

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to establish a residential petroleum clean up fund.

PETITION OF:

NAME:

John W. Scibak

DISTRICT/ADDRESS:

2nd Hampshire

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 863 OF .]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

AN ACT TO ESTABLISH A RESIDENTIAL PETROLEUM CLEAN UP FUND..

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

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

3 SECTION 11A. (a) Notwithstanding any general or special law to the contrary, the Department of
4 Environmental Protection shall establish a Residential Petroleum Clean Up Fund, hereafter referred to as
5 the Fund, to provide financial assistance in hardship cases to property owners for the remediation of
6 fuel leaks and removal of ground contamination from above ground and buried underground storage
7 tanks at residential properties.

8 (b) The Fund is established as a special revolving fund and shall be credited with:

- 9 i. such moneys as appropriated by the Legislature from the Environmental
10 Challenge Fund as defined in section 2J of chapter 29;
- 11 ii. any monies received as repayment of principal and interest on outstanding
12 loans made from the Residential Petroleum Clean Up Fund;
- 13 iii. any monies recovered through liens pursuant to subsection (e) of this act;

14

15 (c) Fund proceeds may only be awarded to the owner of a residential property who is unable to
16 initiate or complete the remediation of a fuel leak and removal of ground contamination

17 because of financial hardship. In determining whether an applicant qualifies for assistance, the
18 Department shall base its determination upon the applicant's taxable income in the year prior
19 to the date of the application and the applicant's personal and business assets, exclusive of the
20 applicant's primary residence.

21

22 (d) The Department may award financial assistance from the Fund to the owner of a residential
23 property owner in the form of a loan or a hardship grant as provided in this subsection.

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25 a. An award of financial assistance, either as a loan or a grant, or a combination of both,
26 may be for up to 100% of the eligible project costs.

27 b. The actual amount and the structure of the award as a loan or a grant shall be
28 determined by the Department after reviewing the projected costs of the remediation
29 project and the applicant's ability to repay all or a portion of those costs, given the
30 applicant's assets and net worth.

31 c. All loans awarded from the Fund shall be for a term not to exceed ten years at a rate
32 between two percent and the Prime Rate at the time of approval, based upon the
33 applicant's ability to repay.

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35 (e) The Department may also file a lien on the property where the leak occurred. Liens filed
36 pursuant to this subsection shall not affect any valid lien, right or interest in the real property
37 filed in accordance with established procedure prior to the filing of this notice of lien.

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39 (f) Upon the sale of the property for which the loan was made, the unpaid balance of the loan shall
40 immediately become payable in full.

41

42 (g) The Department may deny an application for financial assistance, and any award of financial
43 assistance may be recoverable by the Department, upon a finding that:

44

45 a. the fuel leak was proximately caused by the applicant's knowing conduct;

46 b. the applicant provided false information or withheld information on a loan or grant
47 application, or other relevant information required to be submitted to the Department,

48 on any matter that would otherwise render the applicant ineligible for financial
49 assistance from the fund.

50

51 (h) If a property owner has insurance coverage for the remediation of the fuel leak, the
52 insurance coverage shall be the primary coverage for the costs of a remediation. The property
53 owner may apply for financial assistance from the Fun for any excess, provided that the owner
54 can demonstrate financial hardship for the excess costs.

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