

HOUSE No. 830

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to establish a residential petroleum clean up fund.

PETITION OF:

NAME:

John W. Scibak

DISTRICT/ADDRESS:

2nd Hampshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 863 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO ESTABLISH A RESIDENTIAL PETROLEUM CLEAN UP FUND..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 21E of the General Laws, as appearing in the 2002 Official Edition, is hereby amended
2 by adding After section 11 the following section:—

3 SECTION 11A. (a) Notwithstanding any general or special law to the contrary, the Department of
4 Environmental Protection shall establish a Residential Petroleum Clean Up Fund, hereafter referred to as
5 the Fund, to provide financial assistance in hardship cases to property owners for the remediation of fuel
6 leaks and removal of ground contamination from above ground and buried underground storage tanks at
7 residential properties.

8 (b) The Fund is established as a special revolving fund and shall be credited with:

9 i. such moneys as appropriated by the Legislature from the Environmental
10 Challenge Fund as defined in section 2J of chapter 29;

11 ii. any monies received as repayment of principal and interest on outstanding
12 loans made from the Residential Petroleum Clean Up Fund;

13 iii. any monies recovered through liens pursuant to subsection (e) of this act;

14 (c) Fund proceeds may only be awarded to the owner of a residential property
15 who is unable to initiate or complete the remediation of a fuel leak and removal of
16 ground contamination because of financial hardship. In determining whether an
17 applicant qualifies for assistance, the Department shall base its determination upon
18 the applicant's taxable income in the year prior to the date of the application and
19 the applicant's personal and business assets, exclusive of the applicant's primary
20 residence.

- 21 (d) The Department may award financial assistance from the Fund to the owner of a residential
22 property owner in the form of a loan or a hardship grant as provided in this subsection.
- 23 a. An award of financial assistance, either as a loan or a grant, or a combination of both, may be for up
24 to 100% of the eligible project costs.
- 25 b. The actual amount and the structure of the award as a loan or a grant shall be determined
26 by the Department after reviewing the projected costs of the remediation project and the
27 applicant's ability to repay all or a portion of those costs, given the applicant's assets and
28 net worth.
- 29 c. All loans awarded from the Fund shall be for a term not to exceed ten years at a rate
30 between two percent and the Prime Rate at the time of approval, based upon the
31 applicant's ability to repay.
- 32 (e) The Department may also file a lien on the property where the leak occurred. Liens
33 filed pursuant to this subsection shall not affect any valid lien, right or interest in the real
34 property filed in accordance with established procedure prior to the filing of this notice of
35 lien.
- 36 (f) Upon the sale of the property for which the loan was made, the unpaid balance of the loan shall
37 immediately become payable in full.
- 38 (g) The Department may deny an application for financial assistance, and any award of financial
39 assistance may be recoverable by the Department, upon a finding that:
- 40 a. the fuel leak was proximately caused by the applicant's knowing conduct;
- 41 b. the applicant provided false information or withheld information on a loan or grant
42 application, or other relevant information required to be submitted to the Department, on
43 any matter that would otherwise render the applicant ineligible for financial assistance
44 from the fund.
- 45 (h) If a property owner has insurance coverage for the remediation of the fuel leak, the
46 insurance coverage shall be the primary coverage for the costs of a remediation. The property
47 owner may apply for financial assistance from the Fun for any excess, provided that the owner
48 can demonstrate financial hardship for the excess costs.