1   State of Arkansas

A Bill

2   85th General Assembly

3   Regular Session, 2005   HOUSE BILL   2656

4

5   By: Representative Ledbetter

6

7

8   **For An Act To Be Entitled**

9   AN ACT TO CLARIFY THAT THE ARKANSAS DEPARTMENT OF

10   ENVIRONMENTAL QUALITY HAS THE RIGHT OF

11   SUBROGATION TO INSURANCE HELD BY UNDERGROUND

12   STORAGE TANK OPERATORS OR OWNERS; AND FOR OTHER

13   PURPOSES.

14

15   **Subtitle**

16   AN ACT TO CLARIFY THAT THE ARKANSAS

17   DEPARTMENT OF ENVIRONMENTAL QUALITY HAS

18   THE RIGHT OF SUBROGATION TO INSURANCE

19   HELD BY UNDERGROUND STORAGE TANK

20   OPERATORS OR OWNERS.

21

22

23   BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24

25   SECTION 1. Arkansas Code § 8-7-907(f), concerning the recovery of

26   costs of corrective action by the Arkansas Department of Environmental

27   Quality, is amended to read as follows:

28   (f)(1) In the event moneys are expended from the fund for corrective

29   action and the owner or operator was not at the time of the occurrence

30   eligible to receive reimbursement for corrective action, as defined by this

31   subchapter and regulations promulgated under this subchapter, the department

32   may recover from the owner or operator the amount of moneys expended from the

33   fund for corrective action by filing an action in the appropriate circuit

34   court or by using the administrative procedures set forth in § 8-7-804.

35   (2)(A) The department also has a right of subrogation:

36   (i) To any insurance policies in existence at the

1 time of the occurrence to the extent of any rights the owner or operator of a

2 site may have had under that policy; and

3   (ii) Against any third party who caused or

4 contributed to the occurrence.

5   (B) The right of subrogation shall apply to sites where

6 corrective action is taken by:

7   (i) Owners or operators; or

8   (ii) The department.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36