 of
355 this act and shall be performed in accordance with regulations adopted
356 by the commissioner pursuant to section 22a-133k that establish direct
357 exposure criteria for soil, pollutant mobility criteria for soil and
358 groundwater protection criteria for GA and GAA areas. If the
359 replacement of any such residential underground heating oil storage
360 tank system performed pursuant to the provisions of this section
361 involves installation of an underground petroleum storage tank, such
362 tank shall conform to any standards which apply to new underground
363 petroleum storage tanks.

364 Sec. 6. Section 22a-449l of the general statutes is repealed.

365 Sec. 7. This act shall take effect from its passage, except that section
366 6 shall take effect one year from its passage.

ENV *Joint Favorable Subst.*