

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: S3/14/11

A Bill

SENATE BILL 955

5 By: Senator J. Key
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For An Act To Be Entitled

8 AN ACT TO CLARIFY CERTAIN PROVISIONS OF THE PETROLEUM
9 STORAGE TANK TRUST FUND ACT; AND FOR OTHER PURPOSES.
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Subtitle

11 TO CLARIFY CERTAIN PROVISIONS OF THE
12 PETROLEUM STORAGE TANK TRUST FUND ACT.
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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 *SECTION 1. Arkansas Code § 8-7-907, concerning payments for corrective*
20 *actions regarding petroleum storage tanks, is amended to add three additional*
21 *subsections to read as follows:*

22 *(i)(1) An owner or operator determined to be eligible for payment for*
23 *corrective action for a release from a qualified storage tank may transfer*
24 *the eligibility to a subsequent owner or operator of the storage tank if the*
25 *department determines that the subsequent owner or operator has the financial*
26 *and legal capacity to complete the corrective action and the subsequent owner*
27 *or operator agrees in writing to assume responsibility for corrective action.*

28 *(2) A transfer under subdivision (i)(1) of this section shall*
29 *not affect the potential liability of the owner or operator for undertaking*
30 *any required corrective action.*

31 *(3) The removal of the storage tank after initiation of*
32 *corrective action shall not bar the transfer of eligibility as provided in*
33 *subdivision (i)(1) of this section.*

34 *(j)(1) A lender or secured creditor that holds ownership in a storage*
35 *tank primarily to protect a security interest on the storage tank or the*
36 *facility on which it is located, or both, is eligible for payment for*



1 corrective action if the lender or secured creditor assumes responsibility
2 for completing the corrective action of a release from a qualified storage
3 tank.

4 (2) If an owner or operator is performing corrective action to
5 the department's satisfaction, a lender or secured creditor is not eligible
6 to assume responsibility for corrective action or to receive payment for
7 corrective action.

8 (3) Subdivisions (j)(1) and (j)(2) of this section do not affect
9 the liability of the owner or operator for undertaking any required
10 corrective action.

11 (k)(1) The Arkansas Pollution Control and Ecology Commission shall
12 provide through rule and regulation for a procedure under which an owner or
13 operator or a consultant can be eligible for payment for the purchase of
14 equipment needed for undertaking corrective action.

15 (2) The procedure adopted under subdivision (k)(1) of this
16 section shall include without limitation:

17 (A) Depreciation schedules;

18 (B) Reasonable rent as appropriate;

19 (C) Evaluation of residual value of equipment; and

20 (D) Providing for reversion of equipment to the department
21 if the responsibility for the maintenance or payment for the equipment is not
22 met.

23 (3) The eligibility for payment of a consultant shall apply only
24 to subdivision (k)(1) of this section.

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26 SECTION 2. Arkansas Code § 8-7-908 concerning payment for third-party
27 claims regarding petroleum storage tanks, is amended to add an additional
28 subsection to read as follows:

29 (h)(1) An owner or operator determined to be eligible for payment for
30 third-party claims for a release may transfer the eligibility to an owner or
31 operator that acquires the storage tank if the department determines that the
32 subsequent owner or operator has the financial and legal capacity and has
33 assumed in writing the responsibility for third-party liability.

34 (2) A transfer under subdivision (h)(1) of this section shall
35 not affect the potential liability of the owner or operator for undertaking
36 any required corrective action.

1 (3) The removal of the storage tank after initiation of
2 corrective action shall not bar the transfer of eligibility as provided in
3 (h)(1).

4 /s/J. Key

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