



General Assembly

February Session, 2012

**Raised Bill No. 375**

LCO No. 2083

\*02083\_\_\_\_\_ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

**AN ACT CONCERNING REIMBURSEMENT UNDER THE UNDERGROUND STORAGE TANK PETROLEUM CLEAN-UP PROGRAM.**

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

1 Section 1. Subsection (b) of section 22a-2d of the 2012 supplement to  
2 the general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective from passage*):

4 (b) (1) The Department of Energy and Environmental Protection  
5 shall constitute a successor department to the Department of  
6 Environmental Protection and the Department of Public Utility  
7 Control in accordance with the provisions of sections 4-38d, 4-38e and  
8 4-39.

9 (2) The Department of Energy and Environmental Protection shall  
10 constitute a successor department to the Underground Storage Tank  
11 Petroleum Clean-Up Review Board in accordance with the provisions  
12 of sections 4-38d, 4-38e and 4-39.

13 Sec. 2. Section 22a-449a of the general statutes is repealed and the  
14 following is substituted in lieu thereof (*Effective from passage*):

15 As used in this section and sections 22a-449c to 22a-449m, inclusive,  
16 [and] 22a-449p, and sections 12 and 13 of this act:

17 (1) "Petroleum" means crude oil, crude oil fractions and refined  
18 petroleum fractions, including gasoline, kerosene, heating oils and  
19 diesel fuels;

20 (2) "Release" means any spilling, leaking, pumping, pouring,  
21 emitting, emptying, discharging, injecting, escaping, leaching,  
22 dumping or disposing of petroleum from any underground storage  
23 tank or underground storage tank system;

24 (3) "Responsible party" means (A) for an application or request for  
25 payment or reimbursement received by the board before July 1, 2005,  
26 or for a determination made by the board before July 1, 2005,  
27 regarding a person's status as a responsible party or a third party with  
28 respect to a specific release or suspected release, any person who owns  
29 or operates an underground storage tank or underground storage tank  
30 system from which a release or suspected release emanates, (B) for an  
31 application or request for payment or reimbursement received by the  
32 board on or after July 1, 2005, any person who (i) at any time owns,  
33 leases, uses or has an interest in the real property on which an  
34 underground storage tank system is or was located from which there is  
35 or has been a release or suspected release, regardless of when the  
36 release or suspected release occurred, or whether such person owned,  
37 leased, used or had an interest in the real property at the time the  
38 release or suspected release occurred, or whether such person owned,  
39 operated, leased or used the underground storage tank system from  
40 which the release or suspected release occurred, (ii) at any time owns,  
41 leases, operates, uses, or has an interest in an underground storage  
42 tank system from which there is or has been a release or suspected  
43 release, regardless of when the release or suspected release occurred or  
44 whether such person owned, leased, operated, used or had an interest  
45 in the underground storage tank system at the time the release or  
46 suspected release occurred, or (iii) is affiliated with a person described

47 in clause (i) or (ii) of this subparagraph through a direct or indirect  
48 familial relationship or any contractual, corporate or financial  
49 relationship;

50 (4) "Underground storage tank" means a tank or combination of  
51 tanks, including underground pipes connected thereto, used to contain  
52 an accumulation of petroleum, whose volume is ten per cent or more  
53 beneath the surface of the ground, including the volume of  
54 underground pipes connected thereto;

55 (5) "Underground storage tank system" means an underground  
56 storage tank and any associated ancillary equipment and containment  
57 system;

58 (6) "Residential underground heating oil storage tank system"  
59 means (A) an underground storage tank system used in connection  
60 with residential real property composed of four residential units or  
61 fewer, or (B) a storage tank system and any associated ancillary  
62 equipment used in connection with residential real property composed  
63 of four residential units or fewer; [and]

64 (7) "Person" means any individual, firm, partnership, association,  
65 syndicate, company, trust, corporation, limited liability company,  
66 municipality, agency or political or administrative subdivision of the  
67 state, or other legal entity of any kind;

68 (8) "Municipal applicant" means any town, city or borough, whether  
69 consolidated or unconsolidated, that has filed an application for  
70 payment or reimbursement pursuant to sections 22a-449a to 22a-449g,  
71 inclusive, as amended by this act, or regulations thereunder;

72 (9) "Small station applicant" means an applicant who owns or  
73 owned, operates or operated, leases or leased, uses or used, or has or  
74 had an interest in four or less separate parcels of real property within  
75 or outside the state on which an underground storage tank system is  
76 or was located, who has filed an application for payment or

77 reimbursement pursuant to sections 22a-449a to 22a-449g, inclusive, as  
78 amended by this act, or regulations thereunder;

79 (10) "Mid-size station applicant" means an applicant who owns or  
80 owned, operates or operated, leases or leased, uses or used, or has or  
81 had an interest in five to ninety nine separate parcels of real property  
82 within or outside the state on which an underground storage tank  
83 system is or was located, who has filed an application for payment or  
84 reimbursement pursuant to sections 22a-449a to 22a-449g, inclusive, as  
85 amended by this act, or regulations thereunder;

86 (11) "Large station applicant" means an applicant who owns or  
87 owned, operates or operated, leases or leased, uses or used, or has or  
88 had an interest in one hundred or more separate parcels of real  
89 property within or outside the state on which an underground storage  
90 tank system is or was located or any other applicant that does not meet  
91 the criteria specified in subdivision (8), (9) or (10) of this section, who  
92 has filed an application for payment or reimbursement pursuant to  
93 sections 22a-449a to 22a-449g, inclusive, as amended by this act, or  
94 regulations thereunder;

95 (12) "Innocent affected party" means any person who owns,  
96 operates, leases, uses or has an interest in real property that is adjacent,  
97 abutting or near real property that has been affected by an  
98 underground storage tank system release and who was not the  
99 responsible party for such release; and

100 (13) "Applicant" means any person submitting an application,  
101 including any supplemental application, for payment or  
102 reimbursement pursuant to sections 22a-449a to 22a-449g, inclusive, as  
103 amended by this act, or regulations thereunder.

104 Sec. 3. Section 22a-449c of the general statutes is repealed and the  
105 following is substituted in lieu thereof (*Effective from passage*):

106 (a) (1) There is established an underground storage tank petroleum

107 clean-up program.

108 (2) The program shall provide money for reimbursement or  
109 payment pursuant to section 22a-449f and section 12 of this act, within  
110 available appropriations, to responsible parties or parties supplying  
111 goods or services, for costs, expenses and other obligations paid or  
112 incurred, as the case may be, as a result of releases, and suspected  
113 releases, costs of investigation and remediation of releases and  
114 suspected releases, and for claims by a person other than a responsible  
115 party for bodily injury, property damage and damage to natural  
116 resources that have been finally adjudicated or settled with the prior  
117 written consent of the [board] Commissioner of Energy and  
118 Environmental Protection. The commissioner may also make payment  
119 to an assignee who is in the business of receiving assignments of  
120 amounts approved by the [board] commissioner, but not yet paid from  
121 the account, provided the party making any such assignment, using a  
122 form approved by the commissioner, directs the commissioner to pay  
123 such assignee, that no cost of any assignment shall be borne by the  
124 state and that the state and its agencies shall not bear any liability with  
125 respect to any such assignment.

126 (3) Notwithstanding the provisions of this section regarding  
127 reimbursements of parties pursuant to section 22a-449f and regulations  
128 adopted pursuant to section 22a-449e, and regardless of when an  
129 application for payment or reimbursement from the program may  
130 have been submitted to the [board] commissioner, payment or  
131 reimbursement shall be made in accordance with the following: (A)  
132 After June 1, 2004, no payment or reimbursement shall be made for  
133 any costs, expenses and other obligations paid or incurred for  
134 remediation, including any monitoring to determine the effectiveness  
135 of the remediation, of a release to levels more stringent than or beyond  
136 those specified in the remediation standards established pursuant to  
137 section 22a-133k, except to the extent the applicant demonstrates that it  
138 has been directed otherwise, in writing, by the commissioner; (B) after  
139 June 1, 2005, no payment or reimbursement shall be made to any

140 person for diminution in property value or interest, provided that  
141 reimbursement for interest accrued on attorneys' fees may be  
142 permitted if an application seeking interest accrued on attorneys' fees  
143 was submitted to the commissioner on or before March 31, 2003, and  
144 such application has been tabled by the [board] commissioner for three  
145 or more years; and (C) after June 1, 2005, no payment or  
146 reimbursement shall be made for attorneys' fees or other costs of legal  
147 representation paid or incurred as a result of a release or suspected  
148 release (i) in excess of five thousand dollars to any responsible party,  
149 (ii) in excess of ten thousand dollars to any person other than a  
150 responsible party, and (iii) by a responsible party regarding the  
151 defense of claims brought by another person, except that applications  
152 for reimbursement filed on or before June 30, 2005, shall not be subject  
153 to the limitations for reimbursement imposed by clauses (i) and (ii) of  
154 this subparagraph. In addition, notwithstanding the provisions of this  
155 section regarding reimbursements of parties pursuant to section 22a-  
156 449f, the responsible party shall bear all costs of the release that are less  
157 than ten thousand dollars and all persons shall bear all costs of the  
158 release that are more than one million dollars, except that for any such  
159 release which was reported to the department prior to December 31,  
160 1987, and for which more than five hundred thousand dollars has been  
161 expended by the responsible party to remediate such release prior to  
162 June 19, 1991, the responsible party for the release shall bear all costs of  
163 such release which are less than ten thousand dollars or more than five  
164 million dollars, provided the portion of any reimbursement or  
165 payment in excess of three million dollars may, at the discretion of the  
166 commissioner, be made in annual payments for up to a five-year  
167 period.

168 (b) (1) If an initial application or request for payment or  
169 reimbursement is received by the [board] commissioner before July 1,  
170 2005, no supplemental application or request for payment or  
171 reimbursement shall be submitted to the [board] commissioner on or  
172 after October 1, 2009, regarding costs, expenses or other obligations  
173 paid or incurred in response to the release or suspected release noted

174 in any such initial application or request for payment or  
175 reimbursement. The provisions of this subdivision shall apply  
176 regardless of whether the cost, expense or other obligation was paid or  
177 incurred before October 1, 2009, and no reimbursement or payment  
178 from the account shall be ordered [by the board] or made by the  
179 commissioner regarding any such supplemental application or request  
180 for payment or reimbursement received [by the board] on or after the  
181 October 1, 2009, deadline established in this subdivision.

182 (2) If an initial application or request for payment or reimbursement  
183 is received by the [board] commissioner on or after July 1, 2005, no  
184 supplemental application or request for payment or reimbursement  
185 shall be submitted to the [board] commissioner more than five years  
186 after the date that the initial application or request for payment or  
187 reimbursement was received by the [board] commissioner, regarding  
188 costs, expenses or other obligations paid or incurred in response to the  
189 release or suspected release noted in such initial application or request  
190 for payment or reimbursement. The provisions of this subdivision  
191 shall apply regardless of whether a cost, expense or other obligation  
192 was paid or incurred before the expiration of the five-year deadline  
193 established in this subdivision and no reimbursement or payment  
194 from the account shall be ordered [by the board] or made by the  
195 commissioner regarding any such supplemental application or request  
196 for payment or reimbursement received by the [board] commissioner  
197 after the five-year deadline established in this subdivision.

198 (3) Notwithstanding the provisions of subsection (i) of section 22a-  
199 449f, if an application or request for payment or reimbursement is not  
200 brought before the [board] commissioner for a decision not later than  
201 six months after having been received by the [board] commissioner,  
202 then six months shall be added to the deadline applicable pursuant to  
203 subdivision (1) or (2) of this subsection, provided no more than two  
204 years shall be added to the deadline established pursuant to  
205 subdivision (1) or (2) of this subsection regardless of whether one or  
206 more applications or requests for payment or reimbursement have

207 been received by the [board] commissioner but have not been brought  
208 before the [board] commissioner for a decision not later than six  
209 months after receipt. [In addition, if the commissioner determines that  
210 an application or request for payment or reimbursement is ready for  
211 decision by the board and such application or request has been placed  
212 on the agenda for the meeting of the board, but cannot be brought  
213 before the board because the board is unable to meet or cannot act on  
214 such application or request, the deadlines established pursuant to  
215 subdivision (1) or (2) of this subsection shall also be extended only for  
216 that period that the board is unable to meet or is unable to act on such  
217 application or request.]

218 (4) The provisions of this subsection shall not apply to annual  
219 groundwater remedial actions, including the preparation of a  
220 groundwater remedial action progress report, performed pursuant to  
221 subdivision (6) of section 22a-449p. Notwithstanding the provisions of  
222 this subsection, the [board] commissioner may continue to receive  
223 applications or requests for payment or reimbursement and provided  
224 all other requirements have been met, may order payment or  
225 reimbursement from the account for such activities.

226 (c) (1) Any person who has insurance, or a contract or other  
227 agreement to provide payment or reimbursement for any costs,  
228 expense or other obligation paid or incurred in response to a release or  
229 suspected release may submit an application or request seeking  
230 payment or reimbursement from the account to the [board]  
231 commissioner, provided any such application or request for payment  
232 or reimbursement shall be subject to all applicable requirements,  
233 including, but not limited to, subdivision (7) of subsection (c) of section  
234 22a-449f.

235 (2) Any person who at any time receives or expects to receive  
236 payment or reimbursement from any source other than the program  
237 for any cost, expense, obligation, damage or injury for which such  
238 person has received or has applied for payment or reimbursement

239 from the program, shall notify the [board] commissioner, in writing, of  
240 such supplemental or expected payment and shall, not more than  
241 thirty days after receiving such supplemental payment, repay the  
242 program all such amounts received from any other source.

243 (3) If the [board] commissioner determines that a person is seeking  
244 or has sought payment or reimbursement for any cost, expense,  
245 obligation, damage or injury from the program and that payment or  
246 reimbursement for any such cost, expense, obligation, damage or  
247 injury is actually or potentially available to any such person from any  
248 source other than the program, the [board] commissioner may impose  
249 any conditions [it] the commissioner deems reasonable regarding any  
250 amount [it] the commissioner orders to be paid from the program.

251 Sec. 4. Section 22a-449d of the 2012 supplement to the general  
252 statutes is repealed and the following is substituted in lieu thereof  
253 (*Effective from passage*):

254 (a) [There is established an Underground Storage Tank Petroleum  
255 Clean-Up Review Board.] Upon application for reimbursement or  
256 payment pursuant to section 22a-449f, the [board] the Commissioner of  
257 Energy and Environmental Protection shall determine, based on the  
258 provisions of sections 22a-449a to 22a-449i, inclusive, sections 12 and  
259 13 of this act and all regulations adopted pursuant to said sections 22a-  
260 449a to 22a-449i, inclusive, whether or not to order payment or  
261 reimbursement from the program. The [board] commissioner shall  
262 have the authority to order payment within available resources to  
263 registered contractors pursuant to section 22a-449l, or to owners  
264 pursuant to section 22a-449n, for reasonable costs associated with the  
265 remediation of a residential underground heating oil storage tank  
266 system based on the guidelines established pursuant to subsection (c)  
267 of this section; hold hearings, administer oaths, subpoena witnesses  
268 and documents through its [chairperson] designee when authorized by  
269 the [board] commissioner; designate an agent to perform such duties  
270 of the [board] commissioner as [it] he or she deems necessary except

271 the duty to render a final decision to order reimbursement or payment  
272 from the account; and provide by notice, printed on any form, that any  
273 false statement made thereof or pursuant thereto is punishable  
274 pursuant to section 53a-157b.

275 [(b) The board shall consist of the Commissioners of Energy and  
276 Environmental Protection and Revenue Services, the Secretary of the  
277 Office of Policy and Management and the State Fire Marshal, or their  
278 designees; one member representing the Connecticut Petroleum  
279 Council, appointed by the speaker of the House of Representatives;  
280 one member representing the Service Station Dealers Association,  
281 appointed by the majority leader of the Senate; one member of the  
282 public, appointed by the majority leader of the House of  
283 Representatives; one member representing the Independent  
284 Connecticut Petroleum Association, appointed by the president pro  
285 tempore of the Senate; one member representing the Gasoline and  
286 Automotive Service Dealers of America, Inc., appointed by the  
287 minority leader of the House of Representatives; one member  
288 representing a municipality with a population greater than one  
289 hundred thousand, appointed by the Governor; one member  
290 representing a municipality with a population of less than one  
291 hundred thousand, appointed by the minority leader of the Senate; one  
292 member representing a small manufacturing company which employs  
293 fewer than seventy-five persons, appointed by the speaker of the  
294 House of Representatives; one member experienced in the delivery,  
295 installation, and removal of residential underground petroleum  
296 storage tanks and remediation of contamination from such tanks,  
297 appointed by the president pro tempore of the Senate; and one  
298 member who is an environmental professional licensed under section  
299 22a-133v and is experienced in investigating and remediating  
300 contamination attributable to underground petroleum storage tanks,  
301 appointed by the Governor. The board shall annually elect one of its  
302 members to serve as chairperson.]

303 [(c)] (b) Not later than July 1, 2000, the [board] commissioner shall

304 establish guidelines for determining what costs are reasonable for  
305 payment under sections 22a-449l and 22a-449n and shall establish  
306 requirements for financial assurance, training and performance  
307 standards for registered contractors, as defined in said sections 22a-  
308 449l and 22a-449n. The [board] commissioner shall make payment  
309 pursuant to section 22a-449n to the owner at a rate not to exceed one  
310 hundred fifty-seven dollars per ton of contaminated soil removed  
311 which shall be considered as full payment for all eligible costs for  
312 remediation. For any claim filed pursuant to section 22a-449n where no  
313 contaminated soil is removed the [board] commissioner shall  
314 reimburse eligible costs in accordance with the guidelines pursuant to  
315 this section.

316 [(d)] (c) To the extent that funds are available, the [board]  
317 commissioner may order payment to registered contractors for  
318 reimbursement of eligible costs for services associated with the  
319 remediation of a residential underground heating oil storage tank  
320 system prior to July 1, 2001, to owners of such systems for payment for  
321 eligible costs incurred after July 1, 2001. No such payment shall be  
322 authorized unless the [board] commissioner deems the costs  
323 reasonable based on the guidelines established pursuant to subsection  
324 (c) of this section. Notwithstanding the provisions of this subsection, if  
325 the [board] commissioner determines that the owner may not receive  
326 reimbursement payment from the contractor, the [board]  
327 commissioner may, if reimbursement has not been sent to the  
328 contractor, directly reimburse the owner of such system for eligible  
329 costs incurred by the owner and paid to the registered contractor for  
330 services associated with a remediation of a system prior to July 1, 2001.

331 Sec. 5. Section 22a-449e of the general statutes is repealed and the  
332 following is substituted in lieu thereof (*Effective from passage*):

333 (a) The Commissioner of Energy and Environmental Protection [,  
334 after consultation with the members of the board established by  
335 section 22a-449d,] shall adopt regulations in accordance with the

336 provisions of chapter 54 setting forth procedures for reimbursement  
337 and payment from the program established under section 22a-449c.  
338 Such regulations shall include such provisions as the commissioner  
339 deems necessary to carry out the purposes of sections 22a-449a to 22a-  
340 449h, inclusive, as amended by this act, and sections 12 and 13 of this  
341 act, including, but not limited to, provisions for (1) notification of  
342 eligible parties of the existence of the account; (2) records required for  
343 submission of claims and reimbursement and payment; (3) periodic  
344 and partial reimbursement and payment to enable responsible parties  
345 to meet interim costs, expenses and obligations; and (4) reimbursement  
346 and payment for costs, expenses and obligations incurred in  
347 connection with releases or suspected releases discovered before or  
348 after July 5, 1989, provided reimbursement and payment shall not be  
349 made for costs, expenses and obligations incurred by a responsible  
350 party on or before said date.

351 (b) (1) The commissioner, in accordance with the procedures set  
352 forth in subdivision (2) of this subsection, may prescribe a schedule for  
353 the maximum or range of amounts to be paid for labor, equipment,  
354 materials, services or other costs, expenses or obligations paid or  
355 incurred as a result of a release or suspected release. Such schedule  
356 shall not be a regulation, as defined in section 4-166 and the adoption,  
357 modification, repeal or use of such schedule shall not be subject to the  
358 provisions of chapter 54 concerning a regulation. The amounts in any  
359 such schedule may be less than and shall be not more than the usual,  
360 customary and reasonable amounts charged, as determined by the  
361 commissioner. Notwithstanding the provisions of sections 22a-449a to  
362 22a-449j, inclusive, or any regulation adopted by the commissioner  
363 pursuant to this section, upon adoption of any such schedule, the  
364 amount to be paid for any labor, equipment, materials, services or  
365 other costs, expenses or other obligations, shall not exceed the amount  
366 established in any such schedule and such schedule may serve as  
367 guidance with respect to any costs, expenses or other obligations paid  
368 or incurred before the adoption of such schedule.

369 (2) The commissioner shall adopt, revise or revoke the schedule in  
370 accordance with the provisions of this subsection. [After consultation  
371 with the board, the] The commissioner shall publish notice of intent to  
372 adopt, revise or revoke the schedule, or any portion thereof, in a  
373 newspaper having substantial circulation in the affected area. There  
374 shall be a comment period of thirty days following publication of such  
375 notice during which interested persons may submit written comments  
376 to the commissioner. The commissioner shall publish notice of the  
377 adoption, revision or revocation of the schedule, or part thereof, in a  
378 newspaper having substantial circulation in the affected area. The  
379 commissioner shall, upon request, review the schedule and shall make  
380 any revisions the commissioner deems necessary to such schedule  
381 once every two years or may do so more frequently as the  
382 commissioner deems necessary. The commissioner [, after consultation  
383 with the board,] may revise or revoke the schedule, in whole or in part,  
384 using the procedures specified in this subsection. Any person may  
385 request that the commissioner adopt, revise or revoke the schedule in  
386 accordance with this subsection.

387 (c) Upon adoption of a schedule by the commissioner pursuant to  
388 subsection (b) of this section, the requirements concerning obtaining  
389 three bids for services rendered contained in regulations adopted  
390 pursuant to this section shall not apply, provided that the schedule  
391 includes the subject services.

392 (d) An environmental professional, who has a currently valid and  
393 effective license issued pursuant to section 22a-133v, shall use a seal, as  
394 provided for in regulations adopted pursuant to section 22a-133v, to  
395 provide written approval required under sections 22a-449c, 22a-449f  
396 and 22a-449p, and any approval without a seal shall not constitute an  
397 approval of a licensed environmental professional. The regulations  
398 adopted pursuant to section 22a-133v regarding the use of a seal and  
399 the rules of professional conduct shall apply to the duties of a licensed  
400 environmental professional contained in sections 22a-449a to 22a-449i,  
401 inclusive, and 22a-449p.

402       Sec. 6. Section 22a-449f of the general statutes is repealed and the  
403 following is substituted in lieu thereof (*Effective from passage*):

404       (a) A responsible party may apply to the [Underground Storage  
405 Tank Petroleum Clean-Up Review Board established under section  
406 22a-449d,] Commissioner of Energy and Environmental Protection for  
407 reimbursement for costs paid and payment of costs incurred as a result  
408 of a release, or a suspected release, including costs of investigating and  
409 remediating a release, or a suspected release, incurred or paid by such  
410 party who is determined not to have been liable for any such release. If  
411 a person other than a responsible party, claims to have suffered bodily  
412 injury, property damage or damage to natural resources from a  
413 release, the person with such claim shall make reasonable attempts to  
414 provide written notice to the responsible party of such claim and if  
415 such person cannot provide such notice or if the responsible party does  
416 not apply to the [board] commissioner for payment of such claim not  
417 later than sixty days after receipt of such notice or such other time as  
418 may be agreed to by the parties, the person holding such claim may  
419 apply to the [board] commissioner for payment for such damage or  
420 bodily injury.

421       (b) (1) In addition to all other applicable requirements, a person  
422 seeking payment or reimbursement from the account shall  
423 demonstrate that when the total costs, expenses or other obligations in  
424 response to a release or suspected release (A) are two hundred fifty  
425 thousand dollars or less, all labor, equipment and materials provided  
426 after October 1, 2005, and all services and activities undertaken after  
427 October 1, 2005, are approved, in writing, either by the commissioner  
428 or by a licensed environmental professional with a currently valid and  
429 effective license issued pursuant to section 22a-133v; and (B) exceed  
430 two hundred fifty thousand dollars, all labor, equipment and materials  
431 provided after October 1, 2005, and all services and activities  
432 undertaken after October 1, 2005, are approved, in writing, by the  
433 commissioner, provided the commissioner may authorize, in writing, a  
434 licensed environmental professional with a currently valid and

435 effective license issued pursuant to section 22a-133v to approve, in  
436 writing, such labor, equipment, materials, services and activities, in  
437 lieu of the commissioner. The provisions of this subsection shall apply  
438 to all costs, expenses or other obligations for which a person is seeking  
439 payment or reimbursement from the account and [the board shall not  
440 order and] the commissioner shall not order or make payment or  
441 reimbursement from the account for any cost, expense or other  
442 obligation, unless the person seeking such payment or reimbursement  
443 provides the written approval required by this subdivision. Any  
444 written approval provided by a licensed environmental professional  
445 pursuant to this subdivision shall be submitted with the application for  
446 payment or reimbursement. Any written approval provided by the  
447 commissioner pursuant to this subdivision shall not constitute an  
448 approval pursuant to any other provision of the general statutes or any  
449 regulation. [and shall be presented to the board prior to the board  
450 making a decision regarding the application that such approval  
451 concerns.]

452 (2) The fees charged by a licensed environmental professional  
453 regarding labor or services rendered in response to a release or  
454 suspected release may be included in any application or request for  
455 payment or reimbursement submitted to the [board] commissioner.  
456 The amount to be paid or reimbursed for such fees may also be  
457 established in the schedule adopted by the commissioner pursuant to  
458 subsection (b) of section 22a-449e.

459 (3) Providing it is true and accurate, a licensed environmental  
460 professional shall submit the following certification regarding any  
461 approval provided under subdivision (1) of this subsection and section  
462 22a-449p: "I hereby agree that all of the labor, equipment, materials,  
463 services, and activities described in or covered by this certification  
464 were appropriate under the circumstances to abate an emergency or  
465 were performed as part of a plan specifically designed to ensure that  
466 the release or suspected release is or has been investigated in  
467 accordance with prevailing standards and guidelines and remediated

468 consistent with and to achieve compliance with the remediation  
469 standards adopted under section 22a-133k of the general statutes."

470 (c) The [board] commissioner shall order reimbursement or  
471 payment for any cost paid or incurred, as the case may be, if, (1) such  
472 cost is or was incurred after July 5, 1989, (2) a responsible party was or  
473 would have been required to demonstrate financial responsibility  
474 under 40 CFR Part 280.90 et seq. as said regulation was published in  
475 the Federal Register of October 26, 1988, for the underground storage  
476 tank or underground storage tank system from which the release  
477 emanated, whether or not such party is required to comply with said  
478 requirements on the date any such cost is incurred, provided if the  
479 state is the responsible party, the [board] commissioner may order  
480 payment, within available resources, without regard to whether the  
481 state was or would have been required to demonstrate financial  
482 responsibility under said sections 40 CFR Part 280.90 et seq., (3) after  
483 the release, if any, the responsible party incurred a cost, expense or  
484 obligation for investigation, cleanup or for claims of a person other  
485 than a responsible party resulting from the release, provided any such  
486 claim shall be required to be finally adjudicated or settled with the  
487 prior written approval of the [board] commissioner before an  
488 application for reimbursement or payment is made, (4) the [board]  
489 commissioner determines that the cost, expense or other obligation is  
490 reasonable and that there are not grounds for recovery specified in  
491 subdivision (1) or (3) of subsection (g) of this section, (5) the  
492 responsible party notified the [board] commissioner, as soon as  
493 practicable, of the release and of any other claim by a person other  
494 than a responsible party, resulting from the release, in accordance with  
495 the regulations adopted pursuant to section 22a-449e, (6) the  
496 responsible party, or, if a person other than a responsible party applies  
497 for payment or reimbursement from the account, then such person  
498 demonstrates the remediation, including any monitoring to determine  
499 the effectiveness of the remediation, for which payment or  
500 reimbursement is sought is not more stringent than that required by  
501 the remediation standards established pursuant to section 22a-133k,

502 except to the extent the responsible party or such person demonstrates  
503 that it has been directed otherwise, in writing, by the commissioner, (7)  
504 the responsible party, or, if a person other than a responsible party  
505 applies for payment or reimbursement, then such person demonstrates  
506 that it does not have insurance, or a contract or other agreement to  
507 provide payment or reimbursement for any cost, expense or other  
508 obligation incurred in response to a release or suspected release, or if  
509 there is any such insurance, contract or other agreement, that any  
510 insurance coverage has been denied or is insufficient to cover the costs,  
511 expenses or other obligations, paid or incurred or that any contract or  
512 other agreement is not able to or is insufficient to cover the costs,  
513 expenses or other obligations, paid or incurred, for which payment or  
514 reimbursement is sought, (8) the responsible party demonstrates and  
515 the [board] commissioner determines that one of the milestones noted  
516 in section 22a-449p has been completed, (9) the [board] commissioner  
517 determines what, if any, reductions to the amounts sought should be  
518 made based upon the compliance evaluations performed pursuant to  
519 subsection (d) of this section, [and] (10) at the time any application or  
520 request for payment or reimbursement, including any supplemental  
521 application or request, is submitted to the [board] commissioner, (A)  
522 for applications filed with the [Underground Storage Tank Petroleum  
523 Clean-up Review Board] commissioner on or after October 1, 2007,  
524 there is no underground storage tank system subject to the financial  
525 responsibility demonstration required in subdivision (2) of this  
526 subsection dispensing petroleum on the property where the release or  
527 suspected release emanated or occurred, and if the application is  
528 submitted by the person who owns or operates or who owned or  
529 operated the underground storage tank system at the time of the  
530 release, such person demonstrates, in addition to all other applicable  
531 requirements, that lack of compliance with provisions of the general  
532 statutes and regulations governing underground storage tank systems  
533 was not a proximate cause of the release or suspected release and that  
534 there are not grounds for recovery specified in subdivision (2) of  
535 subsection (g) of this section, or (B) for applications filed with the

536 [Underground Storage Tank Petroleum Clean-Up Review Board]  
537 commissioner prior to October 1, 2007, there is no underground  
538 storage tank system dispensing petroleum on the property where the  
539 release or suspected release emanated or occurred, and if the  
540 application is submitted by the person who owns or operates or who  
541 owned or operated the underground storage tank system at the time of  
542 the release, such person demonstrates, in addition to all other  
543 applicable requirements, that lack of compliance with provisions of the  
544 general statutes and regulations governing underground storage tank  
545 systems was not a proximate cause of the release or suspected release  
546 and that there are not grounds for recovery specified in subdivision (2)  
547 of subsection (g) of this section, and (11) (A) in the case of  
548 municipalities, innocent affected parties and small station applicants,  
549 the applicant has notified the commissioner of a release prior to  
550 September 30, 2013, and has submitted an application for payment or  
551 reimbursement pursuant to this section prior to September 30, 2014, (B)  
552 in the case of mid-size station applicants, the applicant has notified the  
553 commissioner of a release prior to September 30, 2012, and has  
554 submitted an application for payment or reimbursement pursuant to  
555 this section prior to September 30, 2013, or (C) in the case of large  
556 station applicants, the applicant has submitted an application for  
557 payment or reimbursement pursuant to this section prior to September  
558 30, 2012. If an applicant fails to meet the requirements set forth in  
559 subdivision (11) of this subsection, the commissioner shall notify such  
560 applicant in writing that no action can be taken pursuant to said  
561 subdivision. Subdivision (10) of this subsection shall not apply to any  
562 application filed with the underground storage tank petroleum clean-  
563 up account concerning a release of an underground storage tank  
564 system that was reported to the Commissioner of Energy and  
565 Environmental Protection in September, 2003 where such system was  
566 owned or operated by a municipality or other political subdivision of  
567 the state at the time of the release and such system was removed on or  
568 before April 1, 2005. In acting on an application or a request for  
569 payment or reimbursement, the [board] commissioner, using funds

570 from the account, may contract with experts, including, but not limited  
571 to, attorneys and medical professionals, to better evaluate and defend  
572 against claims and negotiate claims by persons other than responsible  
573 parties. [The costs of the board for experts shall not be charged to the  
574 amount allocated to the Department of Energy and Environmental  
575 Protection pursuant to section 22a-449c.] If a person other than a  
576 responsible party applies to the [board] commissioner claiming to have  
577 suffered bodily injury, property damage or damage to natural  
578 resources, the [board] commissioner shall order reimbursement or  
579 payment if such person demonstrates that subdivisions (1), (2), (6) and  
580 (7) of this subsection are satisfied, the [board] commissioner  
581 determines that as a result of a release or suspected release such  
582 person has suffered bodily injury, property damage or damage to  
583 natural resources, that the costs, expenses or other obligations incurred  
584 are reasonable and the person submitting such claim demonstrates that  
585 it has attempted to or has provided written notice of its claim to the  
586 responsible party as required in subsection (a) of this section and that  
587 the responsible party has not applied to the [board] commissioner for  
588 payment or reimbursement of this claim. On or before June 30, 2005, if  
589 the [board] commissioner denied reimbursement or provided for only  
590 partial payment or reimbursement from the account regarding a  
591 release, pursuant to subdivision (4) of this subsection, such denial or  
592 partial payment or reimbursement shall remain in effect and shall  
593 apply to all subsequent applications or requests for payment or  
594 reimbursement regarding such release.

595 (d) (1) Except as provided in this subsection, if at the time any  
596 application or request for payment or reimbursement is submitted to  
597 the [board] commissioner, including any supplemental application or  
598 request, there is an underground storage tank system dispensing  
599 petroleum on the property where the release or suspected release  
600 emanated or occurred, such application or request shall not be deemed  
601 complete and shall not be acted upon by the [board] commissioner  
602 unless such application or request includes a summary of the  
603 compliance status of all the underground storage tank systems on the

604 subject property. Any such summary shall include an evaluation of  
605 compliance with the design, construction, installation, notification,  
606 general operating, release detecting, system upgrading, abandonment  
607 and removal date requirements of the regulations adopted pursuant to  
608 sections 22a-449 and 22a-449o and shall be prepared by an  
609 independent consultant on a form prescribed by or acceptable to the  
610 commissioner. The summary shall be based on an evaluation of said  
611 underground storage tank systems performed not more than one  
612 hundred eighty days before the [board] commissioner receives an  
613 application or a request for reimbursement or payment, except that  
614 with respect to any provision of the subject regulations regarding  
615 record keeping, periodic monitoring or testing, the summary shall be  
616 based on an evaluation of a one-year period terminating within one  
617 hundred eighty days prior to the [board's] commissioner's receipt of an  
618 application or a request for payment or reimbursement. The summary  
619 shall also include a full description of all corrective measures that have  
620 been taken or that are being taken with regard to any noncompliance  
621 identified in the compliance evaluation performed pursuant to this  
622 subdivision.

623 (2) With respect to any initial application or request for payment or  
624 reimbursement regarding a release or suspected release the provisions  
625 of subdivision (1) of this subsection shall apply only to applications or  
626 requests received on or after January 1, 2006. With respect to any  
627 supplemental application or request for payment or reimbursement  
628 regarding a release or suspected release, the provisions of subdivision  
629 (1) of this subsection shall apply to each application or request  
630 submitted to the [board] commissioner on or after January 1, 2006,  
631 regardless of when the initial application or request was submitted,  
632 except that submission of a compliance summary shall not be required  
633 if at the time a supplemental application or request is submitted, less  
634 than one year has passed since the performance of a compliance  
635 evaluation submitted with any prior application or request.

636 (3) The cost of hiring an independent consultant to perform a

637 compliance evaluation, as required by this subsection, shall be eligible  
638 for payment or reimbursement up to a maximum of one thousand  
639 dollars per compliance evaluation, provided the evaluation is in  
640 conformance with the requirements of this subsection and includes all  
641 underground storage tank systems on the property where a release or  
642 suspected release emanated or occurred. If the schedule adopted by  
643 the commissioner pursuant to subsection (b) of section 22a-449e  
644 includes an amount for performing a compliance evaluation, upon  
645 adoption of any such schedule, the amount eligible for payment or  
646 reimbursement for performing a compliance evaluation shall be the  
647 amount prescribed in any such schedule.

648 (4) Nothing in this subsection shall affect the continued applicability  
649 of any decision of the [board] commissioner to (A) deny  
650 reimbursement or payment, or (B) provide only partial payment or  
651 reimbursement regarding all applications or requests for payment or  
652 reimbursement. Any such decision shall remain in effect and shall not  
653 be subject to reconsideration or reevaluation as a result of this  
654 subsection.

655 (5) Except as provided for in this subdivision, if at the time any  
656 application or request for payment or reimbursement, including any  
657 supplemental application or request, is submitted, there is no  
658 underground storage tank system dispensing petroleum on the  
659 property where the release or suspected release emanated or occurred,  
660 any such application or request shall be subject to the provisions of  
661 subdivision (10) of subsection (c) of this section, even where a prior  
662 application or request was subject to the provisions of this subsection.  
663 The provisions of this subdivision shall not apply to an application or  
664 request for payment or reimbursement for annual groundwater  
665 remedial actions, including the preparation of a groundwater remedial  
666 action progress report, performed pursuant to subdivision (6) of  
667 section 22a-449p.

668 (e) (1) If the compliance evaluation summary performed pursuant to

669 subsection (d) of this section indicates that any of the violations noted  
670 in this subdivision exist with respect to any underground storage tank  
671 or underground storage tank system on the property at which a release  
672 or suspected release occurred and any such violations have not been  
673 fully corrected by the time an application or request for reimbursement  
674 is submitted to the [board] commissioner, the [board] commissioner  
675 shall reduce any payment or amount to be reimbursed as follows: (A)  
676 A one hundred per cent reduction of the payment or amount to be  
677 reimbursed for failure to meet the tank or piping construction  
678 requirements of section 22a-449o or the regulations adopted pursuant  
679 to section 22a-449 or for failure to report the release to the  
680 commissioner as required by this section, (B) a seventy-five per cent  
681 reduction of the payment or amount to be reimbursed for failure to  
682 have properly functioning cathodic protection, spill prevention,  
683 overfill prevention, or release detection as required by the regulations  
684 adopted pursuant to section 22a-449. Notwithstanding the provisions  
685 of this subsection, the [board] commissioner may reduce any amount  
686 to be paid or reimbursed based on any other violation of the provisions  
687 of the general statutes or regulations of Connecticut state agencies  
688 regarding ownership or operation of an underground storage tank  
689 system.

690 (2) Nothing in this subsection and no determination by the [board]  
691 commissioner of any issue of fact or law shall affect the authority of  
692 the commissioner under any other statute or regulations, including,  
693 but not limited to, taking any enforcement action based upon the  
694 violations identified in any compliance evaluation performed pursuant  
695 to subsection (d) of this section.

696 (f) (1) For all work or services performed or materials provided  
697 before October 1, 2004, the [board] commissioner shall not order  
698 payment or reimbursement for any cost paid or incurred, unless when  
699 seeking payment or reimbursement, the application or any submission  
700 regarding work, services or materials that have been pre-authorized by  
701 the [board] commissioner is received by [the board] him or her on or

702 before April 1, 2005.

703 (2) For purposes of this subsection, work or services shall be  
704 deemed rendered or performed on the date such work is rendered or  
705 performed and a material shall be deemed provided on the date a  
706 material is made available for use.

707 (3) After June 30, 2005, the [board] commissioner shall not order  
708 payment or reimbursement for any cost, expense or other obligation,  
709 paid or incurred, unless the application or request for payment or  
710 reimbursement is received by the [board] commissioner not later than  
711 one year after the completion of all or substantially all of the work or  
712 activities necessary to prepare the plan or report required by the  
713 milestones set forth in section 22a-449p.

714 (g) The Attorney General, upon the request of the [board or the]  
715 commissioner, may institute an action in the superior court for the  
716 judicial district of Hartford to recover the amounts specified in this  
717 section from any person who owns or operates an underground  
718 storage tank system at the time a release emanates or occurs from such  
719 system or any person who owns the real property on which a release  
720 emanates or occurs, provided such person owned the real property at  
721 or any time after the release emanates or occurs until the time that a  
722 final remediation action report is submitted by a licensed  
723 environmental professional or approved by the commissioner  
724 pursuant to subdivision (7) of section 22a-449p, if: (1) Prior to the  
725 occurrence of the release, the underground storage tank or  
726 underground storage tank system from which the release emanated  
727 was required by regulations adopted under section 22a-449 to be the  
728 subject of an Underground Storage Facility Notification Form, or  
729 EPHM-6 but the person who owns or operates or who owned or  
730 operated such tank or tank system knowingly and intentionally failed  
731 to submit such notification form to the commissioner; (2) the release  
732 results from a reckless, wilful, wanton or intentional act or omission of  
733 such person or a negligent act or omission of such person that

734 constitutes noncompliance with the general statutes or regulations  
735 governing the installation, operation and maintenance of underground  
736 storage tanks; or (3) the release occurs from an underground storage  
737 tank or system which is not in compliance with a final order issued by  
738 the commissioner pursuant to this chapter or a final judgment issued  
739 by a court concerning noncompliance with a requirement of this  
740 chapter; or (4) payment has been made, including payment to the  
741 commissioner pursuant to subsection (i) of this section, to a person  
742 other than a person against whom an action may be brought pursuant  
743 to this subsection. All costs to the state relating to actions to recover  
744 such payments, including, but not limited to, reasonable attorneys'  
745 fees, shall initially be paid within available resources. In any recovery  
746 [the board or] the commissioner is entitled to recover from such person  
747 (A) all payments made with respect to a release or suspected release,  
748 (B) all payments made by the commissioner pursuant to subsection (i)  
749 of this section with respect to a release or suspected release, (C) interest  
750 on such payments at a rate of ten per cent per year from the date such  
751 payments were made, and (D) all costs of the state relating to actions to  
752 recover such payments, including, but not limited to, reasonable  
753 attorneys' fees. All actions brought pursuant to this section shall have  
754 precedence in the order of trial, as provided in section 52-191. If the  
755 Attorney General has filed an action against a person seeking recovery  
756 of the amounts specified in this subsection or if the commissioner  
757 sends a person a demand letter regarding costs incurred by the state  
758 pursuant to section 22a-451, any such person against whom an action  
759 has been brought or who receives a demand letter shall not submit an  
760 application or request for payment or reimbursement to the [board]  
761 commissioner seeking payment or reimbursement of any such amount  
762 sought by the Attorney General or by the commissioner. If any such  
763 application or request for payment or reimbursement is submitted, the  
764 [board] commissioner shall not take any action regarding any such  
765 application or request.

766 (h) The [board] commissioner shall render its decision not more  
767 than ninety days after receipt of an application from a person,

768 provided, in the case of a second or subsequent application, the  
769 [board] commissioner shall render its decision not more than forty-five  
770 days after receipt of such application. A copy of the decision shall be  
771 sent to [the commissioner and] the person seeking payment or  
772 reimbursement by certified mail, return receipt requested. [The  
773 commissioner or any] Any person aggrieved by the decision of the  
774 [board] commissioner may, within twenty days from the date of  
775 issuance of such decision, request a hearing [before the board] in  
776 accordance with the provisions of chapter 54. After such hearing, the  
777 [board] commissioner shall consider the information submitted to it  
778 and affirm or modify [its] the decision on the application. A copy of  
779 the affirmed or modified decision shall be sent to all parties to the  
780 hearing by certified mail, return receipt requested. Once the [board]  
781 commissioner renders a decision regarding an application or request  
782 for payment or reimbursement and no hearing has been requested  
783 pursuant to this subsection regarding any such decision, the costs,  
784 expenses or other obligations addressed by any such decision shall not  
785 be resubmitted in any other application or request.

786 (i) Whenever the commissioner determines that as a result of a  
787 release, as defined in section 22a-449a, or a suspected release, a clean-  
788 up is necessary, including, but not limited to, actions to prevent or  
789 abate pollution or a potential source of pollution and to provide  
790 potable drinking water, the commissioner may undertake such actions  
791 using not more than one million dollars, within available resources, for  
792 each release or suspected release from an underground storage tank or  
793 an underground storage tank system for which the responsible party is  
794 the state or for which a responsible party was or would have been  
795 required to demonstrate financial responsibility under 40 CFR Part  
796 280.90 et seq., as said regulation was published in the Federal Register  
797 of October 26, 1988.

798 (j) (1) If through an initial application or request for payment or  
799 reimbursement received by the [board] commissioner before June 1,  
800 2005, the [board] commissioner has determined that a person has paid

801 or incurred costs, expenses or other obligations that are eligible for  
802 payment or reimbursement, with respect to any supplemental  
803 application or request for payment or reimbursement the following  
804 shall apply. The commissioner may identify a category of activities,  
805 costs, expenses, or other obligations that are less than one hundred  
806 thousand dollars for which, in lieu of full payment, the [board]  
807 commissioner may approve a percentage of the costs, expenses or  
808 other obligations paid or incurred. [In making any such  
809 recommendation to the board, the] The commissioner shall consider  
810 the amounts previously paid from the account and any other  
811 information the commissioner deems relevant. Any such percentage  
812 shall be not more than, but may be less than, ninety per cent of the  
813 average amount, as determined by the commissioner, previously paid  
814 from the account for any activity, cost, expense or obligation. [The  
815 board shall approve or disapprove, but shall not modify, payment of  
816 the percentage recommended by the commissioner pursuant to this  
817 subdivision.] The commissioner may, using the procedures specified in  
818 this subdivision, [recommend changes to] modify any percentage  
819 previously approved [by the board] under this subdivision.

820 (2) [If the board approves payment of the percentage recommended  
821 by the commissioner, a] A person with a supplemental application or  
822 request for payment or reimbursement may agree to accept the  
823 percentage payment approved by the [board] commissioner. Any such  
824 acceptance shall be in writing, signed by the person seeking payment  
825 or reimbursement and shall acknowledge that the person is agreeing to  
826 accept less than the full amount sought by such person for the costs,  
827 expenses or other obligations covered by such acceptance. If the  
828 commissioner has prescribed forms, any such acceptance shall be  
829 made using the forms prescribed by the commissioner. Once a  
830 completed written acceptance is received, the [board] commissioner  
831 shall, not later than ninety days after receiving such acceptance,  
832 determine whether to order payment or reimbursement from the  
833 account. Any such determination by the [board] commissioner shall be  
834 limited to whether the costs, expenses or other obligations are within

835 those for which the [board] commissioner has approved payment  
836 pursuant to subdivision (1) of this subsection.

837 (3) Any amount ordered to be paid or reimbursed by the [board]  
838 commissioner shall be considered full payment for any such activity,  
839 expense or other obligation and a person shall not seek any additional  
840 reimbursement for any such activity, expense or other obligation. The  
841 categories or activities for which the commissioner recommends  
842 payment of a percentage pursuant to this subsection may constitute all  
843 or a portion of the amounts sought in a supplemental application or  
844 supplemental request for payment or reimbursement.

845 (k) Notification to the commissioner pursuant to regulations  
846 adopted pursuant to section 22a-449 shall constitute compliance with  
847 any regulation adopted pursuant to section 22a-449e regarding  
848 notification to the [board] commissioner of a release.

849 Sec. 7. Section 22a-449g of the general statutes is repealed and the  
850 following is substituted in lieu thereof (*Effective from passage*):

851 [The Commissioner of Energy and Environmental Protection or any]  
852 Any person aggrieved by a decision of the [review board established  
853 under] Commissioner of Energy and Environmental Protection  
854 pursuant to section 22a-449d may appeal from such decision to the  
855 superior court for the judicial district of New Britain within twenty  
856 days after the issuance of such decision. Such appeal shall be in  
857 accordance with chapter 54. All such appeals shall be heard by the  
858 court without a jury, and shall have precedence in the order of trial as  
859 provided in section 52-192. If the [review board] commissioner orders  
860 reimbursement or payment from the account, and a party to the appeal  
861 contests any portion of the ordered reimbursement or payment, the  
862 uncontested portion of the ordered reimbursement or payment shall be  
863 made, notwithstanding the pendency of the appeal.

864 Sec. 8. Section 22a-449l of the general statutes is repealed and the  
865 following is substituted in lieu thereof (*Effective from passage*):

866 (a) As used in this section, "registered contractor" means a person  
867 registered with the Commissioner of Energy and Environmental  
868 Protection pursuant to section 22a-449k.

869 (b) Prior to July 1, 2001, if, in the course of removing or replacing a  
870 residential underground heating oil storage tank system, a registered  
871 contractor finds that there has been a spill, as defined in section 22a-  
872 452c, attributable to such system and such contractor estimates that the  
873 remediation of such spill is likely to cost more than five thousand  
874 dollars, such contractor shall immediately notify the Department of  
875 Energy and Environmental Protection regarding such spill. If, after the  
876 contractor's initial estimate, the contractor subsequently determines  
877 that such cost will exceed five thousand dollars, the contractor shall  
878 upon that determination notify the Department of Energy and  
879 Environmental Protection. The department may assess the spill and  
880 confirm that the remediation proposed by the contractor is appropriate  
881 and necessary, or may authorize an environmental professional  
882 licensed under section 22a-133v to assess the spill and make such  
883 confirmation. Any such remediation shall be subject to approval by the  
884 department, except that the department may authorize an  
885 environmental professional licensed under section 22a-133v to make a  
886 recommendation regarding such approval. If a registered contractor  
887 estimates that the remediation of such spill is likely to cost more than  
888 ten thousand dollars, the commissioner or any agent of the  
889 commissioner or an environmental professional licensed under said  
890 section 22a-133v contracted by the department shall inspect the site  
891 and confirm that such remediation is reasonable. The costs of such an  
892 inspection shall be eligible for payment within available resources.

893 (c) (1) In order to receive reimbursement of eligible costs for services  
894 commenced after July 1, 1999, and prior to July 1, 2001, a registered  
895 contractor shall on or before December 1, 2001, submit to the  
896 [Underground Storage Tank Petroleum Clean-Up Review Board  
897 established under section 22a-449d] commissioner for a disbursement  
898 from available resources, all reasonable costs for work commenced

899 prior to July 1, 2001, pursuant to a contract with the owner or the state  
900 for the remediation of a residential underground heating oil storage  
901 tank system for the purpose of providing payment for the costs of such  
902 remediation. An owner of a residential underground heating oil  
903 storage tank system shall not be responsible to the registered  
904 contractor or any subcontractor of the registered contractor for any  
905 costs that are eligible for payment from the residential underground  
906 heating oil storage tank system clean-up program over five hundred  
907 dollars. The registered contractor or any subcontractor shall not bill the  
908 owner for any costs eligible for payment from said program over five  
909 hundred dollars unless the contractor or subcontractor enters into a  
910 separate written contract with the owner, on a form prescribed by the  
911 commissioner, authorizing the contractor or subcontractor to bill the  
912 owner more than five hundred dollars and such separate contract  
913 gives the owner the right to cancel such contract up to three days after  
914 entering into it. Such owner shall provide to the [review board]  
915 commissioner a statement confirming the registered contractor has  
916 been engaged by such owner to remove or to replace such residential  
917 underground heating oil storage tank system and perform the  
918 remediation and shall execute an instrument which provides for  
919 payment to said account of any amounts realized by the owner, after  
920 any costs of litigation or attorney's fees have been paid, from a  
921 judgment or settlement regarding any claim for the costs of such  
922 remediation made against an insurance policy or any party. In any  
923 service contract entered into between a registered contractor and an  
924 owner for the remediation of a residential underground heating oil  
925 storage tank system, the registered contractor shall clearly identify all  
926 costs, including markup costs, that are not or may not be eligible for  
927 payment under said program.

928 (2) The registered contractor shall submit documentation,  
929 satisfactory to the [review board] commissioner, of any costs  
930 associated with such remediation. The [review board] commissioner  
931 may deny remediation costs of the registered contractor that the  
932 [review board] commissioner determines are unreasonable based on

933 the guidelines established pursuant to subsection (c) of section 22a-  
934 449d on and after the date the [review board] commissioner establishes  
935 such guidelines, and may deny remediation costs (A) in excess of five  
936 thousand dollars if the Department of Energy and Environmental  
937 Protection was not notified in accordance with the provisions of  
938 subsection (b) of this section, and (B) in excess of ten thousand dollars  
939 if the site was not inspected in accordance with the provisions of  
940 subsection (b) of this section. The [review board] commissioner shall  
941 deny any such costs in excess of fifty thousand dollars unless the  
942 commissioner determines such additional costs are warranted to  
943 protect public health and the environment. If a registered contractor  
944 fails to submit to the [review board] commissioner documentation of  
945 costs associated with such remediation that may be eligible for  
946 payment from the residential underground heating oil storage tank  
947 system clean-up program or if the registered contractor submits  
948 documentation of such costs but the [board] commissioner denies  
949 payment of such costs, the registered contractor shall be liable for such  
950 costs and shall have no cause of action against the owner of the  
951 underground petroleum storage tank.

952 (3) A copy of the [review board's] decision shall be sent [to the  
953 Commissioner of Energy and Environmental Protection and] to the  
954 registered contractor by certified mail, return receipt requested. [The  
955 commissioner or any] Any contractor aggrieved by a decision of the  
956 [review board] commissioner may, not more than twenty days after  
957 the date the decision was issued, request a hearing [before the review  
958 board] in accordance with chapter 54. After such hearing, the [board]  
959 commissioner shall consider the information submitted [to it] and  
960 affirm or modify [its] the decision on the reimbursement. A copy of the  
961 affirmed or modified decision shall be sent to [the commissioner and]  
962 any contractor by certified mail, return receipt requested.

963 (d) [Neither the Underground Storage Tank Petroleum Clean-Up  
964 Review Board nor the] The Commissioner of Energy and  
965 Environmental Protection shall not accept applications pursuant to this

966 section on or after December 1, 2001, for the reimbursement of eligible  
967 costs for services completed prior to July 1, 2001, except that,  
968 notwithstanding subsection (c) of this section, prior to July 1, 2004, the  
969 [board] commissioner may accept applications for reimbursement  
970 from and make payments to any owner who demonstrates that the  
971 owner paid for eligible costs for services provided to the owner prior  
972 to July 1, 2001, and either (1) the registered contractor filed an  
973 application for reimbursement between December 1, 2001, and January  
974 1, 2003, or (2) the owner, prior to May 1, 2003, filed a complaint with  
975 [the board or] the commissioner regarding the failure of the registered  
976 contractor to file a timely application.

977 Sec. 9. Section 22a-449n of the general statutes is repealed and the  
978 following is substituted in lieu thereof (*Effective from passage*):

979 (a) As used in this section, "registered contractor" means a person  
980 registered with the Commissioner of Energy and Environmental  
981 Protection pursuant to section 22a-449k, "qualifying income" means the  
982 owner's adjusted gross income, as defined in section 12-701, for the  
983 calendar year immediately preceding the year in which costs eligible  
984 for payment were incurred under this section and "costs eligible for  
985 payment" means costs that are reasonable for payment, as determined  
986 by the guidelines established pursuant to section 22a-449d.

987 (b) If, in the course of removing or replacing a residential  
988 underground heating oil storage tank system, a registered contractor  
989 finds that there has been a spill, as defined in section 22a-452c,  
990 attributable to such a system, or if such contractor estimates that the  
991 remediation of such spill is likely to cost more than ten thousand  
992 dollars then such contractor shall immediately notify the Department  
993 of Energy and Environmental Protection. The commissioner may  
994 assess the spill and confirm that the remediation proposed by the  
995 contractor is appropriate and necessary, or may authorize an  
996 environmental professional licensed under section 22a-133v to assess  
997 the spill and make such confirmation. Any such remediation shall be

998 subject to approval by the commissioner. The commissioner may  
999 authorize an environmental professional licensed under section 22a-  
1000 133v to make a recommendation regarding such approval. The costs of  
1001 an inspection pursuant to this section shall be eligible for payment  
1002 under the residential underground heating oil storage tank system  
1003 clean-up program established under subsection (a) of section 22a-449c.  
1004 The commissioner may revoke a registration pursuant to section 22a-  
1005 449k for failure of a contractor to notify the department as required by  
1006 this section.

1007 (c) On or after July 1, 2001, to be eligible for payment pursuant to  
1008 this section, an owner shall submit the following information to the  
1009 Commissioner of Energy and Environmental Protection, in such form  
1010 as the commissioner may require, prior to entering into a contract with  
1011 a registered contractor for remediation of a spill attributable to a  
1012 residential underground heating oil storage tank system: (1) The name  
1013 and Social Security number of the property owner; (2) a verification  
1014 that such tank serves the owner's primary residence; (3) a verification  
1015 of the owner's qualifying income; and (4) the name of the registered  
1016 contractor who will perform the remediation. The commissioner shall,  
1017 not later than thirty days following receipt of such information, send a  
1018 written notice to the owner that specifies whether the owner is eligible  
1019 for payment under this section, whether funds are available for the  
1020 owner under this section and the amount of remediation costs for  
1021 which the owner is responsible prior to receiving payment under this  
1022 section.

1023 (d) Subject to the provisions of subsection (e) of this section, an  
1024 owner may be reimbursed for all reasonable costs for work  
1025 commenced on or after July 1, 2001, in accordance with the following:  
1026 (1) If an owner's qualifying income is less than or equal to fifty  
1027 thousand dollars, the owner may be reimbursed for costs eligible for  
1028 payment in excess of five hundred dollars; (2) if an owner's qualifying  
1029 income is greater than fifty thousand dollars and less than or equal to  
1030 one hundred thousand dollars, the owner may be reimbursed for costs

1031 eligible for payment in excess of two thousand dollars; (3) if an owner's  
1032 qualifying income is greater than one hundred thousand dollars and  
1033 less than or equal to one hundred fifty thousand dollars, the owner  
1034 may be reimbursed for costs eligible for payment in excess of four  
1035 thousand dollars; (4) if an owner's qualifying income is greater than  
1036 one hundred fifty thousand dollars and less than or equal to two  
1037 hundred thousand dollars, the owner may be reimbursed for costs  
1038 eligible for payment in excess of five thousand dollars; (5) if an owner's  
1039 qualifying income is greater than two hundred thousand dollars and  
1040 less than or equal to two hundred fifty thousand dollars, the owner  
1041 may be reimbursed for costs eligible for payment in excess of seven  
1042 thousand five hundred dollars; (6) if an owner's qualifying income is  
1043 greater than two hundred fifty thousand dollars and less than or equal  
1044 to five hundred thousand dollars, the owner may be reimbursed for  
1045 costs eligible for payment in excess of ten thousand dollars; (7) if an  
1046 owner's qualifying income is greater than five hundred thousand  
1047 dollars, the owner is not eligible for payment of costs. No registered  
1048 contractor or any subcontractor of a registered contractor shall accept  
1049 payment for any costs eligible for payment from said program until it  
1050 has provided the owner with the information necessary to apply for a  
1051 disbursement pursuant to subsection (e) of this section.

1052 (e) (1) On or after July 1, 2001, an owner shall submit to the  
1053 [Underground Storage Tank Petroleum Clean-Up Review Board  
1054 established under section 22a-449d] commissioner an application that  
1055 is postmarked no later than December 31, 2001, for a disbursement  
1056 from the residential underground heating oil storage tank system  
1057 clean-up program, within available resources, documentation of all  
1058 costs eligible for payment for work performed pursuant to a contract  
1059 with the owner for the remediation of a residential underground  
1060 heating oil storage tank system for the purpose of providing payment  
1061 for the costs of such remediation, provided such owner has complied  
1062 with the provisions of subdivisions (1) and (2) of subsection (a) of  
1063 section 22a-449j and provided such remediation was completed on or  
1064 before December 1, 2001. Such payments shall be made in accordance

1065 with subsection (d) of this section. Such owner shall provide to the  
1066 [review board] commissioner a statement confirming that the  
1067 registered contractor has been engaged by such owner to remove or to  
1068 replace such residential underground heating oil storage tank system,  
1069 except that a storage tank system and any associated ancillary  
1070 equipment shall not be subject to such requirement and perform the  
1071 remediation and shall execute an instrument which provides for  
1072 payment to said account of any amounts realized by the owner, after  
1073 any costs of litigation or attorney's fees have been paid, from a  
1074 judgment or settlement regarding any claim for the costs of such  
1075 remediation made against an insurance policy or any person.

1076 (2) In any service contract entered into between a registered  
1077 contractor and an owner for the remediation of a residential  
1078 underground heating oil storage tank system, the registered contractor  
1079 shall clearly identify all costs, including markup costs, that are not or  
1080 may not be eligible for payment from said program.

1081 (3) The owner shall submit documentation, satisfactory to the  
1082 [review board] commissioner, of any costs associated with such  
1083 remediation. The [review board] commissioner may deny payment of  
1084 remediation costs that the [review board] commissioner determines are  
1085 unreasonable based on the guidelines established pursuant to  
1086 subsection (c) of section 22a-449d on and after the date the review  
1087 board establishes such guidelines. The [review board] commissioner  
1088 shall deny any such costs if the owner fails to comply with subsection  
1089 (c) of this section and any such costs in excess of fifty thousand dollars  
1090 unless the commissioner determines such additional costs are  
1091 warranted to protect public health and the environment.

1092 (4) A copy of the review board's decision shall be sent [to the  
1093 Commissioner of Energy and Environmental Protection and] to the  
1094 owner by certified mail, return receipt requested. [The commissioner  
1095 or] Any owner aggrieved by a decision of the [review board]  
1096 commissioner may, not more than twenty days after the date the

1097 decision was issued, request a hearing [before the review board] in  
1098 accordance with chapter 54. After such hearing, the [board]  
1099 commissioner shall consider the information submitted to it and affirm  
1100 or modify [its] the decision. A copy of the affirmed or modified  
1101 decision shall be sent to the [commissioner and] owner by certified  
1102 mail, return receipt requested.

1103 (5) No owner shall be entitled to reimbursement both under this  
1104 section and section 22a-449l.

1105 Sec. 10. Section 22a-449p of the general statutes is repealed and the  
1106 following is substituted in lieu thereof (*Effective from passage*):

1107 Notwithstanding any provision of sections 22a-449a to 22a-449i,  
1108 inclusive, or any regulation adopted pursuant to said sections, except  
1109 as provided for in subdivision (6) of this section, with respect to the  
1110 investigation and remediation of a release, the underground storage  
1111 tank petroleum clean-up program established pursuant to section 22a-  
1112 449c shall be used to provide payment or reimbursement only when  
1113 any of the following milestones are completed:

1114 (1) A release response report prepared by an environmental  
1115 professional, as defined in section 22a-133v, has been submitted to the  
1116 Commissioner of Energy and Environmental Protection which report  
1117 describes: (A) All initial response actions taken that are necessary to  
1118 prevent an on-going release and to mitigate an explosion, fire or other  
1119 safety hazard resulting from the release; (B) the results of an initial site  
1120 investigation that determines the presence and extent of free product  
1121 from the release, the potential for or existence of groundwater  
1122 pollution from the release which threatens the quality of drinking  
1123 water well or wells, and whether the release has resulted in soil vapors  
1124 or indoor air that threatens public health; and (C) all interim actions  
1125 taken and proposed to remove such free product to the extent  
1126 technically practicable, to provide potable water to any person whose  
1127 drinking water has been polluted by a substance from the release  
1128 which is above the groundwater protection criteria or above a level

1129 determined by the Commissioner of Public Health to be an  
1130 unacceptable risk of injury to the health or safety of persons using such  
1131 groundwater as a public or private source of water for drinking or  
1132 other personal or domestic uses, whichever is more stringent, and to  
1133 mitigate any risk to public health from polluted soil vapor or indoor  
1134 air resulting from the release.

1135 (2) An interim remedial action report approved, in writing, by a  
1136 licensed environmental professional has been submitted to the  
1137 Commissioner of Energy and Environmental Protection or an interim  
1138 remedial action report has been approved, in writing, by the  
1139 commissioner. Such interim remedial action report shall describe in  
1140 detail all interim remedial action taken to: (A) Remove free product to  
1141 the maximum extent technically practicable; (B) ensure that all persons  
1142 whose drinking water was polluted by the release have been provided  
1143 potable water; and (C) ensure that soil vapors which pose a risk to  
1144 public health are prevented from migrating into any overlying  
1145 buildings.

1146 (3) An investigation report and remedial action plan approved, in  
1147 writing, by a licensed environmental professional has been submitted  
1148 to the Commissioner of Energy and Environmental Protection, or an  
1149 investigation report and remedial action plan has been approved, in  
1150 writing, by the commissioner. Such investigation report and remedial  
1151 action plan shall include a detailed description of an investigation  
1152 which determines the existing and potential extent and degree of soil,  
1153 surface water, soil vapor and groundwater pollution, on and off-site,  
1154 resulting from the release and describes all actions proposed to  
1155 remediate soil, surface water, air or groundwater polluted by the  
1156 release in accordance with the regulations adopted pursuant to section  
1157 22a-133k.

1158 (4) A soil remedial action report approved, in writing, by a licensed  
1159 environmental professional has been submitted to the Commissioner  
1160 of Energy and Environmental Protection, or a soil remedial action

1161 report has been approved, in writing, by the commissioner. Such soil  
1162 remedial action report shall describe in detail the extent of soil  
1163 pollution resulting from the release, all remedial actions taken to abate  
1164 such soil pollution, and all documentation that demonstrates that such  
1165 soil pollution has been remediated in accordance with the regulations  
1166 adopted pursuant to section 22a-133k.

1167 (5) A groundwater remedial action progress report approved, in  
1168 writing, by a licensed environmental professional has been submitted  
1169 to the Commissioner of Energy and Environmental Protection or a  
1170 groundwater remedial action progress report has been approved, in  
1171 writing, by the commissioner. Such report may only be submitted after  
1172 all construction necessary to implement the approved groundwater  
1173 remedial actions has been completed and the groundwater remedial  
1174 actions have been operated and monitored for one year. Such report  
1175 shall include a detailed description of the remedial actions, the results  
1176 of groundwater or any other monitoring conducted, an analysis of  
1177 whether the remedial actions are effective, and a proposal for any  
1178 changes in the groundwater remedial actions and monitoring that may  
1179 be necessary to achieve compliance with the regulations adopted  
1180 pursuant to section 22a-133k.

1181 (6) An annual groundwater remedial action progress report  
1182 approved, in writing, by a licensed environmental professional has  
1183 been submitted to the Commissioner of Energy and Environmental  
1184 Protection or approved, in writing, by the commissioner. Such report  
1185 shall include a detailed description of the remedial actions, the results  
1186 of groundwater or any other monitoring conducted for the year  
1187 covered by the report, an analysis of whether the remedial actions are  
1188 effective, and a proposal for any changes in the groundwater remedial  
1189 actions and monitoring that may be necessary to achieve compliance  
1190 with the regulations adopted pursuant to section 22a-133k. A  
1191 responsible party pursuant to section 22a-449f may submit to the  
1192 [board] commissioner up to, but not more than, four separate  
1193 applications or requests for payment or reimbursement in a calendar

1194 year regarding costs, expenses or obligations paid or incurred  
1195 concerning annual groundwater monitoring or compliance with this  
1196 subdivision.

1197 (7) A final remedial action report approved by a licensed  
1198 environmental professional has been submitted to the Commissioner  
1199 of Energy and Environmental Protection, or a final remedial action  
1200 report has been approved, in writing, by the commissioner, that  
1201 documents that the release has been investigated in accordance with  
1202 prevailing standards and guidelines and that the soil, surface water,  
1203 groundwater and air polluted by the release has been remediated in  
1204 accordance with the regulations adopted pursuant to section 22a-133k.

1205 (8) The Commissioner of Energy and Environmental Protection may  
1206 adopt regulations, in accordance with the provisions of chapter 54,  
1207 establishing milestones for investigation and remediation of releases or  
1208 suspected releases from underground storage tank systems, including  
1209 milestones that differ from those set forth in this section. Upon the  
1210 adoption of such regulations, the milestones for investigation and  
1211 remediation for which payment or reimbursement is available from  
1212 the program shall be those set forth in the regulations.

1213 (9) This section shall apply to an application or request for  
1214 reimbursement or payment received by the [board] commissioner on  
1215 or after October 1, 2005, regardless of when the release or suspected  
1216 release occurred, whether actions in response to the release or  
1217 suspected release have already occurred or whether prior applications  
1218 or requests seeking payment or reimbursement have already been  
1219 submitted to the [board] commissioner.

1220 Sec. 11. (NEW) (*Effective from passage*) (a) (1) At the start of each  
1221 fiscal year, the Commissioner of Energy and Environmental Protection  
1222 shall distribute the amount allocated by the State Bond Commission or  
1223 appropriated by the state to the Underground Storage Tank Petroleum  
1224 Clean-Up program as follows: (A) One-quarter for payment or  
1225 reimbursement to municipalities and innocent affected parties; (B) one-

1226 quarter for payment or reimbursement to small station applicants; (C)  
1227 one-quarter for payment or reimbursement to mid-size station  
1228 applicants; and (D) one-quarter for payment or reimbursement to large  
1229 station applicants.

1230 (2) The commissioner shall determine whether an applicant is a  
1231 municipality, innocent affected party, or a small, mid-size or large  
1232 station applicant. Such determination shall be based on the applicant's  
1233 status at the time its initial application for payment or reimbursement  
1234 is filed with the department pursuant to section 22a-449f of the general  
1235 statutes, as amended by this act. In the case of assignees under  
1236 subdivision (2) of subsection (c) of section 22a-449c of the general  
1237 statutes, the assignee shall assume the status of the assignor. Each  
1238 applicant shall submit information regarding underground storage  
1239 tank ownership to the Department of Energy and Environmental  
1240 Protection and any additional information the commissioner deems  
1241 necessary to make such determination on a form prescribed by the  
1242 commissioner. Such determination shall be final and shall apply to all  
1243 applications filed before or after the effective date of this section by  
1244 such applicant pursuant to section 22a-449f of the general statutes, as  
1245 amended by this act. Unless payment or reimbursement has been  
1246 issued to an applicant pursuant to section 22a-449f of the general  
1247 statutes, as amended by this act, no such application shall be deemed  
1248 complete and no payment or reimbursement shall be ordered or issued  
1249 by the commissioner until the commissioner makes such  
1250 determination.

1251 (b) (1) Payment or reimbursement to municipalities and innocent  
1252 affected parties and small station applicants, as ordered by the  
1253 Commissioner of Energy and Environmental Protection pursuant to  
1254 sections 22a-449d to 22a-449e, inclusive, of the general statutes, as  
1255 amended by this act, and sections 12 and 13 of this act, shall follow the  
1256 order of priority set forth in this subsection. This order of priority  
1257 applies to applications received before or after the effective date of this  
1258 section. Priority shall be given to those applications approved by the

1259 commissioner for payment or reimbursement beginning from the  
1260 earliest date of such approval. If there are insufficient funds to satisfy  
1261 payment and reimbursement of such applications, the prioritization  
1262 established pursuant to this subsection for payment and  
1263 reimbursement shall carry over to the subsequent fiscal quarter, and if  
1264 necessary, from year to year.

1265 (2) (A) If at anytime there is an amount remaining from the funding  
1266 allocated for payment or reimbursement of municipal or innocent  
1267 affected parties and there are no pending municipal or innocent  
1268 affected party applications, such amount shall be used for payment or  
1269 reimbursement to small station applicants in accordance with the  
1270 priority set forth in subdivision (1) of this subsection. If there are no  
1271 pending or unpaid small station applications, the amount remaining  
1272 from the funding allocated for payment or reimbursement of  
1273 municipal or innocent affected parties shall be used for payment or  
1274 reimbursement to mid-size station applicants, in accordance with the  
1275 priority set forth in subsection (c) of this section. If there are no  
1276 pending or unpaid mid-size station applications, the amount  
1277 remaining from the funding allocated for payment or reimbursement  
1278 of municipal or innocent affected parties shall be used for payment or  
1279 reimbursement to large station applicants, in accordance with the  
1280 priority set forth in subsection (c) of this section.

1281 (B) If at any time there is an amount remaining from the funding  
1282 allocated for payment or reimbursement of small station applicants  
1283 and there are no pending small station applications, such amount shall  
1284 be used for payment or reimbursement to municipal and innocent  
1285 affected party applicants, in accordance with the priority set forth in  
1286 subdivision (1) of this subsection. If there are no pending or unpaid  
1287 municipal or innocent affected party applications, the amount  
1288 remaining from the funding allocated for payment or reimbursement  
1289 of small station applicants shall be used for payment or reimbursement  
1290 to mid-size applicants in accordance with the priority set forth in  
1291 subsection (c) of this section. If there are no pending or unpaid mid-

1292 size station applications, the amount remaining from the funding  
1293 allocated for payment or reimbursement of small station applicants  
1294 shall be used for payment or reimbursement to large station  
1295 applicants, in accordance with the priority set forth in subsection (c) of  
1296 this section.

1297 (c) (1) Payment or reimbursement to mid-size station applicants and  
1298 large station applicants, as ordered by the Commissioner of Energy  
1299 and Environmental Protection pursuant to sections 22a-449d to 22a-  
1300 449e, inclusive, of the general statutes, as amended by this act, and  
1301 sections 12 and 13 of this act, shall follow the order of priority set forth  
1302 in this subsection. This order of priority applies to applications  
1303 received before or after the effective date of this section. For  
1304 applications submitted by mid-size or large station applicants before  
1305 or after the effective date of this section, such applicants may elect to  
1306 accept a lower payment or reimbursement than that ordered by the  
1307 commissioner pursuant to section 22a-449d of the general statutes, as  
1308 amended by this act, which shall be called a "reduced payment  
1309 election" for the purposes of this section. As amongst mid-size station  
1310 applicants and large station applicants, applicants who make a  
1311 reduced payment election of twenty cents on each dollar of the  
1312 payment or reimbursement ordered by the commissioner, or less, shall  
1313 be given priority over mid-size station applicants and large station  
1314 applicants who do not make a reduced payment election, regardless of  
1315 the date on which the commissioner ordered payment or  
1316 reimbursement pursuant to section 22a-449d of the general statutes, as  
1317 amended by this act. As amongst applicants who make a reduced  
1318 payment election, priority shall be given to those applicants who  
1319 accept the greatest reduction of payment or reimbursement. In the case  
1320 where such reduced payment election is equal amongst applicants,  
1321 priority shall be given to those applications approved by the  
1322 commissioner at the earliest date for payment or reimbursement. In  
1323 each succeeding fiscal year after the effective date of this section, the  
1324 twenty cent minimum set forth in this subdivision shall increase by  
1325 five cents per year. After this amount reaches one dollar, it shall no

1326 longer increase. If there are insufficient funds to satisfy payment and  
1327 reimbursement of such applications, the prioritization established  
1328 pursuant to this subsection for payment or reimbursement shall carry  
1329 over from year to year. Mid-size station applicants and large station  
1330 applicants who do not make a reduced payment election, shall not be  
1331 issued payment or reimbursement until July 1, 2028. As amongst mid-  
1332 size applicants and large size applicants who do not elect to accept a  
1333 lower payment or reimbursement than that offered by the  
1334 commissioner pursuant to section 22a-449d of the general statutes, as  
1335 amended by this act, priority with respect to the issuance of payment  
1336 or reimbursement shall be given to those applications first approved  
1337 by the commissioner for payment or reimbursement.

1338 (2) Not later than August first, annually, the following persons shall  
1339 submit a reduced payment election to the commissioner:

1340 (A) Mid-size station applicants and large station applicants seeking  
1341 a reduced payment election for such fiscal year who will likely submit  
1342 an application within such fiscal year to the commissioner pursuant to  
1343 section 22a-449f of the general statutes, as amended by this act;

1344 (B) Mid-size station applicants and large station applicants seeking a  
1345 reduced payment election for such fiscal year who have submitted an  
1346 application to the commissioner pursuant to section 22a-449f of the  
1347 general statutes, as amended by this act, but have not previously  
1348 submitted a reduced payment election; and

1349 (C) Mid-size station applicants and large station applicants seeking  
1350 a reduced payment election for such fiscal year who have submitted a  
1351 payment election in a prior fiscal year for an application that has not  
1352 been approved by the commissioner pursuant to section 22a-449d, of  
1353 the general statutes, as amended by this act.

1354 (3) Such payment election shall be submitted, in writing, on a form  
1355 prescribed by the commissioner. In the case of applicants with more  
1356 than one application before the commissioner, such payment election

1357 shall apply to each application already submitted to the commissioner.  
1358 An applicant's payment election shall be considered final unless the  
1359 applicant subsequently elects to accept a lower payment or  
1360 reimbursement. Following receipt of such payment election by the  
1361 commissioner, the applicant may not seek additional reimbursement  
1362 for any cost, expense or other obligation associated with such  
1363 applications.

1364 (4) Mid-size and large station applicants submitting an application,  
1365 other than a supplemental application, for the first time shall submit a  
1366 reduced payment election, in writing, on a form prescribed by the  
1367 commissioner, with such application.

1368 (5) (A) If at any time there is an amount remaining from the funding  
1369 allocated for payment or reimbursement of mid-size station applicants  
1370 and there are no pending mid-size station applications, such amount  
1371 shall be used for payment or reimbursement to municipal and  
1372 innocent affected party applicants, in accordance with the priority set  
1373 forth in subdivision (1) of subsection (b) of this section. If there are no  
1374 pending or unpaid municipal or affected party applications, the  
1375 amount remaining from the funding allocated for payment or  
1376 reimbursement of mid-size station applicants shall be used for  
1377 payment or reimbursement to small station applicants, in accordance  
1378 with the priority set forth in subdivision (1) of subsection (b) of this  
1379 section. If there are no pending or unpaid small station applications,  
1380 the amount remaining from the funding allocated for payment or  
1381 reimbursement of mid-size stations shall be used for payment or  
1382 reimbursement to large station applicants, in accordance with the  
1383 priority set forth in subsection (c) of this section.

1384 (B) If at any time there is an amount remaining from the funding  
1385 allocated for payment or reimbursement of large station applicants,  
1386 and there are no pending large station applications, such amount shall  
1387 be used to pay municipal and innocent affected party applications, in  
1388 accordance with the priority set forth in subdivision (1) of subsection

1389 (b) of this section. If there are no pending or unpaid municipal and  
 1390 innocent affected party applications, the amount remaining from the  
 1391 funding allocated for payment or reimbursement of large station  
 1392 applicants shall be used to pay small station applicants, in accordance  
 1393 with the priority set forth in subdivision (1) of subsection (b) of this  
 1394 section. If there are no pending or unpaid small station applications,  
 1395 the amount remaining from the funding allocated for payment or  
 1396 reimbursement of large station applicants shall be used to pay mid-  
 1397 size station applicants, in accordance with the priority set forth in  
 1398 subsection (c) of this section.

1399 Sec. 12. (NEW) (*Effective from passage*) (a) Mid-size station applicants  
 1400 and large station applicants may not satisfy the financial responsibility  
 1401 requirements of section 22a-449(d)-109(d)(1) of the regulations of  
 1402 Connecticut state agencies, as amended from time to time, with a state  
 1403 fund or state assurance program. Such applicants shall take action on  
 1404 or before July 30, 2012, to ensure that each such applicant is in  
 1405 compliance with the financial responsibility requirements by October  
 1406 1, 2012.

1407 (b) Municipalities and third parties and small station applicants  
 1408 may not satisfy the financial responsibility requirements of section 22a-  
 1409 449(d)-109(d)(1) of the regulations of Connecticut state agencies, as  
 1410 amended from time to time, with a state fund or state assurance  
 1411 program on and after October 1, 2013. Such applicants shall take action  
 1412 on or before July 30, 2013, to ensure that each such applicant is in  
 1413 compliance with the financial responsibility requirements by October  
 1414 1, 2013.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-2d(b)
Sec. 2	<i>from passage</i>	22a-449a
Sec. 3	<i>from passage</i>	22a-449c
Sec. 4	<i>from passage</i>	22a-449d

Sec. 5	<i>from passage</i>	22a-449e
Sec. 6	<i>from passage</i>	22a-449f
Sec. 7	<i>from passage</i>	22a-449g
Sec. 8	<i>from passage</i>	22a-449l
Sec. 9	<i>from passage</i>	22a-449n
Sec. 10	<i>from passage</i>	22a-449p
Sec. 11	<i>from passage</i>	New section
Sec. 12	<i>from passage</i>	New section

**Statement of Purpose:**

To gradually eliminate the state fund and state assurance for reimbursement of costs associated with a release from an underground petroleum storage tank, to prioritize payment of approved applications for reimbursement of costs associated with a release from an underground storage tank and to terminate the underground storage tank petroleum clean-up review board.

*[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.]*