



General Assembly

January Session, 2007

Committee Bill No. 6559

LCO No. 5836

* _____HB06559ENVAPP031907_____*

Referred to Committee on Environment

Introduced by:
(ENV)

**AN ACT CONCERNING THE UNDERGROUND STORAGE TANK FUND
AND ATTORNEYS' FEES.**

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

1 Section 1. Subsection (a) of section 22a-449c of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (a) (1) There is established an account to be known as the
5 "underground storage tank petroleum clean-up account". The
6 underground storage tank petroleum clean-up account shall be an
7 account of the Environmental Quality Fund. Notwithstanding any
8 provision of the general statutes to the contrary, any moneys collected
9 shall be deposited in the Environmental Quality Fund and credited to
10 the underground storage tank petroleum clean-up account. Any
11 balance remaining in said account at the end of any fiscal year shall be
12 carried forward in said account for the fiscal year next succeeding.

13 (2) The account shall be used by the Commissioner of
14 Environmental Protection to provide money for reimbursement or
15 payment pursuant to section 22a-449f, to responsible parties or parties

16 supplying goods or services, for costs, expenses and other obligations
17 paid or incurred, as the case may be, as a result of releases, and
18 suspected releases, costs of investigation and remediation of releases
19 and suspected releases, and for claims by a person other than a
20 responsible party for bodily injury, property damage and damage to
21 natural resources that have been finally adjudicated or settled with the
22 prior written consent of the board. The commissioner may also make
23 payment from the account to an assignee who is in the business of
24 receiving assignments of amounts approved by the board, but not yet
25 paid from the account, provided the party making any such
26 assignment, using a form approved by the commissioner, directs the
27 commissioner to pay such assignee, that no cost of any assignment
28 shall be borne by the account and that the state and its agencies shall
29 not bear any liability with respect to any such assignment.

30 (3) Notwithstanding the provisions of this section regarding
31 reimbursements of parties pursuant to section 22a-449f and regulations
32 adopted pursuant to section 22a-449e, and regardless of when an
33 application for payment or reimbursement from the account may have
34 been submitted to the board, payment or reimbursement shall be made
35 in accordance with the following: (A) After June 1, 2004, no payment
36 or reimbursement shall be made for any costs, expenses and other
37 obligations paid or incurred for remediation, including any monitoring
38 to determine the effectiveness of the remediation, of a release to levels
39 more stringent than or beyond those specified in the remediation
40 standards established pursuant to section 22a-133k, except to the
41 extent the applicant demonstrates that it has been directed otherwise,
42 in writing, by the commissioner; (B) after June 1, 2005, no payment or
43 reimbursement from the account shall be made to any person for
44 diminution in property value or interest, provided reimbursement for
45 interest accrued on attorneys' fees for an application filed on or before
46 March 31, 2003, where such application has been pending for three
47 years or more, shall be permitted; and (C) after June 1, 2005, no
48 payment or reimbursement from the account shall be made for
49 attorneys' fees or other costs of legal representation paid or incurred as

50 a result of a release or suspected release (i) in excess of five thousand
 51 dollars to any responsible party, (ii) in excess of ten thousand dollars
 52 to any person other than a responsible party, and (iii) by a responsible
 53 party regarding the defense of claims brought by another person,
 54 except that applications for reimbursement filed on or before June 30,
 55 2005, shall not be subject to the limitations for reimbursement imposed
 56 by clauses (ii) and (iii) of this subparagraph. In addition,
 57 notwithstanding the provisions of this section regarding
 58 reimbursements of parties pursuant to section 22a-449f, the responsible
 59 party shall bear all costs of the release that are less than ten thousand
 60 dollars and all persons shall bear all costs of the release that are more
 61 than one million dollars, except that for any such release which was
 62 reported to the department prior to December 31, 1987, and for which
 63 more than five hundred thousand dollars has been expended by the
 64 responsible party to remediate such release prior to June 19, 1991, the
 65 responsible party for the release shall bear all costs of such release
 66 which are less than ten thousand dollars or more than five million
 67 dollars, provided the portion of any reimbursement or payment in
 68 excess of three million dollars may, at the discretion of the
 69 commissioner, be made in annual payments for up to a five-year
 70 period. There shall be allocated to the department annually, for
 71 administrative costs, two million dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-449c(a)

ENV

Joint Favorable C/R

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