

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill 297 because it conflicts with SEA 85-2013 without properly recognizing the existence of SEA 85-2013, has had Engrossed Senate Bill 297 under consideration and begs leave to report back to the Senate with the recommendation that Engrossed Senate Bill 297 be corrected as follows:

- 1 Page 2, delete lines 3 through 42, begin a new paragraph and insert:
2 "SECTION 2. IC 13-23-8-4, AS AMENDED BY SEA 85-2013,
3 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2013]: Sec. 4. (a) Except as provided under subsection (b),
5 and subject to section 4.5 of this chapter, an owner or operator may
6 receive money from the excess liability trust fund under section 1 of
7 this chapter only if the owner or operator is in substantial compliance
8 (as defined in 328 IAC 1-1-9) with the following requirements:
9 (1) The owner or operator has complied with the following:
10 (A) This article or IC 13-7-20 (before its repeal).
11 (B) Rules adopted under this article or IC 13-7-20 (before its
12 repeal).
13 A release from an underground petroleum storage tank may not
14 prevent an owner or operator from establishing compliance with
15 this subdivision to receive money from the excess liability fund.
16 (2) The owner or operator has paid all registration fees that are
17 required under rules adopted under IC 13-23-8-4.5.
18 (3) The owner or operator has provided the commissioner with
19 evidence of payment of the amount of liability the owner or
20 operator is required to pay under section 2 of this chapter.
21 (4) A corrective action plan is approved by the commissioner or
22 deemed approved under this subdivision. The corrective action
23 plan for sites with a release from an underground petroleum
24 storage tank that impacts soil or groundwater, or both, is
25 automatically deemed approved only as long as:
26 (A) the plan conforms with:
27 (i) 329 IAC 9-4 and 329 IAC 9-5; and
28 (ii) the department's cleanup guidelines set forth in the

1 Underground Storage Tank Branch Guidance Manual,
 2 including the department's ~~risk integrated system of closure~~
 3 **guidance on remediation and closure** standards; and

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

6 If the corrective action plan fails to satisfy any of the requirements
 7 of clause (A) or (B), the plan is automatically deemed
 8 disapproved. If a corrective action plan is disapproved, the
 9 claimant may supplement the plan. The corrective action plan is
 10 automatically deemed approved when the cause for the
 11 disapproval is corrected. For purposes of this subdivision, in the
 12 event of a conflict between compliance with the corrective action
 13 plan and the department's standards in clause (A), the
 14 department's standards control. For purposes of this subdivision,
 15 if there is a conflict between compliance with the corrective
 16 action plan and the board's rules, the board's rules control. The
 17 department may audit any corrective action plan. If the
 18 commissioner denies the plan, a detailed explanation of all the
 19 deficiencies of the plan must be provided with the denial.

20 (b) An owner, operator, or transferee of property under subsection
 21 (e) is eligible to receive money from the fund before the owner,
 22 operator, or transferee has a corrective action plan approved or deemed
 23 approved if:

24 (1) the work for which payment is sought under IC 13-23-9-2 was
 25 an initial response to a petroleum release that created the need for
 26 emergency action to abate an immediate threat of harm to human
 27 health, property, or the environment;

28 (2) the work is for a site characterization completed in accordance
 29 with 329 IAC 9-5; or

30 (3) the department has not acted upon a corrective action plan
 31 submitted under IC 13-23-9-2 within ninety (90) days after the
 32 date the department receives the:

33 (A) plan; or

34 (B) application to the fund;

35 whichever is later.

36 (c) The amount of money an owner, operator, or transferee of
 37 property under subsection (e) is eligible to receive from the fund under
 38 subsection (b) must be calculated in accordance with 328 IAC 1-3.

39 (d) An owner, an operator, or a transferee of property described in
 40 subsection (e) eligible to receive money from the fund under this

1 section may assign that right to another person.

2 (e) A transferee of property upon which a tank was located is
3 eligible to receive money from the fund under this section if: ~~any of the~~
4 ~~following subdivisions apply:~~

5 (1) the transferor of the property was eligible to receive money
6 under this section with respect to the property;

7 (2) ~~All of the following conditions are met:~~ (A) transferee
8 acquired ownership or operation of an underground petroleum
9 storage tank as a result of a bona fide, good faith transaction,
10 negotiated at arm's length, between parties under separate
11 ownership; **and**

12 ~~(B) The transferor failed to pay fees due under IC 13-23-12-1.~~

13 ~~(C) The department failed to record a lien against the property~~
14 ~~under IC 13-23-7-10.~~

15 (3) the transferee pays all applicable tank fees under
16 IC 13-23-12-1, including past due fees and interest for each tank,
17 not more than thirty (30) days after receiving notice of the
18 indebtedness.

19 **For purposes of subdivision (3), past due fees include fees, interest,**
20 **and penalties assessed by the department of revenue."**

21 Delete page 3.

22 Page 4, delete lines 1 through 4.

(Reference is to ESB 297 as printed March 19, 2013.)

Senator LONG, Chairperson

Senator LANANE, R.M.M.

Senator RANDOLPH