

ARKANSAS SENATE
88th General Assembly - Regular Session, 2011
Amendment Form

**

Subtitle of Senate Bill No. 955

TO CLARIFY CERTAIN PROVISIONS OF THE PETROLEUM STORAGE TANK TRUST
FUND ACT.

Amendment No. 1 to Senate Bill No. 955

Amend Senate Bill No. 955 as originally introduced:

Delete everything after the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 8-7-907, concerning payments for corrective actions regarding petroleum storage tanks, is amended to add three additional subsections to read as follows:

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

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

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

(j)(1) A lender or secured creditor that holds ownership in a storage tank primarily to protect a security interest on the storage tank or the facility on which it is located, or both, is eligible for payment for corrective action if the lender or secured creditor assumes responsibility for completing



the corrective action of a release from a qualified storage tank.

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

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

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

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

- (A) Depreciation schedules;
- (B) Reasonable rent as appropriate;
- (C) Evaluation of residual value of equipment;

and

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

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

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

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

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

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

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Key

MGF/CDS - 03/10/11 02:54

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Secretary