

## No. 2001-99

## AN ACT

## SB 837

Amending the act of July 6, 1989 (P.L.169, No.32), entitled, as amended, "An act providing for the regulation of storage tanks and tank facilities; imposing additional powers and duties on the Department of Environmental Protection and the Environmental Quality Board; and making an appropriation," further providing for payment of certain claims from the Underground Storage Tank Indemnification Fund and for Underground Storage Tank Environmental Cleanup Program.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 704(b) and (b.1) of the act of July 6, 1989 (P.L.169, No.32), known as the Storage Tank and Spill Prevention Act, amended January 30, 1998 (P.L.46, No.13), are amended to read:

Section 704. Underground Storage Tank Indemnification Fund.

\* \* \*

(b) Limit of payments to owners or operators.—

(1) Payments to eligible owners or operators shall be limited to the actual costs of corrective action and the amount of an award of damages by a court of competent jurisdiction for bodily injury, property damage or both, not to exceed a total of ~~[\$1,000,000]~~ *\$1,500,000* per tank per occurrence.

(2) Payments of claims against the fund shall be subject to a deductible as provided in section 705. Payments shall be made only for releases resulting from storage tanks that are located within this Commonwealth.

(3) Payments shall not exceed:

(i) an annual aggregate of ~~[\$1,000,000]~~ *\$1,500,000* for each owner and operator of 100 or less underground storage tanks; or

(ii) an annual aggregate of ~~[\$2,000,000]~~ *\$3,000,000* for each owner and operator of 101 or more underground storage tanks, up to the total of ~~[\$1,000,000]~~ *\$1,500,000* per tank per occurrence or the total eligible costs or damages.

(4) *Any pending claim where eligibility has not been determined as of the effective date of this paragraph shall be eligible for the increased payment under this subsection.*

(b.1) Limit of payments to certified tank installers.—

(1) Payments to certified tank installers shall be limited to the actual costs of corrective action and the amount of an award of damages by a court of competent jurisdiction for bodily injury, property damage or both, not to exceed a total of ~~[\$1,000,000]~~ *\$1,500,000* per occurrence. Corrective action under this subsection shall mean releases caused by

improper or faulty installations, modifications and removal of underground storage tanks.

(2) Payments of claims against the program shall be subject to a deductible as provided in section 705(c)(4). Payments shall be made only for releases resulting from underground storage tanks located in this Commonwealth.

(3) Payments shall not exceed:

(i) an annual aggregate of [~~\$1,000,000~~] *\$1,500,000* for certified tank installers who perform 100 or fewer installations or major modifications; or

(ii) an annual aggregate of [~~\$2,000,000~~] *\$3,000,000* for certified tank installers who perform more than 100 installations or major modifications.

***(4) Any pending claim where eligibility has not been determined as of the effective date of this paragraph shall be eligible for the increased payment under this subsection.***

\* \* \*

Section 2. Section 710(b) of the act, added January 30, 1998 (P.L.46, No.13), is amended and the section is amended by adding a subsection to read:

Section 710. Underground Storage Tank Environmental Cleanup Program.

\* \* \*

(b) Allocation.—The board may allocate up to \$5,500,000 annually from the Underground Storage Tank Indemnification Fund for the Underground Storage Tank Environmental Cleanup Program as long as the allocation does not impede the fund's ability to pay claims. ***Any amounts recovered by the board and/or the Department of Environmental Protection from the costs of corrective action incurred under the Underground Storage Tank Environmental Cleanup Program shall be added to this allocation for the purposes stated in this subsection and shall annually lapse with this allocation.***

\* \* \*

***(b.3) Catastrophic release allocations.—***

***(1) The board may allocate up to \$5,500,000 annually from the Underground Storage Tank Indemnification Fund for the Underground Storage Tank Environmental Cleanup Program to be used by the Department of Environmental Protection for corrective action caused by a catastrophic release providing the allocation does not impede the fund's actuarial soundness and ability to pay claims.***

***(2) For the purposes of this subsection, a catastrophic release is one that imposes a threat to public health and safety and the environment where the department determines that the costs of the corrective action may exceed two times the limits established under section 704.***

\* \* \*

**Section 3.** This act shall take effect immediately.

**APPROVED**—The 13th day of December, A.D. 2001.

**MARK S. SCHWEIKER**