

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

H.B. 593
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HOUSE PRINCIPAL CLERK

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HOUSE DRH10235-RI-22 (02/16)

Short Title: Amend Environmental Laws - 2.

(Public)

Sponsors: Representative McElraft.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES
3 LAWS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1.(a) G.S. 143-215.94V(e) reads as rewritten:

6 "(e) If the Commission concludes under subsection (d) of this section that no cleanup, no
7 further cleanup, or no further action will be required, the Department shall not pay or reimburse
8 any costs otherwise payable or reimbursable under this Article from either the Commercial or
9 Noncommercial Fund, other than reasonable and necessary to conduct the risk assessment
10 required by this section, unless:

11 (1) Cleanup is ordered or damages are awarded in a finally adjudicated
12 judgment in an action against the owner or landowner. To be eligible for
13 reimbursement of damages arising from a third-party claim for bodily injury
14 or property awarded in a finally adjudicated judgment, however, an owner or
15 operator shall (i) notify the Department of any such claim; (ii) provide the
16 Department with all pleadings and other related documents if a lawsuit has
17 been filed; and (iii) provide the Department copies of any medical reports,
18 statements, investigative reports, or certifications from licensed
19 professionals necessary to determine that a claim for bodily injury or
20 property damage is reasonable and necessary. Reimbursement of claims for
21 damages arising from a third-party claim for bodily injury or property
22 awarded in a finally adjudicated judgment shall be subject to the limitations
23 set forth in G.S. 143-215.94B(b)(5) and G.S. 143-215.94D(b1)(2), as
24 applicable, and any other provision governing third-party claims set forth in
25 this Article.

26"

27 SECTION 1.(b) G.S. 143-215.94A is amended by adding three new subdivisions

28 to read:

29 "§ 143-215.94A. Definitions.

30 Unless a different meaning is required by the context, the following definitions shall apply
31 throughout this Part and Part 2B of this Article:

32 ...

33 (12) "Third party" means a person other than the owner or operator of an
34 underground storage tank from which a release has occurred, or employees
35 or agents of an owner or operator. A property owner shall not be considered



a third party if the property was transferred by the owner or operator of an underground storage tank in anticipation of damage due to a release.

(13) "Third-party bodily injury" or "bodily injury" when used in connection with "third-party" means specific physical bodily injury proximately resulting from exposure, explosion, or fire caused by the presence of a petroleum release and that is incurred by a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator.

(14) "Third-party property damage" or "property damage" when used in connection with "third-party" means actual physical damage or damage due to specific loss of normal use that proximately resulted from exposure, explosion, or fire caused by the presence of a petroleum release and that is incurred to property owned by a person other than the owner or operator of an underground storage tank from which a release has occurred, or employees or agents of an owner or operator."

SECTION 1.(c) G.S. 143-215.94B reads as rewritten:

§ 143-215.94B. Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund.

(a) There is established under the control and direction of the Department the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This Commercial Fund shall be a nonreverting revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, other monies paid to it or recovered on behalf of the Commercial Fund, and fees paid pursuant to this Part.

(b) The Commercial Fund shall be used for the payment of the following costs up to an aggregate maximum of one million dollars (\$1,000,000) per occurrence resulting from a discharge or release of a petroleum product from a commercial underground storage tank:

- ...
(5) Compensation to third parties for bodily injury and property damage in excess of one hundred thousand dollars (\$100,000) per occurrence. Claims for third-party property damage shall be based on the rental costs of comparable property during the period of loss of use up to a maximum amount equal to the fair market value. In the case of property that is actually destroyed as a result of a petroleum release, reimbursement shall be at an amount necessary to replace or repair the destroyed property.

...."

SECTION 1.(d) G.S. 143-215.94D reads as rewritten:

§ 143-215.94D. Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund.

(a) There is established under the control and direction of the Department the Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Fund. This Noncommercial Fund shall be a nonreverting revolving fund consisting of any monies appropriated for such purpose by the General Assembly or available to it from grants, or other monies paid to it or recovered on behalf of the Noncommercial Fund.

...

- (b1) The Noncommercial Fund shall be used for the payment of the costs of:
(1) For releases discovered or reported to the Department prior to August 1, 2013, the cleanup of environmental damage as required by G.S. 143-215.94E(a).
(1a) For releases discovered or reported to the Department on or after August 1, 2013, the cleanup of environmental damage as required by

1 G.S.143-215.94E(a) in excess of two thousand dollars (\$2,000) or the sum of
2 the following amounts, whichever is less:
3 a. A deductible of one thousand dollars (\$1,000) per occurrence.
4 b. A co-payment equal to ten percent (10%) of the costs of the cleanup
5 of environmental damage, per occurrence.
6 (2) Compensation to third parties for bodily injury and property damage in
7 excess of one hundred thousand dollars (\$100,000) per occurrence. Claims
8 for third-party property damage shall be based on the rental costs of
9 comparable property during the period of loss of use up to a maximum
10 amount equal to the fair market value. In the case of property that is actually
11 destroyed as a result of a petroleum release, reimbursement shall be at an
12 amount necessary to replace or repair the destroyed property.

13"
14 **SECTION 1.(e)** This act is effective when it becomes law and applies to claims for
15 reimbursement submitted on or after that date.