**HOUSE . . . . . . . . . . . . . . . No. 830** 

## The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to establish a residential petroleum clean up fund..

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

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

  SECTION 11A. (a) Notwithstanding any general or special law to the contrary, the

  Department of Environmental Protection shall establish a Residential Petroleum Clean Up Fund,
  hereafter referred to as the Fund, to provide financial assistance in hardship cases to property
  owners for the remediation of fuel leaks and removal of ground contamination from above
- 8 (b) The Fund is established as a special revolving fund and shall be credited with:

ground and buried underground storage tanks at residential properties.

- i. such moneys as appropriated by the
- 10 Legislature from the Environmental Challenge Fund as defined in section 2J of chapter 29;
- ii. any monies received as repayment of
- principal and interest on outstanding loans made from the Residential Petroleum Clean Up Fund;

to subsection (e) of this act;

- (c) Fund proceeds may only be awarded to the owner of a residential property who is unable to initiate or complete the remediation of a fuel leak and removal of ground contamination because of financial hardship. In determining whether an applicant qualifies for assistance, the Department shall base its determination upon the applicant's taxable income in the year prior to the date of the application and the applicant's personal and business assets, exclusive of the applicant's primary residence.
- (d) The Department may award financial assistance from the Fund to the owner of a residential property owner in the form of a loan or a hardship grant as provided in this subsection.
- a. An award of financial assistance, either as a loan or a grant, or a combination of both, may be for up to 100% of the eligible project costs.
- b. The actual amount and the structure of the award as a loan or a grant shall be determined by the Department after reviewing the projected costs of the remediation project and the applicant's ability to repay all or a portion of those costs, given the applicant's assets and net worth.
- c. All loans awarded from the Fund shall be for a term not to exceed ten years at a rate between two percent and the Prime Rate at the time of approval, based upon the applicant's ability to repay.

- 33 (e) The Department may also file a lien on the property where the leak occurred.
  34 Liens filed pursuant to this subsection shall not affect any valid lien, right or interest in the real
  35 property filed in accordance with established procedure prior to the filing of this notice of lien.
- 36 (f) Upon the sale of the property for which the loan was made, the unpaid balance of the loan shall immediately become payable in full.
  - (g) The Department may deny an application for financial assistance, and any award of financial assistance may be recoverable by the Department, upon a finding that:

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- a. the fuel leak was proximately caused by the applicant's knowing conduct;
- b. the applicant provided false information or withheld information on a loan or grant application, or other relevant information required to be submitted to the Department, on any matter that would otherwise render the applicant ineligible for financial assistance from the fund.
- (h) If a property owner has insurance coverage for the remediation of the fuel leak, the insurance coverage shall be the primary coverage for the costs of a remediation. The property owner may apply for financial assistance from the Fun for any excess, provided that the owner can demonstrate financial hardship for the excess costs.