

**SUBSTITUTE FOR
HOUSE BILL NO. 4583**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 21506a and 21510d (MCL 324.21506a and
324.21510d), section 21506a as amended by 2016 PA 467 and section
21510d as added by 2016 PA 380, and by adding section 21519a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 21506a. (1) The refined petroleum fund is created within
2 the state treasury.

3 (2) The state treasurer may receive money or other assets from
4 any source for deposit into the refined petroleum fund. The state
5 treasurer shall direct the investment of the refined petroleum
6 fund. The state treasurer shall credit to the refined petroleum
7 fund interest and earnings from refined petroleum fund investments.

(3) Money in the refined petroleum fund at the close of the fiscal year ~~shall remain~~ **REMAINS** in the refined petroleum fund and ~~shall~~ **DOES** not lapse to the general fund.

(4) Money from the refined petroleum fund shall be expended, upon appropriation, only for 1 or more of the following purposes:

(a) Corrective actions performed by the department pursuant to section 21320.

(B) THE LEGACY RELEASE PROGRAM CREATED IN SECTION 21519A.

(C) ~~(b)~~—The reasonable costs of the department in administering the refined petroleum fund and implementing part 213.

(D) ~~(e)~~—Not more than \$5,000,000.00 annually for petroleum product inspection programs under both of the following:

(i) The weights and measures act, 1964 PA 283, MCL 290.601 to 290.635.

(ii) The motor fuels quality act, 1984 PA 44, MCL 290.641 to 290.650d.

(E) ~~(d)~~—Not more than \$3,000,000.00 annually for the bureau of fire services and office of the state fire marshal, storage tank division, in the department of licensing and regulatory affairs.

~~—(e) Other purposes as determined by the legislature.~~

(F) REIMBURSEMENT BY THE AUTHORITY TO LOCAL UNITS OF GOVERNMENT AND COUNTY ROAD COMMISSIONS FOR THE COSTS OF CORRECTIVE ACTION TO MANAGE, RELOCATE, OR DISPOSE OF ANY MEDIA CONTAMINATED BY REGULATED SUBSTANCES LEFT IN PLACE WITHIN A PUBLIC HIGHWAY PURSUANT TO SECTION 21310A IF ALL OF THE FOLLOWING OCCUR:

(i) THE LOCAL UNIT OF GOVERNMENT OR COUNTY ROAD COMMISSION HAS SUBMITTED TO THE AUTHORITY A CLAIM FOR REIMBURSEMENT ON A FORM

1 CREATED BY THE AUTHORITY.

2 (ii) THE CLAIM FOR REIMBURSEMENT IS FOR REASONABLE AND
3 NECESSARY ELIGIBLE CORRECTIVE ACTION COSTS DETERMINED BY THE
4 ADMINISTRATOR PURSUANT TO SECTION 21515(2) TO (10).

5 (iii) THE AMOUNT OF REIMBURSEMENT IS NOT MORE THAN \$200,000.00
6 PER CLAIM.

7 (G) NOT MORE THAN \$5,000,000.00 ANNUALLY FOR THE DEPARTMENT TO
8 PROVIDE GRANTS AND LOANS IN ACCORDANCE WITH PART 196 TO FACILITATE
9 BROWNFIELD REDEVELOPMENT AT PART 213 PROPERTIES. MONEY SHALL NOT BE
10 PROVIDED UNDER THIS SUBSECTION TO FUND THE PERFORMANCE OF RESPONSE
11 ACTIVITIES AT A PART 213 PROPERTY TO ADDRESS CONTAMINATION THAT IS
12 SOLELY ATTRIBUTABLE TO A RELEASE REGULATED UNDER PART 201.

13 (H) THE PERMANENT CLOSURE OF AN UNDERGROUND STORAGE TANK
14 SYSTEM BY THE DEPARTMENT IF THE UNDERGROUND STORAGE TANK SYSTEM
15 MEETS THE CONDITIONS THAT REQUIRE PERMANENT CLOSURE UNDER R 29.2153
16 OF THE MICHIGAN ADMINISTRATIVE CODE OR THE DEPARTMENT DETERMINES IT
17 IS NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, WELFARE, OR THE
18 ENVIRONMENT.

19 Sec. 21510d. If an owner or operator intends to rely on the
20 fund to meet financial responsibility requirements, the owner or
21 operator shall submit to the authority a request for a
22 determination that the owner or operator would be eligible for
23 funding under this part in the event of a release from a refined
24 petroleum underground storage tank system. Upon receipt of a
25 request under this subsection, the authority shall make a
26 determination and provide notice of that determination, in writing,
27 to the owner or operator. The notice may contain conditions for

1 maintenance of that eligibility. A determination under this section
2 is based upon a demonstration of all of the following:

3 (a) The owner or operator is not ineligible for funding under
4 section 21510(4) and (5).

5 (b) The refined petroleum underground storage tank or tanks
6 are presently in compliance with the registration and fee
7 requirements of part 211.

8 (c) The owner or operator is not the United States government.

9 (d) The owner or operator has financial responsibility for the
10 deductible amount. IN ORDER TO DEMONSTRATE THAT THE OWNER OR
11 OPERATOR HAS FINANCIAL RESPONSIBILITY FOR THE DEDUCTIBLE AMOUNT
12 UNDER THIS SECTION AND SECTION 21510(1)(F), THE OWNER OR OPERATOR
13 MAY RELY UPON ANY FINANCIAL ASSURANCE MECHANISM LISTED IN 40 CFR
14 280.95 TO 280.107 OR EITHER OF THE FOLLOWING:

15 (i) A FINANCIAL TEST OF SELF-INSURANCE. TO PASS THE FINANCIAL
16 TEST OF SELF-INSURANCE, THE OWNER OR OPERATOR MUST SUBMIT, ON A
17 FORM DEVELOPED BY THE AUTHORITY, FINANCIAL INFORMATION CERTIFIED AS
18 ACCURATE BY THE CHIEF FINANCIAL OFFICER OR COMPARABLE POSITION THAT
19 DEMONSTRATES A TANGIBLE NET WORTH OF AT LEAST 3 TIMES THE
20 DEDUCTIBLE AMOUNT REQUIRED UNDER THIS PART.

21 (ii) A DEPOSIT ACCOUNT IN THE AMOUNT OF THE DEDUCTIBLE AMOUNT
22 REQUIRED UNDER THIS PART IN A FINANCIAL INSTITUTION AS DEFINED IN
23 SECTION 1202 OF THE BANKING CODE OF 1999, 1999 PA 276, MCL
24 487.11202, IF ACCESS TO THE DEPOSIT ACCOUNT IS RESTRICTED BY A
25 DEPOSIT ACCOUNT CONTROL AGREEMENT OR SIMILAR RESTRICTION AS
26 APPROVED BY THE AUTHORITY THAT REQUIRES THE APPROVAL OF THE
27 ADMINISTRATOR FOR A WITHDRAWAL FROM THE DEPOSIT ACCOUNT.

1 SEC. 21519A. (1) THE DEPARTMENT SHALL ESTABLISH AND THE
2 AUTHORITY SHALL ADMINISTER A LEGACY RELEASE PROGRAM AS PROVIDED IN
3 THIS SECTION TO REIMBURSE ELIGIBLE PERSONS FOR COSTS OF CORRECTIVE
4 ACTIONS FOR CERTAIN HISTORIC RELEASES FROM REFINED PETROLEUM
5 UNDERGROUND STORAGE TANK SYSTEMS. AN ELIGIBLE PERSON MAY BE
6 REIMBURSED FOR CORRECTIVE ACTION COSTS INCURRED IF THE ELIGIBLE
7 PERSON DEMONSTRATES ALL OF THE FOLLOWING:

8 (A) THE RELEASE FROM WHICH THE CORRECTIVE ACTION OR
9 INDEMNIFICATION AROSE WAS DISCOVERED AND REPORTED PRIOR TO DECEMBER
10 30, 2014.

11 (B) THE RELEASE UPON WHICH THE REQUEST FOR REIMBURSEMENT IS
12 BASED HAS NOT BEEN CLOSED PURSUANT TO PART 213 PRIOR TO DECEMBER
13 30, 2014.

14 (C) ANY REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS
15 THAT ARE OPERATING AT THE LOCATION FROM WHICH THE RELEASE OCCURRED
16 ARE CURRENTLY IN COMPLIANCE WITH THE REGISTRATION REQUIREMENTS OF
17 PART 211.

18 (D) THE REQUEST FOR REIMBURSEMENT DOES NOT INCLUDE
19 REIMBURSEMENT FOR MONEY THAT WAS REIMBURSED FROM ANY OTHER SOURCE,
20 INCLUDING INSURANCE POLICIES.

21 (E) A CLAIM SUBMITTED TO THE LEGACY RELEASE PROGRAM SHALL NOT
22 BE APPROVED BY THE AUTHORITY FOR ANY OF THE PROHIBITIONS LISTED
23 UNDER SECTION 21510C.

24 (F) THE REQUEST FOR REIMBURSEMENT IS FOR CORRECTIVE ACTION
25 PERFORMED ON OR AFTER DECEMBER 30, 2014.

26 (2) AN ELIGIBLE PERSON THAT SEEKS TO BE REIMBURSED UNDER THE
27 LEGACY RELEASE PROGRAM ESTABLISHED UNDER THIS SECTION SHALL SUBMIT

1 TO THE AUTHORITY A REQUEST FOR REIMBURSEMENT ON A FORM PROVIDED BY
2 THE AUTHORITY CONTAINING THE DOCUMENTATION REQUIRED BY THE
3 AUTHORITY.

4 (3) THE AUTHORITY SHALL APPROVE A REQUEST FOR REIMBURSEMENT
5 UNDER THIS SECTION ONLY AS FOLLOWS:

6 (A) THE AMOUNT APPROVED FOR REIMBURSEMENT SHALL BE 50% OF THE
7 AGGREGATE INDEMNIFICATION AND CORRECTIVE ACTION COSTS INCURRED, BUT
8 NOT MORE THAN 50% OF THE REASONABLE AND NECESSARY ELIGIBLE COSTS AS
9 DETERMINED BY THE ADMINISTRATOR PURSUANT TO SECTION 21515(2) TO
10 (10).

11 (B) THE TOTAL AMOUNT APPROVED FOR REIMBURSEMENT SHALL NOT
12 EXCEED A TOTAL OF \$50,000.00 FOR ALL RELEASES FROM REFINED
13 PETROLEUM UNDERGROUND STORAGE TANK SYSTEMS AT A SINGLE LOCATION.

14 (C) AN OWNER OR OPERATOR MAY REQUEST A REVIEW OF A DENIED
15 CLAIM OR WORK INVOICE PER SECTION 21521.

16 (4) AS USED IN THIS SECTION, "ELIGIBLE PERSON" MEANS THE OWNER
17 OR OPERATOR OF A REFINED PETROLEUM UNDERGROUND STORAGE TANK SYSTEM
18 AT THE TIME OF THE REPORTING OF THE RELEASE.

19 Enacting section 1. This amendatory act takes effect 90 days
20 after the date it is enacted into law.