

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 57.9 as follows:

6 (415 ILCS 5/57.9)

7 Sec. 57.9. Underground Storage Tank Fund; eligibility and
8 deductibility.

9 (a) The Underground Storage Tank Fund shall be accessible
10 by owners and operators who have a confirmed release from an
11 underground storage tank or related tank system of a substance
12 listed in this Section. The owner or operator is eligible to
13 access the Underground Storage Tank Fund if the eligibility
14 requirements of this Title are satisfied and:

15 (1) Neither the owner nor the operator is the United
16 States Government.

17 (2) The tank does not contain fuel which is exempt
18 from the Motor Fuel Tax Law.

19 (3) The costs were incurred as a result of a confirmed
20 release of any of the following substances:

21 (A) "Fuel", as defined in Section 1.19 of the
22 Motor Fuel Tax Law.

23 (B) Aviation fuel.

1 (C) Heating oil.

2 (D) Kerosene.

3 (E) Used oil which has been refined from crude oil
4 used in a motor vehicle, as defined in Section 1.3 of
5 the Motor Fuel Tax Law.

6 (4) The owner or operator registered the tank and paid
7 all fees in accordance with the statutory and regulatory
8 requirements of the Gasoline Storage Act.

9 (5) The owner or operator notified the Illinois
10 Emergency Management Agency of a confirmed release, the
11 costs were incurred after the notification and the costs
12 were a result of a release of a substance listed in this
13 Section. Costs of corrective action or indemnification
14 incurred before providing that notification shall not be
15 eligible for payment.

16 (6) The costs have not already been paid to the owner
17 or operator under a private insurance policy, other
18 written agreement, or court order.

19 (7) The costs were associated with "corrective action"
20 of this Act.

21 If the underground storage tank which experienced a
22 release of a substance listed in this Section was
23 installed after July 28, 1989, the owner or operator is
24 eligible to access the Underground Storage Tank Fund if it
25 is demonstrated to the Office of the State Fire Marshal
26 the tank was installed and operated in accordance with

1 Office of the State Fire Marshal regulatory requirements.
2 Office of the State Fire Marshal certification is prima
3 facie evidence the tank was installed pursuant to the
4 Office of the State Fire Marshal regulatory requirements.

5 (a-5) The Underground Storage Tank Fund shall be
6 accessible by owners and operators for eligible costs
7 associated with the removal of underground storage tanks
8 installed before January 1, 1976, including, but not limited
9 to, costs for removal of visibly contaminated fill material
10 within 4 feet of the outside dimensions of the tank, removal of
11 groundwater in the excavation that exhibits a sheen, and
12 sampling to determine whether a release from the tank has
13 occurred. The owner or operator is eligible to access the
14 Underground Storage Tank Fund if the eligibility requirements
15 of this Title are satisfied and:

16 (1) Neither the owner nor the operator is the United
17 States Government.

18 (2) The tank does not contain fuel which is exempt
19 from the Motor Fuel Tax Law.

20 (3) The costs were incurred as a result of removing an
21 underground storage tank installed before January 1, 1976
22 that contained any of the following substances:

23 (A) "Fuel", as defined in Section 1.19 of the
24 Motor Fuel Tax Law.

25 (B) Aviation fuel.

26 (C) Heating oil.

1 (D) Kerosene.

2 (E) Used oil which has been refined from crude oil
3 used in a motor vehicle, as defined in Section 1.3 of
4 the Motor Fuel Tax Law.

5 (4) The owner or operator has obtained Agency approval
6 of a tank removal plan and budget prior to the tank's
7 removal.

8 (5) The costs have not already been paid to the owner
9 or operator under a private insurance policy, other
10 written agreement, or court order.

11 Costs paid under this subsection (a-5) shall be subject to
12 the application of a \$5,000 deductible. Any deductible amounts
13 applied under this subsection (a-5) shall also apply toward
14 any deductible amount required under subsection (b) of this
15 Section so as to prevent the application of duplicate
16 deductibles. Any underground storage tank removal conducted
17 pursuant to this subsection (a-5) must comply with the
18 Gasoline Storage Act and related rules.

19 (b) For releases reported prior to June 8, 2010 (the
20 effective date of Public Act 96-908), an owner or operator may
21 access the Underground Storage Tank Fund for costs associated
22 with an Agency approved plan and the Agency shall approve the
23 payment of costs associated with corrective action after the
24 application of a \$10,000 deductible, except in the following
25 situations:

26 (1) For costs incurred prior to the effective date of

1 this amendatory Act of the 104th General Assembly, a
2 deductible of \$100,000 shall apply when none of the
3 underground storage tanks were registered prior to July
4 28, 1989, except in the case of underground storage tanks
5 used exclusively to store heating oil for consumptive use
6 on the premises where stored and which serve other than
7 farms or residential units, a deductible of \$100,000 shall
8 apply when none of these tanks were registered prior to
9 July 1, 1992.

10 (2) For costs incurred prior to the effective date of
11 this amendatory Act of the 104th General Assembly, a
12 deductible of \$50,000 shall apply if any of the
13 underground storage tanks were registered prior to July
14 28, 1989, and the State received notice of the confirmed
15 release prior to July 28, 1989.

16 (3) For costs incurred prior to the effective date of
17 this amendatory Act of the 104th General Assembly, a
18 deductible of \$15,000 shall apply when one or more, but
19 not all, of the underground storage tanks were registered
20 prior to July 28, 1989, and the State received notice of
21 the confirmed release on or after July 28, 1989.

22 In cases where paragraph (1), (2), or (3) of this
23 subsection applies, costs incurred after the effective date of
24 this amendatory Act shall be subject to the \$10,000
25 deductible, which shall be reduced by any deductible amount
26 applied to costs incurred prior to the effective date of this

1 amendatory Act of the 104th General Assembly.

2 For releases reported on or after June 8, 2010 (the
3 effective date of Public Act 96-908), an owner or operator may
4 access the Underground Storage Tank Fund for costs associated
5 with an Agency approved plan, and the Agency shall approve the
6 payment of costs associated with corrective action after the
7 application of a \$5,000 deductible, subject to the
8 requirements of subsection (a-5) to prevent the application of
9 duplicate deductibles.

10 A deductible shall apply annually for each site at which
11 costs were incurred under a claim submitted pursuant to this
12 Title, except that if corrective action in response to an
13 occurrence takes place over a period of more than one year, in
14 subsequent years, no deductible shall apply for costs incurred
15 in response to such occurrence.

16 (c) Eligibility and deductibility determinations shall be
17 made by the Office of the State Fire Marshal.

18 (1) When an owner or operator reports a confirmed
19 release of a regulated substance, the Office of the State
20 Fire Marshal shall provide the owner or operator with an
21 "Eligibility and Deductibility Determination" form. The
22 form shall either be provided on-site or within 15 days of
23 the Office of the State Fire Marshal receipt of notice
24 indicating a confirmed release. The form shall request
25 sufficient information to enable the Office of the State
26 Fire Marshal to make a final determination as to owner or

1 operator eligibility to access the Underground Storage
2 Tank Fund pursuant to this Title and the appropriate
3 deductible. The form shall be promulgated as a rule or
4 regulation pursuant to the Illinois Administrative
5 Procedure Act by the Office of the State Fire Marshal.
6 Until such form is promulgated, the Office of the State
7 Fire Marshal shall use a form which generally conforms
8 with this Act.

9 (2) Within 60 days of receipt of the "Eligibility and
10 Deductibility Determination" form, the Office of the State
11 Fire Marshal shall issue one letter enunciating the final
12 eligibility and deductibility determination, and such
13 determination or failure to act within the time prescribed
14 shall be a final decision appealable to the Illinois
15 Pollution Control Board.

16 (Source: P.A. 104-291, eff. 1-1-26; 104-417, eff. 8-15-25.)