

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

*As Engrossed: H3/11/05*

# A Bill

HOUSE BILL 2656

5 By: Representative Ledbetter  
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## 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

## Subtitle

15 AN ACT TO CLARIFY THAT THE ARKANSAS  
16 DEPARTMENT OF ENVIRONMENTAL QUALITY HAS  
17 THE RIGHT OF SUBROGATION TO INSURANCE  
18 HELD BY UNDERGROUND STORAGE TANK  
19 OPERATORS OR OWNERS.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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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.

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10 SECTION 2. Arkansas Code § 8-7-908(f), concerning the recovery of  
11 costs of corrective action by the Arkansas Department of Environmental  
12 Quality related to third-party claims, is amended to read as follows:

13 (f)(1) In the event moneys are expended from the fund for third-party  
14 claims and the owner or operator was not at the time of the occurrence in  
15 substantial compliance, as defined by this subchapter and regulations  
16 promulgated hereunder, the department may recover from the owner or operator  
17 the amount of moneys expended from the fund for the third-party claim by  
18 filing an action in the appropriate circuit court or by using the  
19 administrative procedures set forth in § 8-7-804.

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

21 (i) To any insurance policies in existence at the  
22 time of the occurrence to the extent of any rights the owner or operator of a  
23 site may have had under that policy; and

24 (ii) Against any third party who caused or  
25 contributed to the occurrence.

26 (B) The right of subrogation shall apply to sites where  
27 corrective action is taken by:

- 28 (i) Owners or operators; or
- 29 (ii) The department.

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31 /s/ Ledbetter  
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