

SENATE No. 2830

Senate, April 14, 2022 -- Text of the Senate Bill relative to the remediation of home heating oil releases (being the text of Senate, No. 2821, printed as amended)

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the remediation of home heating oil releases.

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

1 SECTION 1. Chapter 175 of the General Laws is hereby amended by striking out section
2 4D, as appearing in the 2020 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 4D. (a) As used in this section, the following words shall have the following
5 meaning unless the context clearly requires otherwise:

6 “Liquid fuel tank”, a tank in which heating oil is stored and from which heating oil is
7 delivered or pumped through a fuel supply line to an oil burner, whether located within a
8 dwelling or other structure, including tanks installed at or below grade level or located outdoors
9 but excluding underground tanks wherever located.

10 “Residential property”, a 1-unit to 4-unit dwelling used for living or sleeping.

11 (b) (1) The joint underwriting association formed pursuant to section 4 of chapter 175C
12 and any insurer licensed to write and engaged in the writing of homeowners’ insurance shall

13 provide the following coverage to owners of residential property to whom a homeowners'
14 insurance policy is issued or renewed: (i) first-party property coverage for response action costs
15 incurred under chapter 21E or chapter 21K or any regulation promulgated pursuant to said
16 chapter 21E or chapter 21K and property damage on the insured's residential property caused by
17 or in response to a release of heating oil from a residential liquid fuel tank or any piping, fuel
18 supply lines, equipment or systems connected thereto; and (ii) liability coverage for third-party
19 claims arising out of a release of heating oil into the environment.

20 (2) For the purposes of this section, first-party property coverage shall include response
21 action costs incurred to assess and remediate a heating oil release impacting soil, indoor air or
22 other environmental media on the insured's residential property and the reimbursement of any
23 associated personal property damage. For the purposes of this section, third-party liability
24 coverage shall include: (i) the obligation to defend the insured at the insurer's expense against
25 third-party claims; provided, however, that such defense obligation shall include coverage for
26 costs incurred to investigate the source and extent of the release of heating oil; and (ii) response
27 action costs incurred to address conditions on and off the insured's residential property arising
28 from a heating oil release on the insured's residential property that has impacted, or is likely to
29 impact, groundwater or has migrated to, or is likely to migrate to, a third-party's property.

30 (3) First-party property coverage and third-party liability coverage shall apply
31 simultaneously and in addition to each other when both coverages are applicable. Insurers may
32 include a reasonable charge for such coverage in premiums applicable to all homeowners'
33 insurance policies. The minimum coverage shall be \$75,000 per occurrence for first-party
34 property coverage and \$250,000 per occurrence for third-party liability coverage, subject to a
35 reasonable deductible not to exceed \$1,000 per claim.

36 (c) Notwithstanding subsection (b), the joint underwriting association and an insurer may
37 include an exclusion in homeowners' insurance policies from the coverages required pursuant to
38 said subsection (b) where the heating oil release would not have occurred but for the owner's
39 failure to comply with the requirements of said subsection (b) or subsection (c) of section 38J of
40 chapter 148, or any regulations promulgated pursuant to said subsection (b) or said subsection (c)
41 of said section 38J of said chapter 148; provided, however, that the joint underwriting association
42 or insurer has provided an annual written notice to the insured that explains, in at least 16-point
43 type, such requirements under said chapter 148, and any regulations promulgated thereto, on a
44 separate form approved by the division of insurance.

45 SECTION 2. This act shall apply to policies issued or renewed on or after January 1,
46 2023.