
SENATE BILL No. 168

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-23.

Synopsis: Liability for underground storage tank fees. Provides that the state may impose a lien on property on which an underground storage tank is located, if the owner or operator of the storage tank fails to pay underground storage tank fees. Requires the department of environmental management to: (1) provide 30 days written notice before filing a lien; and (2) record the lien with the county recorder in the county in which the property is located. Provides that a bona fide purchaser is eligible to receive funds from the underground storage tank excess liability trust fund if: (1) the transferor fails to pay any registration fees; and (2) the department fails to record the lien.

Effective: July 1, 2012.

Randolph

January 4, 2012, read first time and referred to Committee on Energy and Environmental Affairs.

C
o
p
y



Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 168



A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-23-7-10 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2012]: **Sec. 10. (a) The state may impose a lien on property on
4 which an underground storage tank is located, if the owner or
5 operator fails to pay fees that are due under IC 13-23-12-1. The
6 lien may secure the payment to the state of an amount equal to the
7 amount of the fees that are due.**
8 **(b) Before imposing a lien under this section, the department
9 shall provide at least thirty (30) days written notice to:**
10 **(1) the owner of record if the owner can be identified; and**
11 **(2) if the owner of record cannot be identified, the tenant,
12 operator, or other person having control of the property.**
13 **(c) Not earlier than thirty (30) days after notice is received, the
14 department shall record a lien imposed under this section with the
15 county recorder in the county in which the property is located.**
16 SECTION 2. IC 13-23-8-4 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) Except as



1 provided under subsection (b), and subject to section 4.5 of this
 2 chapter, an owner or operator may receive money from the excess
 3 liability trust fund under section 1 of this chapter only if the owner or
 4 operator is in substantial compliance (as defined in 328 IAC 1-1-9)
 5 with the following requirements:

6 (1) The owner or operator has complied with the following:

7 (A) This article or IC 13-7-20 (before its repeal).

8 (B) Rules adopted under this article or IC 13-7-20 (before its
 9 repeal).

10 A release from an underground petroleum storage tank may not
 11 prevent an owner or operator from establishing compliance with
 12 this subdivision to receive money from the excess liability fund.

13 (2) The owner or operator has paid all registration fees that are
 14 required under rules adopted under IC 13-23-8-4.5.

15 (3) The owner or operator has provided the commissioner with
 16 evidence of payment of the amount of liability the owner or
 17 operator is required to pay under section 2 of this chapter.

18 (4) A corrective action plan is approved by the commissioner or
 19 deemed approved under this subdivision. The corrective action
 20 plan for sites with a release from an underground petroleum
 21 storage tank that impacts soil or groundwater, or both, is
 22 automatically deemed approved only as long as:

23 (A) the plan conforms with:

24 (i) 329 IAC 9-4 and 329 IAC 9-5; and

25 (ii) the department's cleanup guidelines set forth in the
 26 Underground Storage Tank Branch Guidance Manual,
 27 including the department's risk integrated system of closure
 28 standards; and

29 (B) the soil and groundwater contamination is confined to the
 30 owner's or operator's property.

31 If the corrective action plan fails to satisfy any of the requirements
 32 of clause (A) or (B), the plan is automatically deemed
 33 disapproved. If a corrective action plan is disapproved, the
 34 claimant may supplement the plan. The corrective action plan is
 35 automatically deemed approved when the cause for the
 36 disapproval is corrected. For purposes of this subdivision, in the
 37 event of a conflict between compliance with the corrective action
 38 plan and the department's standards in clause (A), the
 39 department's standards control. For purposes of this subdivision,
 40 if there is a conflict between compliance with the corrective
 41 action plan and the board's rules, the board's rules control. The
 42 department may audit any corrective action plan. If the

C
o
p
y



- 1 commissioner denies the plan, a detailed explanation of all the
 2 deficiencies of the plan must be provided with the denial.
- 3 (b) An owner, operator, or transferee of property under subsection
 4 (e) is eligible to receive money from the fund before the owner,
 5 operator, or transferee has a corrective action plan approved or deemed
 6 approved if:
- 7 (1) the work for which payment is sought under IC 13-23-9-2 was
 8 an initial response to a petroleum release that created the need for
 9 emergency action to abate an immediate threat of harm to human
 10 health, property, or the environment;
- 11 (2) the work is for a site characterization completed in accordance
 12 with 329 IAC 9-5; or
- 13 (3) the department has not acted upon a corrective action plan
 14 submitted under IC 13-23-9-2 within ninety (90) days after the
 15 date the department receives the:
- 16 (A) plan; or
 17 (B) application to the fund;
 18 whichever is later.
- 19 (c) The amount of money an owner, operator, or transferee of
 20 property under subsection (e) is eligible to receive from the fund under
 21 subsection (b) must be calculated in accordance with 328 IAC 1-3.
- 22 (d) An owner, an operator, or a transferee of property described in
 23 subsection (e) eligible to receive money from the fund under this
 24 section may assign that right to another person.
- 25 (e) A transferee of property upon which a tank was located is
 26 eligible to receive money from the fund under this section if **any of the**
 27 **following conditions are met:**
- 28 (1) the transferor of the property was eligible to receive money
 29 under this section with respect to the property.
- 30 (2) **The transferee:**
- 31 (A) **acquires ownership or operation of an underground**
 32 **petroleum storage tank as a result of a bona fide, good**
 33 **faith transaction, negotiated at arm's length, between**
 34 **parties under separate ownership;**
- 35 (B) **the transferor failed to pay fees due under**
 36 **IC 13-23-12-1; and**
- 37 (C) **the department failed to record a lien against the**
 38 **property under IC 13-23-7-10.**

C
 O
 P
 Y

