

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 S3/22/05

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.

9 (C) As used in this subsection (f), "third party" does not
10 include a former owner or operator of the site where corrective action is
11 taken.

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

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

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

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

27 (ii) Against any third party who caused or
28 contributed to the occurrence.

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

31 (i) Owners or operators; or

32 (ii) The department.

33 (C) As used in this subsection (f), "third party" does not
34 include a former owner or operator of the site where corrective action is
35 taken.

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/s/ Ledbetter