



SENATE BILL No. 644

May 13, 1993, Introduced by Senators EHLERS, DINGELL and MC MANUS and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend sections 4, 5, 6, 9, 9a, 10, 13, 15, 15a, 16, 18, 20, 21, 23, 24, and 24a of Act No. 518 of the Public Acts of 1988, entitled as amended

"Michigan underground storage tank financial assurance act," sections 4, 5, 9, 10, 13, 15, 18, and 24 as amended and sections 9a, 15a, and 24a as added by Act No. 1 of the Public Acts of 1993, section 6 as amended by Act No. 161 of the Public Acts of 1989, and sections 16 and 23 as amended by Act No. 152 of the Public Acts of 1989, being sections 299.804, 299.805, 299.806, 299.809, 299.809a, 299.810, 299.813, 299.815, 299.815a, 299.816, 299.818, 299.820, 299.821, 299.823, 299.824, and 299.824a of the Michigan Compiled Laws; to add sections 17a, 21a, and 24b; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4, 5, 6, 9, 9a, 10, 13, 15, 15a, 16,
2 18, 20, 21, 23, 24, and 24a of Act No. 518 of the Public Acts of
3 1988, sections 4, 5, 9, 10, 13, 15, 18, and 24 as amended and
4 sections 9a, 15a, and 24a as added by Act No. 1 of the Public
5 Acts of 1993, section 6 as amended by Act No. 161 of the Public
6 Acts of 1989, and sections 16 and 23 as amended by Act No. 152 of
7 the Public Acts of 1989, being sections 299.804, 299.805,
8 299.806, 299.809, 299.809a, 299.810, 299.813, 299.815, 299.815a,
9 299.816, 299.818, 299.820, 299.821, 299.823, 299.824, and
10 299.824a of the Michigan Compiled Laws, are amended and sections
11 17a, 21a, and 24b are added to read as follows:

12 Sec. 4. As used in this act:

13 (a) "Administrator" means the fund administrator provided
14 for in section 12.

15 (b) "Approved claim" means a claim that is approved pursuant
16 to section 15.

17 (c) "Board" means the Michigan underground storage tank
18 financial assurance policy board created in section 20.

19 (d) "Claim" means the submission by the owner or operator,
20 or their representative, of documentation ON AN APPLICATION
21 requesting payment from the fund. A claim shall include, at a
22 minimum, a completed and signed claim form, THE NAME, ADDRESS,
23 TELEPHONE NUMBER, AND FEDERAL TAX IDENTIFICATION NUMBER OF THE
24 CONSULTANT RETAINED BY THE OWNER OR OPERATOR TO CARRY OUT RESPON-
25 SIBILITIES PURSUANT TO THE LEAKING UNDERGROUND STORAGE TANK ACT,
26 ACT NO. 478 OF THE PUBLIC ACTS OF 1988, BEING SECTIONS 299.831 TO

1 299.850 OF THE MICHIGAN COMPILED LAWS, and legible itemized work
2 invoices.

3 (E) "CONSULTANT" MEANS A PERSON ON THE LIST OF QUALIFIED
4 UNDERGROUND STORAGE TANK CONSULTANTS PREPARED PURSUANT TO
5 SECTION 21.

6 (F) "CO-PAY AMOUNT" MEANS THE CO-PAY AMOUNT PROVIDED FOR IN
7 SECTION 13.

8 (G) ~~(e)~~ "Corrective action" means an action to stop, mini-
9 mize, eliminate, or clean up a release or its effects, as may be
10 necessary to protect the public health, safety, welfare, or the
11 environment. This includes, but is not limited to, release
12 investigation, mitigation of fire and safety hazards, tank repair
13 or removal, soil remediation, hydrogeological investigations,
14 free product removal, groundwater remediation and monitoring,
15 exposure assessments, the temporary or permanent relocation of
16 residents, and the provision of alternate water supplies.

17 ~~(f) "Deductible" means the deductible provided for in~~
18 ~~section 13.~~

19 (H) ~~(g)~~ "Department" means the department of management
20 and budget.

21 (I) ~~(h)~~ "Financial responsibility requirements" means the
22 financial responsibility for taking corrective action and for
23 compensating third parties for bodily injury and property damage
24 caused by a release from an underground storage tank system that
25 the owner or operator of an underground storage tank system must
26 demonstrate under the underground storage tank regulatory act,
27 Act No. 423 of the Public Acts of 1984, being sections 299.701 to

1 299.712 of the Michigan Compiled Laws, and the rules promulgated
2 under that act.

3 (J) ~~(i)~~ "Fund" means the Michigan underground storage tank
4 financial assurance fund created in section 6.

5 (K) ~~(j)~~ "Heating oil" means petroleum that is No. 1,
6 No. 2, No. 4--light, No. 4--heavy, No. 5--light, No. 5--heavy,
7 and No. 6 technical grades of fuel oil; other residual fuel oils
8 including navy special fuel oil and bunker C; and other fuels
9 when used as substitutes for 1 of these fuel oils.

10 (L) ~~(k)~~ "Indemnification" means indemnification of a
11 person for a judgment entered against that person in a court of
12 law or for a settlement entered into by that person and approved
13 by the attorney general, if the judgment or settlement arises out
14 of an injury suffered because of a release from a petroleum
15 underground storage tank system operated by that person.

16 (M) ~~(l)~~ "Location" means a facility or parcel of property
17 where petroleum underground storage tank systems are registered
18 pursuant to Act No. 423 of the Public Acts of 1984.

19 (N) ~~(m)~~ "Operator" means a person who was at the time of
20 discovery of a release, in control of, or responsible for, the
21 operation of a petroleum underground storage tank system or a
22 person to whom an approved claim has been assigned or
23 transferred.

24 (O) ~~(n)~~ "Owner" means a person, other than a regulated
25 financial institution, who, at the time of discovery of a
26 release, held a legal, equitable, or possessory interest of any
27 kind in an underground storage tank system, or in the property on

1 which an underground storage tank system is located, including,
2 but not limited to, a trust, vendor, vendee, lessor, or lessee.
3 Owner includes a person to whom an approved claim is assigned or
4 transferred. However, owner does not include a person or a regu-
5 lated financial institution who, without participating in the
6 management of an underground storage tank system and who is not
7 otherwise engaged in petroleum production, refining, or marketing
8 relating to the underground storage tank system, is acting in a
9 fiduciary capacity or who holds indicia of ownership primarily to
10 protect the person's or the regulated financial institution's
11 security interest in the underground storage tank system or the
12 property on which it is located. This exclusion does not apply
13 to a grantor, beneficiary, remainderman, or other person who
14 could directly or indirectly benefit financially from the exclu-
15 sion other than by the receipt of payment for fees and expenses
16 related to the administration of a trust.

17 (P) ~~(e)~~ "Oxygenate" means an organic compound containing
18 oxygen and having properties as a fuel that are compatible with
19 petroleum, including, but not limited to, ethanol, methanol, or
20 methyl tertiary butyl ether (MTBE).

21 Sec. 5. (1) "Payment voucher" means a form prepared by the
22 department that specifies payment authorization by the department
23 to the department of treasury.

24 (2) "Person" means an individual, partnership, joint ven-
25 ture, trust, firm, joint stock company, corporation, including a
26 government corporation, association, local unit of government,
27 commission, the state, a political subdivision of the state, an

1 interstate body, the federal government, a political subdivision
2 of the federal government, or any other legal entity.

3 (3) "Petroleum" means crude oil, crude oil fractions, and
4 refined petroleum fractions including gasoline, kerosene, heating
5 oils, and diesel fuels.

6 (4) "Petroleum underground storage tank system" means an
7 underground storage tank system used for the storage of
8 petroleum.

9 (5) "Refined petroleum" means aviation gasoline, middle dis-
10 tillates, jet fuel, kerosene, gasoline, residual oils, and any
11 oxygenates that have been blended with any of these.

12 (6) "Regulated financial institution" means a state or
13 nationally chartered bank, savings and loan association or sav-
14 ings bank, credit union, or other state or federally chartered
15 lending institution, or a regulated affiliate or a regulated sub-
16 sidiary of any of these entities.

17 (7) "Regulatory fee" means the environmental protection
18 regulatory fee imposed under section 8.

19 (8) "Release" means any spilling, leaking, emitting, dis-
20 charging, escaping, leaching, or disposing from a petroleum
21 underground storage tank system into groundwater, surface water,
22 or subsurface soils.

23 (9) "Rule" means a rule promulgated pursuant to the adminis-
24 trative procedures act of 1969, Act No. 306 of the Public Acts of
25 1969, being sections 24.201 to 24.328 of the Michigan Compiled
26 Laws.

1 (10) "Underground storage tank system" means an existing
2 tank or combination of tanks, including underground pipes
3 connected to the tank or tanks, which is or was used to contain
4 an accumulation of regulated substances, and is not currently
5 being used for any other purpose, and the volume of which,
6 including the volume of the underground pipes connected to the
7 tank or tanks, is 10% or more beneath the surface of the ground.
8 An underground storage tank system includes an underground stor-
9 age tank that is properly closed in place pursuant to the under-
10 ground storage tank regulatory act, Act No. 423 of the Public
11 Acts of 1984, being sections 299.701 to 299.712 of the Michigan
12 Compiled Laws, and rules promulgated under that act. An under-
13 ground storage tank system does not include any of the
14 following:

15 (a) A farm or residential tank of 1,100 gallons or less
16 capacity used for storing motor fuel for noncommercial purposes.

17 (b) A tank used for storing heating oil for consumptive use
18 on the premises where the tank is located.

19 (c) A septic tank.

20 (d) A pipeline facility, including gathering lines regulated
21 under either of the following:

22 (i) The natural gas pipeline safety act of 1968, Public Law
23 90-481, 49 U.S.C. Appx 1671 to 1677, 1679a to 1682, and 1683 to
24 1687.

25 (ii) Sections 201 to 215, 217, and 219, of the hazardous
26 liquid pipeline safety act of 1979, title II of the pipeline

1 safety act of 1979, Public Law 96-129, 49 U.S.C. Appx 2001 to
2 2015.

3 (e) A surface impoundment, pit, pond, or lagoon.

4 (f) A storm water or wastewater collection system.

5 (g) A flow-through process tank.

6 (h) A liquid trap or associated gathering lines directly
7 related to oil or gas production and gathering operations.

8 (i) A storage tank situated in an underground area, such as
9 a basement, cellar, mineworking, drift, shaft, or tunnel if the
10 storage tank is situated upon or above the surface of the floor.

11 (j) Any pipes connected to a tank that is described in sub-
12 divisions (a) to (i).

13 (k) An underground storage tank system holding hazardous
14 wastes listed or identified under subtitle C of the solid waste
15 disposal act, title II of Public Law 89-272, 42 U.S.C. 6921 to
16 6939e or a mixture of such hazardous waste and other regulated
17 substances.

18 (l) A wastewater treatment tank system that is part of a
19 wastewater treatment facility regulated under section 307(b) of
20 title III or section 402 of title IV of the federal water pollu-
21 tion control act, 33 U.S.C. 1317 and 1342.

22 (m) Equipment or machinery that contains regulated sub-
23 stances for operational purposes such as hydraulic lift tanks and
24 electrical equipment tanks.

25 (n) An underground storage tank system with a capacity of
26 110 gallons or less.

1 (o) An underground storage tank system that contains a de
2 minimis concentration of regulated substances.

3 (p) An emergency spill or overflow containment underground
4 storage tank system that is expeditiously emptied after use.

5 (q) A wastewater treatment tank system.

6 (r) An underground storage tank system containing radioac-
7 tive material that is regulated under the atomic energy act of
8 1954, chapter 1073, 68 Stat. 919.

9 (s) An underground storage tank system that is part of an
10 emergency generator system at nuclear power generation facilities
11 regulated by the nuclear regulatory commission under
12 10 C.F.R. part 50, appendix A to part 50 of title 10 of the code
13 of federal regulations.

14 (t) Airport hydrant fuel distribution systems.

15 (u) Underground storage tank systems with field-constructed
16 tanks.

17 (11) "Work invoice" means a detailed billing acceptable to
18 the administrator and signed by ~~a contractor stating the name~~
19 ~~and address of the contractor, a specific itemized list of the~~
20 ~~work performed by the contractor, and an itemized list of the~~
21 ~~cost of each of these items or a receipt signed by a contractor~~
22 ~~not on the approved contractor list provided in section 21 who~~
23 ~~has performed activities up to but not including preparation of a~~
24 ~~site investigation work plan as required by the leaking under-~~
25 ~~ground storage tank act, Act No. 478 of the Public Acts of 1988,~~
26 ~~being sections 299.831 to 299.850 of the Michigan Compiled Laws.~~

1 THE OWNER OR OPERATOR AND A CONSULTANT THAT INCLUDES ALL OF THE
2 FOLLOWING:

3 (A) THE NAME, ADDRESS, AND FEDERAL TAX IDENTIFICATION NUMBER
4 OF EACH CONTRACTOR WHO PERFORMED WORK.

5 (B) A SPECIFIC ITEMIZED LIST OF THE WORK PERFORMED BY EACH
6 CONTRACTOR AND AN ITEMIZED LIST OF THE COST OF EACH OF THESE
7 ITEMS.

8 (C) A STATEMENT THAT THE CONSULTANT EMPLOYED A DOCUMENTED
9 SEALED COMPETITIVE BIDDING PROCESS FOR ANY CONTRACT AWARD EXCEED-
10 ING \$5,000.00.

11 (D) IF THE CONSULTANT DID NOT ACCEPT THE LOWEST RESPONSIVE
12 BID RECEIVED, A SPECIFIC REASON WHY THE LOWEST RESPONSIVE BID WAS
13 REJECTED.

14 (E) UPON REQUEST OF THE ADMINISTRATOR, A LIST OF ALL BIDS
15 RECEIVED.

16 (F) PROOF OF PAYMENT OF THE CO-PAY AMOUNT AS REQUIRED UNDER
17 SECTION 13.

18 (G) AUTHORIZATION BY THE OWNER OR OPERATOR AS TO WHETHER THE
19 STATE TREASURER SHOULD MAKE PAYMENT TO THE OWNER OR OPERATOR OR
20 TO THE CONSULTANT.

21 Sec. 6. (1) The Michigan underground storage tank financial
22 assurance fund is created.

23 (2) The state treasurer shall direct the investment of the
24 fund. Interest and earnings from fund investments shall be cred-
25 ited to the fund.

26 (3) Money in the fund at the close of the fiscal year shall
27 remain in the fund and shall not revert to the general fund.

1 (4) Money in the fund shall be expended only as follows and
2 in the following order of priority:

3 (a) For the reasonable administrative cost of implementing
4 this act by the department, the department of natural resources,
5 the department of state police, the department of treasury, and
6 the department of attorney general as annually appropriated by
7 the legislature. Administrative costs shall include the actual
8 and necessary expenses incurred by the board and its members in
9 carrying out the duties imposed by this act. Total administra-
10 tive costs expended under this subdivision shall not exceed 7% of
11 the fund's projected revenues in any year. Within 2 years of the
12 effective date of this 1989 amendatory act, the department shall
13 conduct an audit of the actual administrative costs of implement-
14 ing this act and shall report the results of this audit to the
15 legislature.

16 (B) PAYMENT OF REWARDS UNDER SECTION 24B.

17 (C) ~~(b)~~ For the interest subsidy program established in
18 section 19. The money expended under this subdivision shall not
19 exceed 10% of the fund's projected revenues in any year.
20 However, 10% of the revenue of the fund during the first year of
21 the fund's operation shall be expended on the interest subsidy
22 program. If this money is not expended during the first year,
23 this money shall be carried over for expenditure in the succeed-
24 ing years of the fund's operation. No additional fund revenue
25 shall be set aside for the interest subsidy program until all of
26 the first year revenue is expended.

1 (D) ~~(e)~~ For corrective action and indemnification
2 including both of the following:

3 (i) Payments for approved work invoices pursuant to this
4 act.

5 (ii) Payments for approved requests for indemnification pur-
6 suant to this act.

7 (5) The board shall make recommendations to the appropria-
8 tions committees in the senate and house of representatives on
9 the distribution and amount of administrative costs under subsec-
10 tion (4). The board shall provide a copy of these recommenda-
11 tions to each affected department.

12 Sec. 9. (1) ~~An~~ EXCEPT AS PROVIDED IN SECTION 18, AN owner
13 or operator may receive money from the fund for corrective action
14 or indemnification only if all of the following requirements are
15 satisfied:

16 (a) The release from which the corrective action or indemni-
17 fication arose was discovered and reported on or after July 18,
18 1989. ~~However, money in the fund shall not be expended until~~
19 ~~the fund begins operating pursuant to section 12.~~

20 (b) The petroleum underground storage tank from which the
21 release occurred was, at the time of discovery of the release,
22 and is presently, in compliance with the registration AND FEE
23 requirements of the underground storage tank regulatory act, Act
24 No. 423 of the Public Acts of 1984, being sections 299.701 to
25 299.712 of the Michigan Compiled Laws, and the rules promulgated
26 under that act.

1 (c) The owner or operator ~~was at the time of discovery of~~
2 ~~the release, and is presently, in compliance with the 30-day~~
3 ~~notice of closure, removal, or change in service reporting~~
4 ~~requirements and the 24-hour notice of release reporting~~ OR A
5 CONSULTANT RETAINED BY THE OWNER OR OPERATOR REPORTED THE RELEASE
6 WITHIN 24 HOURS AFTER ITS DISCOVERY as required by Act No. 423 of
7 the Public Acts of 1984 and the ~~applicable requirements of the~~
8 ~~leaking underground storage tank act, Act No. 478 of the Public~~
9 ~~Acts of 1988, being sections 299.831 to 299.850 of the Michigan~~
10 ~~Compiled Laws, rules promulgated under each of these acts, or the~~
11 ~~requirements of subtitle I of title II of the solid waste dis-~~
12 ~~posal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i and rules~~
13 ~~promulgated under that act. Records kept under these acts shall~~
14 ~~be valid and verifiable~~ RULES PROMULGATED UNDER THAT ACT.

15 ~~(d) The owner or operator has provided the administrator~~
16 ~~with proof of financial responsibility for the deductible amount~~
17 ~~that will satisfy the requirements for financial responsibility~~
18 ~~instruments under subtitle I of title II of the solid waste dis-~~
19 ~~posal act, Public Law 89-272, 42 U.S.C. 6991 to 6991i.~~

20 (D) ~~(e)~~ The owner or operator is not the United States
21 government.

22 (E) ~~(f)~~ The claim or request for indemnification is sub-
23 mitted to the administrator pursuant to this act and the rules
24 promulgated under this act on or before December 22, 1998.

25 (2) The owner or operator may receive money from the fund
26 for corrective action or indemnification due to a release that
27 originates from an aboveground piping and dispensing portion of a

1 petroleum underground storage tank system, if all of the
2 following requirements are satisfied:

3 (a) The owner or operator is otherwise in compliance with
4 this act and the rules promulgated under this act.

5 (b) The release is sudden and immediate.

6 (c) The release is of a quantity exceeding 25 gallons and is
7 released into groundwater, surface water, or soils.

8 (d) The release is reported to the department of state
9 police, fire marshal division within 24 hours of discovery of the
10 release.

11 (3) Either the owner or the operator may receive money from
12 the fund under this act for an occurrence but not both.

13 (4) An owner or operator who is a public utility with more
14 than 500,000 customers in this state is ineligible to receive
15 money from the fund for corrective action or indemnification
16 associated with a release from a petroleum underground storage
17 tank system used to supply petroleum for the generation of steam
18 electricity.

19 (5) If an owner or operator has received money from the fund
20 under this act for a release at a location, the owner and opera-
21 tor are not eligible to receive money from the fund for a subse-
22 quent release at the same location unless the owner or operator
23 has done either or both of the following:

24 (a) Discovered the subsequent release pursuant to ~~remedial~~
25 CORRECTIVE action being taken on a confirmed release and included
26 this subsequent release as part of the corrective action for the
27 confirmed release.

1 (b) Upgraded, replaced, removed, or properly closed in place
2 all underground storage tank systems at the location of the
3 release so as to meet the requirements of Act No. 423 of the
4 Public Acts of 1984, and the rules promulgated under that act.

5 (6) An owner or operator who discovers a subsequent release
6 at the same location as an initial release pursuant to
7 subsection (5)(a) may receive money from the fund to perform cor-
8 rective action on the subsequent release, if the owner or opera-
9 tor otherwise complies with the requirements of this act and the
10 rules promulgated under this act. However, the subsequent
11 release shall be considered as part of the claim for the initial
12 release for purposes of determining the total amount of expendi-
13 tures for corrective action and indemnification under
14 section 10.

15 (7) An owner or operator who discovers a subsequent release
16 at the same location as an initial release ~~pursuant to~~
17 FOLLOWING COMPLIANCE WITH subsection (5)(b) may receive money
18 from the fund to perform corrective action on the subsequent
19 release, if THERE HAVE BEEN NOT MORE THAN 3 RELEASES AT THE
20 LOCATION, the owner or operator PAYS THE SUBSEQUENT RELEASE
21 CO-PAY AMOUNT PURSUANT TO SECTION 13, AND THE OWNER OR OPERATOR
22 otherwise complies with the requirements of this act and the
23 rules promulgated under this act. The subsequent release shall
24 be considered a separate claim for purposes of determining the
25 total amount of expenditures for corrective action and indemnifi-
26 cation under section 10.

1 Sec. 9a. (1) Subject to subsection (2), a regulated
 2 financial institution or land contract vendor may receive money
 3 from the fund for corrective action or indemnification if, prior
 4 to the discovery of a release, the regulated financial institu-
 5 tion makes a loan to an owner or operator or makes a loan to an
 6 approved claimant under the interest subsidy program, or a land
 7 contract vendor enters into a land contract with the owner, and
 8 subsequently the regulated financial institution or the land con-
 9 tract vendor takes title or assumes ownership of the petroleum
 10 underground storage tank system or the property on which it is
 11 located by foreclosure, acceptance of a deed in lieu of foreclo-
 12 sure, or forfeiture.

13 (2) If the regulated financial institution or land contract
 14 vendor eligible under subsection (1) to receive money from the
 15 fund meets the requirements specified in sections 9 and 15 upon
 16 taking title to or assuming ownership of the petroleum under-
 17 ground storage tank system or the property on which it is
 18 located, ~~the regulated financial institution or land contract~~
 19 ~~vendor may utilize the deductible provided by the owner or opera-~~
 20 ~~tor or may pay the deductible amount specified in section 13(1).~~

21 ~~(3) Upon meeting the requirements of this section and sections 9~~
 22 ~~and 15, a~~ THE regulated financial institution or land contract
 23 vendor may ~~receive~~ DO 1 OR MORE OF THE FOLLOWING:

24 (A) RECEIVE money from the fund for corrective action or
 25 indemnification. ~~and may accept~~

26 (B) ACCEPT a transfer or assignment of an approved claim.

1 (C) UTILIZE ANY CO-PAY AMOUNT PROVIDED BY THE OWNER OR
2 OPERATOR OR PAY THE CO-PAY AMOUNT SPECIFIED IN SECTION 13.

3 (3) THE STATE OR A LOCAL UNIT OF GOVERNMENT THAT ACQUIRES
4 OWNERSHIP OR CONTROL OF AN UNDERGROUND STORAGE TANK SYSTEM INVOL-
5 UNTARILY THROUGH BANKRUPTCY, TAX DELINQUENCY, ABANDONMENT, OR
6 OTHER CIRCUMSTANCES IN WHICH THE GOVERNMENT INVOLUNTARILY
7 ACQUIRES TITLE OR CONTROL BY VIRTUE OF ITS GOVERNMENTAL FUNCTION
8 MAY RECEIVE MONEY FROM THE FUND AS AN OWNER OR OPERATOR IF THE
9 STATE OR LOCAL UNIT OF GOVERNMENT MEETS THE REQUIREMENTS SPECI-
10 FIED IN SECTIONS 9 AND 15 UPON TAKING TITLE TO THE PETROLEUM
11 UNDERGROUND STORAGE TANK SYSTEM OR THE PROPERTY ON WHICH IT IS
12 LOCATED. HOWEVER, THE STATE OR A LOCAL UNIT OF GOVERNMENT THAT
13 SEEKS TO RECEIVE MONEY FROM THE FUND PURSUANT TO HIS SUBSECTION
14 IS NOT RESPONSIBLE FOR THE CO-PAY AMOUNT.

15 (4) FOLLOWING COMPLETION OF CORRECTIVE ACTION ON PROPERTY
16 ACQUIRED PURSUANT TO THIS SECTION, THE PROPERTY ON WHICH THE
17 RELEASE OCCURRED SHALL BE SOLD FOR ITS FAIR MARKET VALUE. UPON
18 SALE, A REGULATED FINANCIAL INSTITUTION OR LAND CONTRACT VENDOR
19 MAY RETAIN THE LOAN BALANCE PLUS INTEREST OWING ON THE LOAN AND
20 5% OF THE SALE PRICE AS A BROKERAGE FEE, MINUS THE CO-PAY
21 AMOUNT. UPON SALE BY A LOCAL UNIT OF GOVERNMENT, THE LOCAL UNIT
22 OF GOVERNMENT MAY RETAIN 5% OF THE SALE PRICE AS A BROKERAGE
23 FEE. ALL MONEY RECOVERED THAT IS NOT ALLOWED TO BE RETAINED PUR-
24 SUANT TO THIS SUBSECTION SHALL BE FORWARDED TO THE STATE TREA-
25 SURER FOR DEPOSIT IN THE FUND.

26 (5) ALL AMOUNTS THAT ARE OWED TO THE FUND PURSUANT TO THIS
27 SECTION CONSTITUTE A LIEN IN FAVOR OF THE STATE UPON THE PROPERTY

1 THAT HAS BEEN THE SUBJECT OF CORRECTIVE ACTION FUNDED WITH MONEY
 2 IN THE FUND. A LIEN UNDER THIS SUBSECTION SHALL HAVE PRIORITY
 3 OVER ALL OTHER LIENS AND ENCUMBRANCES EXCEPT LIENS AND ENCUM-
 4 BRANCES RECORDED BEFORE THE DATE THE LIEN UNDER THIS SUBSECTION
 5 IS RECORDED. A LIEN UNDER THIS SUBSECTION ARISES WHEN THE FUND
 6 FIRST INCURS COSTS FOR CORRECTIVE ACTION AT THE PROPERTY. A LIEN
 7 UNDER THIS SUBSECTION IS PERFECTED AGAINST REAL PROPERTY WHEN A
 8 NOTICE OF LIEN IS FILED BY THE DEPARTMENT WITH THE REGISTER OF
 9 DEEDS IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED. IN
 10 ADDITION, THE DEPARTMENT SHALL, AT THE TIME OF THE FILING OF THE
 11 NOTICE OF LIEN, PROVIDE A COPY OF THE NOTICE OF LIEN TO THE OWNER
 12 OF THAT PROPERTY BY CERTIFIED MAIL. A LIEN UNDER THIS SECTION
 13 SHALL CONTINUE UNTIL THE LIABILITY FOR THE AMOUNT IS SATISFIED.
 14 UPON SATISFACTION OF THE AMOUNT SECURED BY THE LIEN, THE DEPART-
 15 MENT SHALL FILE A NOTICE OF RELEASE OF LIEN IN THE SAME MANNER AS
 16 PROVIDED IN THIS SUBSECTION.

17 Sec. 10. (1) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4),
 18 THE administrator shall approve expenditures for corrective
 19 action and indemnification, on behalf of an owner or operator, of
 20 not more than a total of ~~-\$1,000,000.00 of approved work~~
 21 ~~invoices, and approved requests for indemnification~~ THE FOLLOW-
 22 ING AMOUNTS per claim SUBMITTED if the owner or operator has met
 23 the requirements of this act and the rules promulgated under this
 24 act: —

25	(A) CLAIMS SUBMITTED THROUGH DECEMBER 31, 1994	\$1,000,000.00
26	(B) CLAIMS SUBMITTED FROM JANUARY 1, 1995 TO	
27	DECEMBER 31, 1995	\$ 800,000.00

1 (C) CLAIMS SUBMITTED FROM JANUARY 1, 1996 TO
2 DECEMBER 31, 1996 \$ 600,000.00
3 (D) CLAIMS SUBMITTED FROM JANUARY 1, 1997 TO
4 DECEMBER 31, 1997 \$ 400,000.00
5 (E) CLAIMS SUBMITTED FROM JANUARY 1, 1998 TO
6 DECEMBER 22, 1998 \$ 200,000.00

7 (2) BEGINNING DECEMBER 23, 1998, THE FUND WILL NOT BE AVAIL-
8 ABLE TO PROVIDE ANY PORTION OF AN OWNER'S OR OPERATOR'S FINANCIAL
9 RESPONSIBILITY REQUIREMENTS.

10 (3) The approved expenditure UNDER SUBSECTION (1) shall be
11 reduced by the amount of the interest subsidy paid to an owner or
12 operator who has defaulted on a loan subsidized through the
13 interest subsidy program established in this section.

14 (4) IF, UPON REVIEW OF THE STUDY CONDUCTED UNDER SECTION 24,
15 THE DIRECTOR OF THE DEPARTMENT, IN CONSULTATION WITH THE INSUR-
16 ANCE COMMISSIONER, DETERMINES THAT INSURANCE IS NOT AVAILABLE TO
17 MEET THE OWNER'S AND OPERATOR'S PORTION OF FINANCIAL RESPONSIBIL-
18 ITY REQUIREMENTS, OR THAT THE INSURANCE THAT IS AVAILABLE IS NOT
19 AVAILABLE FOR A REASONABLE COST, THEN THE DIRECTOR OF THE DEPART-
20 MENT MAY DELAY IMPLEMENTATION OF THE SCHEDULE PROVIDED IN
21 SUBSECTION (1). UPON MAKING SUCH A DETERMINATION, THE DIRECTOR
22 OF THE DEPARTMENT SHALL PUBLISH NOTICE OF THE REVISED SCHEDULE.
23 HOWEVER, THE REVISED IMPLEMENTATION SCHEDULE SHALL NOT REQUIRE
24 THE FUND TO PROVIDE ANY PORTION OF AN OWNER'S OR OPERATOR'S
25 FINANCIAL RESPONSIBILITY REQUIREMENTS AFTER DECEMBER 22, 1998.

26 Sec. 13. (1) ~~Prior to being~~ EXCEPT AS PROVIDED IN
27 SUBSECTION (2) AND SECTION 9A, AN OWNER OR OPERATOR WHO IS

1 eligible UNDER SECTION 9 OR 9A to receive money from the fund in
2 the event of a release ~~, the owner or operator shall be~~ IS
3 responsible for the payment of ~~the first \$10,000.00~~ 10% OF EACH
4 WORK INVOICE SUBMITTED UP TO A MAXIMUM OF \$15,000.00 of correc-
5 tive action or indemnification costs associated with the
6 release. This amount OR THE AMOUNT PROVIDED FOR IN SUBSECTION
7 (2) may be referred to as the ~~deductible~~ CO-PAY amount.

8 (2) AN OWNER OR OPERATOR WHO IS ELIGIBLE TO RECEIVE MONEY
9 FROM THE FUND IN THE EVENT OF A SECOND RELEASE AT A LOCATION IS
10 RESPONSIBLE FOR THE PAYMENT OF 30% OF EACH WORK INVOICE UP TO A
11 MAXIMUM OF \$50,000.00 OF CORRECTIVE ACTION OR INDEMNIFICATION
12 COSTS ASSOCIATED WITH THE RELEASE.

13 (3) AN OWNER OR OPERATOR WHO IS ELIGIBLE TO RECEIVE MONEY
14 FROM THE FUND IN THE EVENT OF A THIRD RELEASE AT A LOCATION IS
15 RESPONSIBLE FOR THE PAYMENT OF 60% OF EACH WORK INVOICE UP TO A
16 MAXIMUM OF \$75,000.00 OF CORRECTIVE ACTION OR INDEMNIFICATION
17 COSTS ASSOCIATED WITH THE RELEASE.

18 (4) AN OWNER OR OPERATOR IS NOT ELIGIBLE TO RECEIVE MONEY
19 FROM THE FUND FOR MORE THAN 3 RELEASES AT A LOCATION.

20 (5) ~~(2)~~ Upon transfer or sale of any legal, equitable, or
21 possessory interest in property, which at the time of transfer is
22 otherwise in compliance with this act and the rules promulgated
23 under this act, or upon which an approved claim and the corre-
24 sponding corrective action is in progress, any ~~deductible~~
25 CO-PAY amount paid, by written agreement, may be transferred.

26 Sec. 15. (1) To ~~be eligible to access~~ RECEIVE MONEY FROM
27 the fund for corrective action, the owner or operator, OR A

1 CONSULTANT RETAINED BY THE OWNER OR OPERATOR, shall follow the
2 procedures outlined in this section and shall submit reports,
3 ~~and~~ work plans, ~~as required~~ FEASIBILITY ANALYSES, HYDROGEO-
4 LOGICAL STUDIES, AND CORRECTIVE ACTION PLANS PREPARED under the
5 leaking underground storage tank act, Act No. 478 of the Public
6 Acts of 1988, being sections 299.831 to 299.850 of the Michigan
7 Compiled Laws, and rules promulgated under that act TO THE
8 DEPARTMENT, AND SHALL PROVIDE OTHER INFORMATION REQUIRED BY THE
9 ADMINISTRATOR RELEVANT TO DETERMINING COMPLIANCE WITH THIS ACT.

10 (2) TO RECEIVE MONEY FROM THE FUND FOR CORRECTIVE ACTION, AN
11 OWNER OR OPERATOR SHALL SUBMIT AN APPLICATION FOR A CLAIM TO THE
12 ADMINISTRATOR. AN OWNER OR OPERATOR SHALL NOT SUBMIT AN APPLICA-
13 TION FOR A CLAIM UNTIL WORK INVOICES IN EXCESS OF \$5,000.00 OF
14 COSTS OF CORRECTIVE ACTION HAVE BEEN INCURRED.

15 (3) ~~(2)~~ Upon receipt of a COMPLETED claim APPLICATION PUR-
16 SUANT TO SUBSECTION (2), the administrator, ~~within 30 days after~~
17 ~~responses have been received from the department of natural~~
18 ~~resources and the department of state police,~~ shall make all of
19 the following determinations:

20 (a) Whether the department of natural resources has
21 ~~determined that~~ OBJECTED TO PAYMENT ON THE CLAIM BECAUSE THE
22 work performed or proposed to be performed is NOT consistent with
23 the requirements of Act No. 478 of the Public Acts of 1988, and
24 rules promulgated under that act.

25 (B) WHETHER THE WORK PERFORMED IS NECESSARY AND APPROPRIATE
26 CONSIDERING CONDITIONS AT THE SITE OF THE RELEASE.

1 (C) ~~(b)~~ Whether the cost of performing the work is
2 reasonable.

3 (D) ~~(e)~~ Whether the owner or operator is eligible to
4 receive funding under this act.

5 (4) ~~(3)~~ If the administrator fails to make the determina-
6 tions required under this section within 30 days after receipt of
7 certification from the ~~department of natural resources and the~~
8 department of state police THAT THE OWNER OR OPERATOR HAS MET THE
9 REQUIREMENTS OF SECTION 9(1)(B) AND (C), the claim is considered
10 to be approved.

11 (5) ~~(4)~~ If the administrator determines under
12 subsection ~~(2)~~ (3) that the claim is ~~both~~ NECESSARY AND
13 APPROPRIATE CONSIDERING CONDITIONS AT THE SITE OF THE RELEASE AND
14 reasonable in terms of cost ~~and consistent with the requirements~~
15 ~~of subsection (2)(a)~~ and the owner or operator is eligible for
16 funding under this act, the administrator shall approve the claim
17 and notify the owner or operator who submitted the claim of the
18 approval. If the administrator determines that the WORK WAS NOT
19 NECESSARY OR APPROPRIATE OR THE cost of the claim is not reason-
20 able, ~~that the work is not consistent with the requirements of~~
21 ~~subsection (2)(a),~~ or that the owner or operator is not eligible
22 for funding under this act, the administrator shall deny the
23 claim OR ANY PORTION OF THE WORK INVOICES SUBMITTED and give
24 notice of the denial to the owner or operator who submitted the
25 claim.

26 (6) ~~(5)~~ The owner or operator may submit additional work
27 invoices to the administrator after approval of a claim under

1 subsection ~~(4)~~ (5). ~~Upon~~ WITHIN 45 DAYS AFTER receipt of a
2 work invoice, the administrator shall make the following
3 determinations:

4 (a) Whether the work invoice ~~is reasonable in terms of cost~~
5 ~~and consistent with the requirements of subsection (2)(a)~~
6 COMPLIES WITH SUBSECTION (3).

7 (b) Whether the owner or operator is currently in compliance
8 with the registration AND FEE requirements of the underground
9 storage tank regulatory act, Act No. 423 of the Public Acts of
10 1984, being sections 299.701 to 299.712 of the Michigan Compiled
11 Laws, and the rules promulgated under that act.

12 (7) ~~(6)~~ If the administrator determines that the work
13 invoice does not meet the requirements of subsection ~~(5)~~ (6),
14 he or she shall deny the work invoice and give WRITTEN notice of
15 the denial to the owner or operator who submitted the work
16 invoice.

17 (8) ~~(7)~~ The administrator shall keep records of approved
18 work invoices. If ~~the owner or operator has submitted approved~~
19 ~~work invoices totaling the deductible amount, then the adminis-~~
20 ~~trator shall forward payment vouchers to the state treasurer, as~~
21 ~~long as~~ the owner or operator has not exceeded the allowable
22 amount of expenditure provided in section 10, THE ADMINISTRATOR
23 SHALL FORWARD PAYMENT VOUCHERS TO THE STATE TREASURER WITHIN 45
24 DAYS OF RECEIVING THE WORK INVOICE. IF THE ADMINISTRATOR FAILS
25 TO FORWARD A PAYMENT VOUCHER DURING THIS 45-DAY PERIOD, BEGINNING
26 ON THE FORTY-SIXTH DAY, INTEREST SHALL BEGIN ACCRUING ON THE WORK
27 INVOICES THAT HAVE NOT BEEN PAID IN THE AMOUNT OF 9% PER YEAR.

1 (9) ~~(8)~~ The administrator may approve a reimbursement for
2 a work invoice that was submitted by an owner or operator for
3 corrective action taken ~~pursuant to Act No. 478 of the Public~~
4 ~~Acts of 1988, if the corrective action meets the requirements of~~
5 ~~Act No. 478 of the Public Acts of 1988. Additionally, the~~
6 ~~receipt for the payment shall meet~~ IF THE WORK INVOICE MEETS the
7 requirements of this act for an approved claim and an approved
8 work invoice.

9 (10) ~~(9)~~ Except as provided in subsection ~~(10)~~ (11),
10 upon receipt of a payment voucher, the state treasurer shall make
11 a payment to the owner or operator, INCLUDING ANY INTEREST PURSU-
12 ANT TO SUBSECTION (8), if the owner or operator submits certified
13 canceled checks, or the owner or operator and the ~~contractor~~
14 CONSULTANT listed on the payment voucher and claim within 30 days
15 if sufficient money exists in the fund.

16 (11) ~~(10)~~ Upon direction of the administrator, the state
17 treasurer may withhold partial payment of money on payment vouch-
18 ers to assure acceptable completion of the proposed work.

19 Sec. 15a. (1) An owner or operator with a claim approved
20 pursuant to section 15 for which corrective action is in progress
21 who sells or transfers the property that is the subject of the
22 approved claim to another person may assign or transfer the
23 approved claim to that other person. The person to whom the
24 assignment or transfer is made is eligible to ~~access~~ RECEIVE
25 MONEY FROM the fund as an owner or operator for the release which
26 is the subject of the approved claim. Allowable, outstanding
27 approved or paid work invoices of the owner or operator making

1 the assignment or transfer may be counted toward the ~~deductible~~
2 CO-PAY AMOUNT of the person to whom the assignment or transfer is
3 made.

4 (2) An owner or operator assigning or transferring an
5 approved claim pursuant to this section shall notify the adminis-
6 trator of the proposed assignment or transfer at least 10 days
7 before the effective date of the assignment or transfer.

8 Sec. 16. (1) To ~~access~~ RECEIVE MONEY FROM the fund for
9 indemnification, the owner or operator shall submit to the admin-
10 istrator a request for indemnification containing the information
11 required by the administrator. If the owner or operator is eli-
12 gible for funding under this act, the administrator shall forward
13 a copy of the request for indemnification to the attorney
14 general. The attorney general shall approve the request for
15 indemnification if there is a legally enforceable judgment
16 against the owner or operator caused by a release or if a settle-
17 ment with a third party due to a release is reasonable. If a
18 request for indemnification is approved by the attorney general,
19 the administrator shall review whether the owner or operator ~~has~~
20 ~~met the deductible requirements as provided in this act~~ PAID THE
21 CO-PAY AMOUNT, has not exceeded the allowable amount of expendi-
22 ture provided in section 10, and is eligible under section 11.
23 If, upon review, the owner or operator is eligible to receive
24 funding for the indemnification under this act for the amount
25 requested, the administrator shall forward the approved request
26 for indemnification to the department of treasury.

1 (2) The administrator shall keep records of all approved
2 requests for indemnifications.

3 (3) The state treasurer shall make a payment to an owner or
4 operator for an approved indemnification request within 30 days
5 if sufficient money exists in the fund.

6 SEC. 17A. THE DEPARTMENT SHALL ESTABLISH AN AUDIT PROGRAM
7 TO MONITOR COMPLIANCE WITH THIS ACT. AS PART OF THE AUDIT PRO-
8 GRAM, THE DEPARTMENT SHALL EMPLOY OR CONTRACT WITH QUALIFIED
9 INDIVIDUALS TO PROVIDE ON-SITE INSPECTIONS OF LOCATIONS WHERE
10 THERE HAS BEEN A RELEASE. THE ON-SITE INSPECTORS SHALL ASSURE
11 THAT WORK PERFORMED ON SITES ELIGIBLE FOR FUNDING UNDER THIS ACT
12 IS NECESSARY AND APPROPRIATE CONSIDERING CONDITIONS AT THE LOCA-
13 TION AND THAT WORK IS PERFORMED IN A COST-EFFECTIVE MANNER. THE
14 DEPARTMENT SHALL ANNUALLY EVALUATE THE NEED FOR ON-SITE INSPEC-
15 TIONS, AND IF THE DEPARTMENT DETERMINES THAT THEY ARE UNNECESSARY
16 DUE TO OTHER COST CONTAINMENT PROCEDURES IMPLEMENTED BY THE
17 DEPARTMENT, THE DEPARTMENT MAY DISCONTINUE THE ON-SITE
18 INSPECTIONS.

19 Sec. 18. (1) If the administrator denies a claim or work
20 invoice, or request for indemnification, the owner or operator
21 who submitted the claim, work invoice, or request for indemnifi-
22 cation may, within 14 days following the denial, request review
23 by the board. Upon review by the board, the administrator shall
24 approve the claim, work invoice, or request for indemnification
25 if the board determines upon review that the claim, work invoice,
26 or request for indemnification substantially complies with ~~all~~
27 ~~of the following:~~ THE REQUIREMENTS OF THIS ACT. HOWEVER, THE

1 BOARD SHALL NOT APPROVE A CLAIM, WORK INVOICE, OR REQUEST FOR
2 INDEMNIFICATION FOR A RELEASE THAT WAS DISCOVERED PRIOR TO
3 JULY 18, 1989.

4 ~~(a) The proper registration of tanks, the 30-day notice of~~
5 ~~closure removal, or change in service reporting, and the 24-hour~~
6 ~~notice of release reporting as required by the underground stor-~~
7 ~~age tank regulatory act, Act No. 423 of the Public Acts of 1984,~~
8 ~~being sections 299.701 to 299.712 of the Michigan Compiled Laws,~~
9 ~~and the rules promulgated under that act.~~

10 ~~(b) The requirements of the leaking underground storage tank~~
11 ~~act, Act No. 478 of the Public Acts of 1988, being~~
12 ~~sections 299.831 to 299.850 of the Michigan Compiled Laws, rules~~
13 ~~promulgated under that act, or subtitle I of title II of the~~
14 ~~solid waste disposal act, Public Law 89-272, 42 U.S.C. 6991 to~~
15 ~~6991i, or rules promulgated under that act.~~

16 (2) If the board approves a claim based upon substantial
17 compliance pursuant to subsection (1), the board may refuse to
18 pay for costs incurred during the time the owner or operator was
19 not in strict compliance with ~~subsection (1)(a) or (b)~~ THIS
20 ACT.

21 (3) A person who is denied approval by the board after
22 review under subsection (1) may ~~, within 30 days of the board's~~
23 ~~written denial, request a contested case hearing pursuant to the~~
24 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
25 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
26 ~~Compiled Laws. A person shall exhaust his or her administrative~~
27 ~~remedies under this act and Act No. 306 of the Public Acts of~~

1 ~~1969 before seeking judicial review of the decision of the~~
 2 ~~administrator or board.~~ APPEAL THE DECISION DIRECTLY TO THE CIR-
 3 CUIT COURT FOR THE COUNTY OF INGHAM.

4 Sec. 20. (1) The Michigan underground storage tank finan-
 5 cial assurance policy board is created in the department.

6 (2) The board shall consist of the following:

7 (a) The director of the department, or his or her designee.

8 (b) The director of the department of natural resources, or
 9 his or her designee.

10 (c) The director of the department of state police, or his
 11 or her designee.

12 (d) The state treasurer, or his or her designee.

13 (e) ~~Seven~~ NINE individuals appointed by the governor with
 14 the advice and consent of the senate as follows:

15 (i) One individual representing an independent petroleum
 16 wholesale distributor-marketer trade association.

17 (ii) One individual representing a petroleum
 18 refiner-supplier trade association.

19 (iii) One individual representing a service station dealers'
 20 trade association.

21 (iv) One individual representing a truck stop operators
 22 trade association.

23 (v) ONE INDIVIDUAL REPRESENTING AN ENVIRONMENTAL
 24 CONTRACTOR'S ASSOCIATION.

25 (vi) ~~(v)~~ One individual representing an environmental
 26 public interest organization WHO IS NOT ASSOCIATED WITH ANY OF
 27 THE ORGANIZATIONS LISTED IN SUBPARAGRAPHS (i) TO (v).

1 (vii) ~~(vi) One individual~~ TWO INDIVIDUALS representing the
2 general public WHO ARE NOT ASSOCIATED WITH ANY OF THE ORGANI-
3 ZATIONS LISTED IN SUBPARAGRAPHS (i) TO (v).

4 (viii) ~~(vii) One individual~~ representing local
5 government.

6 (3) The governor shall appoint individuals to the board
7 under subsection (2)(e) within 60 days after the effective date
8 of this act. An individual appointed to the board shall serve
9 for a term of 2 years.

10 (4) A vacancy on the board shall be filled in the same
11 manner as the original appointment.

12 (5) The first meeting of the board shall be called by the
13 director of the department of management and budget. At its
14 first meeting, the board shall elect from among its members a
15 chairperson and other officers as it considers necessary. After
16 the first meeting, a meeting of the board shall be called by the
17 chairperson on his or her own initiative or by the chairperson on
18 petition of 3 or more members. Upon receipt of a petition of 3
19 or more members, a meeting shall be called for a date no later
20 than 14 days after the date of receipt of the petition.

21 (6) The business which the board may perform shall be con-
22 ducted at a public meeting of the board held in compliance with
23 the open meetings act, Act No. 267 of the Public Acts of 1976,
24 being sections 15.261 to 15.275 of the Michigan Compiled Laws.

25 (7) A majority of the members of the board constitutes a
26 quorum for the transaction of business at a meeting of the

1 board. Action by the board shall be by a majority of the votes
2 cast.

3 (8) The board shall advise the department and the adminis-
4 trator on all matters related to the implementation of this act.

5 (9) THE ADMINISTRATOR OR THE DEPARTMENT MAY SUBMIT TO THE
6 BOARD FOR ITS REVIEW AND EVALUATION, THE COMPETITIVE BIDDING PRO-
7 CESS EMPLOYED BY A CONSULTANT. IN CONDUCTING THIS REVIEW AND
8 EVALUATION, THE BOARD MAY CONVENE A PEER REVIEW PANEL. FOLLOWING
9 COMPLETION OF ITS REVIEW AND EVALUATION, THE BOARD SHALL FORWARD
10 A COPY OF ITS FINDINGS TO THE DEPARTMENT, THE ADMINISTRATOR, AND
11 THE CONSULTANT. IF THE BOARD FINDS THE PRACTICES EMPLOYED BY A
12 CONSULTANT TO BE INAPPROPRIATE, THE BOARD MAY RECOMMEND THAT THE
13 DEPARTMENT REMOVE THE CONSULTANT FROM THE LIST OF QUALIFIED
14 CONSULTANTS.

15 (10) UPON REQUEST OF THE ADMINISTRATOR OR THE DEPARTMENT,
16 THE BOARD SHALL MAKE A RECOMMENDATION TO THE DEPARTMENT ON
17 WHETHER A CONSULTANT SHOULD BE REMOVED FROM THE LIST OF QUALIFIED
18 CONSULTANTS. PRIOR TO MAKING THIS RECOMMENDATION, THE BOARD MAY
19 CONVENE A PEER REVIEW PANEL TO EVALUATE THE CONDUCT OF THE CON-
20 SULTANT WITH REGARD TO COMPLIANCE WITH THIS ACT.

21 Sec. 21. (1) The department, ~~of natural resources,~~ after
22 consultation with the board, shall prepare and annually update a
23 list of ~~approved contractors~~ QUALIFIED UNDERGROUND STORAGE TANK
24 CONSULTANTS who, based on department ~~of natural resources~~
25 guidelines, are qualified to ~~undertake~~ CARRY OUT THE RESPONSI-
26 BILITIES OF CONSULTANTS AS PROVIDED IN THE LEAKING UNDERGROUND
27 STORAGE TANK ACT, ACT NO. 478 OF THE PUBLIC ACTS OF 1988, BEING

1 SECTIONS 299.831 TO 299.850 OF THE MICHIGAN COMPILED LAWS, AND TO
2 OVERSEE corrective actions. However, in preparing this list of
3 ~~approved contractors~~ CONSULTANTS, the department ~~of natural~~
4 ~~resources~~ is not responsible or liable for the performance of
5 the ~~contractors~~ CONSULTANTS. The department ~~of natural~~
6 ~~resources~~ shall make this list of ~~approved contractors~~
7 CONSULTANTS available to a person upon request.

8 (2) THE DEPARTMENT SHALL INCLUDE A PERSON ON THE LIST OF
9 QUALIFIED CONSULTANTS UPON APPLICATION, IF THE PERSON MEETS ALL
10 OF THE FOLLOWING REQUIREMENTS:

11 (A) THE PERSON DEMONSTRATES EXPERIENCE IN ALL PHASES OF
12 UNDERGROUND STORAGE TANK WORK, INCLUDING TANK REMOVAL OVERSIGHT,
13 SITE ASSESSMENT, SOIL REMOVAL, FEASIBILITY, DESIGN, REMEDIAL
14 SYSTEM INSTALLATION, REMEDIATION MANAGEMENT ACTIVITIES, AND SITE
15 CLOSURE.

16 (B) THE PERSON HAS 1 OR MORE INDIVIDUALS ACTIVELY ON STAFF
17 WHO ARE CERTIFIED UNDERGROUND STORAGE TANK PROFESSIONALS. EACH
18 CERTIFIED UNDERGROUND STORAGE TANK PROFESSIONAL SHALL PROVIDE A
19 LETTER DECLARING THAT HE OR SHE IS EMPLOYED BY THE APPLICANT AND
20 THAT THE INDIVIDUAL HAS AN ACTIVE OPERATIONAL ROLE IN THE DAILY
21 ACTIVITIES OF THE APPLICANT.

22 (C) THE PERSON DEMONSTRATES THAT THE PERSON HAS OR WILL BE
23 ABLE TO OBTAIN, IF APPROVED, ALL OF THE FOLLOWING:

24 (i) WORKERS' COMPENSATION INSURANCE.

25 (ii) PROFESSIONAL LIABILITY ERRORS AND OMISSIONS. THIS
26 POLICY MAY NOT EXCLUDE BODILY INJURY, PROPERTY DAMAGE, OR CLAIMS
27 ARISING OUT OF POLLUTION FOR ENVIRONMENTAL WORK AND SHALL BE

1 ISSUED WITH A LIMIT OF NOT LESS THAN \$1,000,000.00 PER
2 OCCURRENCE.

3 (iii) CONTRACTOR POLLUTION LIABILITY WITH LIMITS OF NOT LESS
4 THAN \$1,000,000.00 PER OCCURRENCE, IF NOT INCLUDED UNDER THE PRO-
5 FESSIONAL LIABILITY ERRORS AND OMISSIONS REQUIRED UNDER
6 SUBPARAGRAPH (ii).

7 (iv) COMMERCIAL GENERAL LIABILITY WITH LIMITS OF NOT LESS
8 THAN \$1,000,000.00 PER OCCURRENCE, \$2,000,000.00 AGGREGATE.

9 (v) AUTOMOBILE LIABILITY WITH LIMITS OF NOT LESS THAN
10 \$1,000,000.00 PER OCCURRENCE.

11 DEDUCTIBLES IN EXCESS OF 10% OF THE INSURANCE LIMITS PROVIDED IN
12 THIS SUBDIVISION, OR THE USE OF SELF-INSURANCE, MUST BE APPROVED
13 BY THE DEPARTMENT. INSURANCE POLICIES MUST BE WRITTEN BY CARRI-
14 ERS AUTHORIZED TO WRITE SUCH BUSINESS, OR APPROVED AS AN ELIGIBLE
15 SURPLUS LINES INSURER, BY THE STATE. THE INSURANCE UTILIZED MUST
16 BE PLACED WITH AN INSURER LISTED IN A.M. BEST'S WITH A RATING OF
17 NO LESS THAN B+ VII.

18 (D) THE PERSON DEMONSTRATES THROUGH INVENTORY RECORDS THEIR
19 EQUIPMENT CAPABILITIES AND ABILITY TO ADEQUATELY OPERATE, MAIN-
20 TAIN, AND FINANCE THE NECESSARY INVESTIGATIVE AND REMEDIATION
21 EQUIPMENT TO CONDUCT ALL ASPECTS OF BUSINESS NECESSARY TO CARRY
22 OUT CORRECTIVE ACTIONS UNDER THIS ACT.

23 (E) THE PERSON DEMONSTRATES COMPLIANCE WITH ALL OSHA AND
24 MIOSHA REGULATIONS AND THAT ALL SUCH REGULATIONS HAVE BEEN COM-
25 PLIED WITH DURING THE PERSON'S PREVIOUS CORRECTIVE ACTION
26 ACTIVITY.

1 (3) THE PERSON APPLYING TO BE PLACED ON THE LIST OF
2 QUALIFIED CONSULTANTS UNDER THIS SECTION SHALL SUBMIT AN
3 APPLICATION TO THE DEPARTMENT ALONG WITH DOCUMENTATION THAT THE
4 PERSON MEET THE REQUIREMENTS OF SUBSECTION (2). IF THE PERSON IS
5 A CORPORATION, THE PERSON SHALL INCLUDE A COPY OF ITS MOST RECENT
6 ANNUAL REPORT.

7 (4) AFTER SUBMITTING AN APPLICATION UNDER THIS SECTION, OR
8 ANY TIME AFTER A CONSULTANT IS INCLUDED ON THE LIST OF QUALIFIED
9 CONSULTANTS, WITHIN 10 DAYS OF A CHANGE IN ANY OF THE REQUIRE-
10 MENTS OF SUBSECTION (2), OR ANY MATERIAL CHANGE IN THE PERSON'S
11 OPERATIONS OR ORGANIZATIONAL STATUS THAT MIGHT AFFECT THE
12 PERSON'S ABILITY TO OPERATE AS A CONSULTANT, THE PERSON SHALL
13 NOTIFY THE DEPARTMENT.

14 (5) A ~~contractor~~ CONSULTANT shall be suspended or removed
15 from the list for fraud or other cause as determined by the
16 department.

17 SEC. 21A. (1) UPON REQUEST, THE DEPARTMENT SHALL CERTIFY AN
18 INDIVIDUAL AS AN UNDERGROUND STORAGE TANK PROFESSIONAL IF THE
19 INDIVIDUAL MEETS THE REQUIREMENTS OF 1 OR MORE OF THE FOLLOWING:

20 (A) THE INDIVIDUAL IS A LICENSED PROFESSIONAL ENGINEER AND
21 HAS 3 OR MORE YEARS OF RELEVANT SOIL CORRECTIVE ACTION EXPERIENCE
22 IN THE STATE, PREFERABLY INVOLVING PETROLEUM UNDERGROUND STORAGE
23 TANKS.

24 (B) THE INDIVIDUAL IS A CERTIFIED PROFESSIONAL GEOLOGIST
25 (CPG) OR HOLDS A SIMILAR APPROVED DESIGNATION SUCH AS A PROFES-
26 SIONAL HYDROLOGIST OR A CERTIFIED GROUNDWATER PROFESSIONAL, AND
27 HAS 3 OR MORE YEARS OF RELEVANT SOIL CORRECTIVE ACTION EXPERIENCE

1 IN THE STATE, PREFERABLY INVOLVED PETROLEUM UNDERGROUND STORAGE
2 TANKS.

3 (C) THE INDIVIDUAL IS ABLE TO DEMONSTRATE THAT HE OR SHE HAS
4 3 OR MORE YEARS OF RELEVANT ENVIRONMENTAL ASSESSMENT AND CORREC-
5 TIVE ACTION EXPERIENCE IN THE STATE AND 10 OR MORE YEARS OF SPE-
6 CIFIC EXPERIENCE IN RELEVANT ENVIRONMENTAL WORK WITH INCREASING
7 RESPONSIBILITIES. THIS DEMONSTRATED EXPERIENCE SHALL BE DOCU-
8 MENTED WITH PROFESSIONAL AND PERSONAL REFERENCES, PAST EMPLOYMENT
9 REFERENCES AND HISTORIES, AND DOCUMENTATION THAT ALL OSHA AND
10 MIOSHA REGULATION REQUIREMENTS HAVE BEEN MET.

11 (2) AN INDIVIDUAL REQUESTING TO BE GRANTED CERTIFICATION
12 UNDER THIS SECTION SHALL SUBMIT A COPY OF ALL OF HIS OR HER CRE-
13 DENTIALS TO THE DEPARTMENT ALONG WITH A LETTER REQUESTING
14 CONSIDERATION. THE LETTER SHALL ALSO INCLUDE A STATEMENT THAT
15 ATTESTS THAT THE INFORMATION BEING SUBMITTED IS A TRUE AND ACCU-
16 RATE REFLECTION OF THE INDIVIDUAL'S CAPABILITIES AND
17 QUALIFICATIONS. FALSE OR ERRONEOUS INFORMATION CONTAINED IN THE
18 DOCUMENTS SUBMITTED OR REPRESENTATIONS MADE WILL CONSTITUTE FRAUD
19 ON THE PART OF THE INDIVIDUAL INVOLVED AND MAY INVOLVE ENACTMENT
20 OF LEGAL PROCEEDINGS, REVOCATION OF CERTIFICATION, AND PERMANENT
21 SUSPENSION FROM ALL ACTIVITIES FUNDED BY THE FUND.

22 Sec. 23. (1) This act shall not be construed as creating
23 any liability on behalf of the state. This act shall not be con-
24 strued as making the state the guarantor of the fund.

25 (2) This act shall not be construed as to relieve any person
26 who may be eligible to receive money from the fund or the
27 emergency response fund from any liability that he or she may

1 incur as the owner or operator of an underground storage tank
2 system. The state is not assuming the liability of an owner or
3 operator eligible for funding under this act, it is only provid-
4 ing assistance to such owners or operators in meeting THAT POR-
5 TION OF the financial responsibility requirements PROVIDED IN
6 THIS ACT.

7 (3) If any provision of this act is found to be unconstitu-
8 tional by a court of competent jurisdiction and the allowable
9 time for filing an appeal has expired or the appellant has
10 exhausted all of his or her avenues of appeal, this whole act
11 shall be considered unconstitutional and invalid.

12 Sec. 24. Not later than June 22, ~~1998~~ 1994, the depart-
13 ment shall conduct a study to determine the availability and cost
14 of environmental impairment insurance for owners and operators of
15 petroleum underground storage tank systems and shall report to
16 the legislature AND THE INSURANCE COMMISSIONER on the results of
17 this study.

18 Sec. 24a. (1) Beginning 180 days after the effective date
19 of this section, a person who makes or submits or causes to be
20 made or submitted any statement, report, claim, bid, work
21 invoice, or other request for payment under this act knowing the
22 statement, report, claim, bid, work invoice, or other request for
23 payment is false, misleading, or fraudulent, OR COMMITS A FRAUDU-
24 LENT PRACTICE is guilty of a felony punishable by not more than 5
25 years in prison or a fine of not more than \$50,000.00, or both.

26 (2) A PERSON WHO MAKES OR SUBMITS OR CAUSES TO BE MADE OR
27 SUBMITTED ANY CLAIM, WORK INVOICE, OR REQUEST FOR INDEMNIFICATION

1 UNDER THIS ACT, KNOWING SUCH CLAIM, WORK INVOICE, OR REQUEST FOR
2 INDEMNIFICATION TO BE FALSE, MISLEADING, OR FRAUDULENT, OR COM-
3 MITS A FRAUDULENT PRACTICE IS SUBJECT TO A CIVIL FINE OF NOT MORE
4 THAN \$50,000.00, OR TWICE THE AMOUNT SUBMITTED ON THE CLAIM, WORK
5 INVOICE, OR REQUEST FOR INDEMNIFICATION, WHICHEVER IS GREATER.

6 (3) AS USED IN SUBSECTIONS (1) AND (2), "FRAUDULENT
7 PRACTICE" INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

8 (A) SUBMITTING A WORK INVOICE FOR THE HAULING OF SOIL FOR AN
9 AMOUNT GREATER THAN THE LEGAL CAPACITY OF THE CARRYING VEHICLE OR
10 FOR MORE THAN WAS ACTUALLY CARRIED.

11 (B) SUBMITTING OF PAPERWORK FOR SERVICES DONE OR WORK PRO-
12 VIDED WHICH WAS NOT IN FACT PROVIDED OR WHICH WAS NOT DIRECTLY
13 PROVIDED BY THE DESIGNATED PERSON.

14 (C) CONTAMINATING AN OTHERWISE CLEAN RESOURCE OR SITE WITH
15 CONTAMINATED SOIL OR PRODUCT FROM A CONTAMINATED RESOURCE OR
16 SITE.

17 (D) RETURNING ANY LOAD OF CONTAMINATED SOIL TO ITS ORIGINAL
18 SITE.

19 (E) INTENTIONAL CAUSING DAMAGE OR DAMAGE AS THE RESULT OF
20 GROSS NEGLIGENCE TO AN UNDERGROUND STORAGE TANK SYSTEM THAT
21 RESULTS IN CONTAMINATION AT A SITE.

22 (F) PLACING AN UNDERGROUND STORAGE TANK SYSTEM AT A CONTAMI-
23 NATED SITE WHERE NO UNDERGROUND STORAGE TANK SYSTEM PREVIOUSLY
24 EXISTED FOR PURPOSES OF DISGUIISING THE SOURCE OF CONTAMINATION OR
25 TO OBTAIN FUNDING UNDER THIS ACT.

1 (G) SUBMITTING A WORK INVOICE FOR THE EXCAVATION OF SOIL
2 FROM A SITE THAT WAS REMOVED FOR REASONS OTHER THAN REMOVAL OF
3 THE UNDERGROUND STORAGE TANK SYSTEM OR REMEDIATION.

4 (H) INFLATING THE AMOUNT OF BACKFILL REQUIRED AT A SITE.

5 (I) REGISTERING A NONEXISTENT UNDERGROUND STORAGE TANK WITH
6 THE STATE FIRE MARSHAL.

7 (J) LOANING TO AN OWNER OR OPERATOR THE CO-PAY AMOUNT
8 REQUIRED UNDER SECTION 13 AND THEN SUBMITTING OR CAUSING TO BE
9 SUBMITTED INFLATED CLAIMS OR WORK INVOICES DESIGNED TO RECOUP THE
10 CO-PAY AMOUNT.

11 (K) UNNECESSARY EXCAVATION.

12 (L) CONFIRMING A RELEASE WITHOUT SIMULTANEOUSLY PROVIDING
13 NOTICE TO THE OWNER OR OPERATOR.

14 (M) INFLATING BILLS OR WORK INVOICES, OR BOTH, BY ADDING
15 CHARGES FOR WORK NOT PERFORMED.

16 (N) SUBMITTING A FALSE LABORATORY REPORT.

17 (O) SUBMITTING BILLS OR WORK INVOICES, OR BOTH, FOR SAM-
18 PLING, TESTING, MONITORING, OR EXCAVATION THAT ARE NOT JUSTIFIED
19 BY THE SITE CONDITION.

20 (P) FALSELY CHARACTERIZING THE CONTENTS OF AN UNDERGROUND
21 STORAGE TANK SYSTEM FOR PURPOSES OF OBTAINING FUNDING UNDER THIS
22 ACT.

23 (Q) SUBMITTING OR CAUSING TO BE SUBMITTED BILLS OR WORK
24 INVOICES BY OR FROM PERSONS WHO DID NOT IN FACT DIRECTLY PROVIDE
25 THE SERVICE.

26 (R) FALSELY CHARACTERIZING LEGAL SERVICES AS CONSULTING
27 SERVICES FOR PURPOSES OF OBTAINING FUNDING UNDER THIS ACT.

1 (S) MISREPRESENTING OR CONCEALING THE IDENTITY, CREDENTIALS,
2 OR QUALIFICATIONS OF PRINCIPALS OR PERSONS SEEKING FUNDING EITHER
3 DIRECTLY OR INDIRECTLY UNDER THIS ACT.

4 (T) FALSIFYING A SIGNATURE ON A CLAIM APPLICATION OR A WORK
5 INVOICE.

6 (U) ANY OTHER ACT OR OMISSION INTENDED TO FALSELY OBTAIN
7 FUNDING UNDER THIS ACT FOR WHICH THE PERSON WOULD NOT OTHERWISE
8 BE ELIGIBLE, OR FOR WHICH FUNDING WOULD NOT OTHERWISE BE
9 AVAILABLE.

10 (4) THE ATTORNEY GENERAL OR COUNTY PROSECUTOR MAY CONDUCT AN
11 INVESTIGATION OF AN ALLEGED VIOLATION OF THIS SECTION.

12 (5) IF THE ATTORNEY GENERAL OR COUNTY PROSECUTOR HAS REASON-
13 ABLE CAUSE TO BELIEVE THAT A PERSON HAS INFORMATION OR IS IN POS-
14 SESSION, CUSTODY, OR CONTROL OF ANY DOCUMENT OR OTHER TANGIBLE
15 OBJECT RELEVANT TO AN INVESTIGATION FOR VIOLATION OF THIS SEC-
16 TION, THE ATTORNEY GENERAL OR COUNTY PROSECUTOR MAY SERVE UPON
17 THE PERSON, BEFORE BRINGING ANY ACTION, A WRITTEN DEMAND TO
18 APPEAR AND BE EXAMINED UNDER OATH, AND TO PRODUCE THE DOCUMENT OR
19 OBJECT FOR INSPECTION AND COPYING.

20 (6) IF A PERSON OBJECTS TO OR OTHERWISE FAILS TO COMPLY WITH
21 THE WRITTEN DEMAND SERVED UPON HIM OR HER UNDER SUBSECTION (5),
22 AN ACTION MAY BE BROUGHT IN CIRCUIT COURT TO ENFORCE THE DEMAND.
23 ACTIONS FILED BY THE ATTORNEY GENERAL MAY BE BROUGHT IN INGHAM
24 COUNTY CIRCUIT COURT.

25 (7) ANY PERSON WHO FAILS TO COMPLY WITH A WRITTEN DEMAND
26 ISSUED PURSUANT TO SUBSECTION (5) IS SUBJECT TO A CIVIL FINE OF

1 NOT MORE THAN \$25,000.00 FOR EACH DAY OF CONTINUED
2 NONCOMPLIANCE.

3 (8) IN ADDITION TO ANY CIVIL FINES OR CRIMINAL PENALTIES
4 IMPOSED UNDER THIS ACT OR THE CRIMINAL LAWS OF THIS STATE, ANY
5 SUCH PERSON SHALL REPAY ANY MONEY OBTAINED DIRECTLY OR INDIRECTLY
6 UNDER THIS ACT. MONEY OWNED PURSUANT TO THIS SECTION CONSTITUTES
7 A CLAIM AND LIEN BY THE FUND UPON ANY REAL OR PERSONAL PROPERTY
8 OWNED EITHER DIRECTLY OR INDIRECTLY BY THE PERSON. THIS LIEN
9 SHALL ATTACH REGARDLESS OF WHETHER THE PERSON IS INSOLVENT. THE
10 LIEN IMPOSED BY THIS SECTION SHALL HAVE THE FORCE AND EFFECT OF,
11 AND THE PRIORITY OF, A JUDGMENT LIEN.

12 (9) ALL CIVIL FINES COLLECTED PURSUANT TO THIS SECTION SHALL
13 BE FORWARDED TO THE STATE TREASURER FOR DEPOSIT INTO THE FUND.

14 (10) ~~(2) Subsection (1)~~ THIS SECTION does not preclude
15 prosecutions under other laws of the state including, but not
16 limited to, sections 157a, 218, 248, 249, 280, and 422 of the
17 Michigan penal code, Act No. 328 of the Public Acts of 1931,
18 being sections 750.157a, 750.218, 750.248, 750.249, 750.280, and
19 750.422 of the Michigan Compiled Laws.

20 SEC. 24B. (1) A PERSON WHO PROVIDES INFORMATION THAT MATE-
21 RIALLY CONTRIBUTES TO THE IMPOSITION OF A CIVIL FINE OR A CRIMI-
22 NAL CONVICTION UNDER SECTION 24A AGAINST ANY PERSON SHALL BE PAID
23 A REWARD PURSUANT TO RULES PROMULGATED BY THE DEPARTMENT UNDER
24 SUBSECTION (6). THE REWARD SHALL BE THE GREATER OF 10% OF THE
25 AMOUNT OF THE CIVIL FINE COLLECTED OR \$1,000.00.

26 (2) A PERSON IS NOT ELIGIBLE FOR A REWARD UNDER THIS SECTION
27 FOR A VIOLATION PREVIOUSLY KNOWN TO THE INVESTIGATING AGENCY

1 UNLESS THE INFORMATION MATERIALLY CONTRIBUTES TO THE CIVIL
2 JUDGMENT OR CRIMINAL CONVICTION.

3 (3) IF THERE IS MORE THAN 1 PERSON WHO PROVIDES INFORMATION
4 PURSUANT TO SUBSECTION (1) FOR A SINGLE VIOLATION, THE FIRST
5 PERSON TO NOTIFY THE INVESTIGATING AGENCY IS ELIGIBLE FOR THE
6 REWARD. IF MORE THAN 1 NOTIFICATION IS RECEIVED ON THE SAME DAY,
7 THE REWARD SHALL BE DIVIDED EQUALLY AMONG THOSE PERSONS PROVIDING
8 THE INFORMATION.

9 (4) PUBLIC OFFICERS AND EMPLOYEES OF THE UNITED STATES, THE
10 STATE OF MICHIGAN, THE STATES OF WISCONSIN, ILLINOIS, INDIANA,
11 OHIO, OR COUNTIES AND CITIES IN MICHIGAN, WISCONSIN, ILLINOIS,
12 INDIANA, AND OHIO ARE NOT ELIGIBLE FOR A REWARD UNDER THIS SEC-
13 TION, UNLESS REPORTING THOSE VIOLATIONS DOES NOT RELATE IN ANY
14 MANNER TO THEIR RESPONSIBILITIES AS PUBLIC OFFICERS OR
15 EMPLOYEES.

16 (5) AN EMPLOYEE OF A BUSINESS WHO PROVIDES INFORMATION THAT
17 THE BUSINESS VIOLATED THIS ACT IS NOT ELIGIBLE FOR A REWARD IF
18 THE EMPLOYEE INTENTIONALLY CAUSED THE VIOLATION.

19 (6) THE DEPARTMENT SHALL PROMULGATE RULES THAT ESTABLISH
20 PROCEDURES FOR THE RECEIPT AND REVIEW OF CLAIMS FOR PAYMENT OF
21 REWARDS. ALL DECISIONS CONCERNING THE ELIGIBILITY FOR AN AWARD
22 AND THE MATERIALITY OF THE PROVIDED INFORMATION SHALL BE MADE
23 PURSUANT TO THESE RULES. IN EACH CASE BROUGHT UNDER SECTION 24A,
24 WHICHEVER OFFICE PROSECUTED THE ACTION SHALL DETERMINE WHETHER
25 THE INFORMATION MATERIALLY CONTRIBUTED TO THE IMPOSITION OF A
26 CIVIL FINE OR A CRIMINAL CONVICTION.

1 (7) THE DEPARTMENT SHALL PERIODICALLY PUBLICIZE THE
2 AVAILABILITY OF THE REWARDS TO THE PUBLIC.

3 (8) A CLAIM FOR A REWARD UNDER THIS SECTION MAY BE SUBMITTED
4 ONLY FOR INFORMATION PROVIDED ON OR AFTER THE EFFECTIVE DATE OF
5 THIS SECTION.

6 Section 2. Section 11 of Act No. 518 of the Public Acts of
7 1988, being section 299.811 of the Michigan Compiled Laws, is
8 repealed.