

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 1192

Short Title: Leaking UST Cleanups.

(Public)

Sponsors: Representatives Owens, Clary, Baker (Primary Sponsors); and Pate.

Referred to: Environment and Natural Resources.

April 10, 2003

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE ENVIRONMENTAL SERVICE FIRMS TO SECURE
2 PERFORMANCE BONDS FOR LEAKING PETROLEUM UNDERGROUND
3 STORAGE TANKS CLEANUPS.
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 143-215.94B(f) reads as rewritten:

7 "(f) **(Effective until October 1, 2006)** On the first day of each fiscal quarter, the
8 Department may allocate up to fifty percent (50%) of the funds in the Commercial Fund
9 that are not otherwise obligated for performance-based cleanups as provided in this
10 subsection. The Department may also use any funds that are available from any other
11 source and that are specifically intended to be used for performance-based cleanups as
12 provided in this section. Each performance-based cleanup shall comply with the
13 requirements of this Part and any other provisions of law that govern the cleanup of
14 environmental damage resulting from the discharge or release of a petroleum product
15 from a commercial underground storage tank. The Department may contract for
16 performance-based cleanups with environmental services firms that the Department has
17 determined to be qualified to satisfactorily complete the work associated with a cleanup.
18 Before the award of the contract, the environmental service firm shall secure a surety or
19 performance bond equal to the price of the firm's services under the contract and shall
20 demonstrate having secured the surety or performance bond to the satisfaction of the
21 Department. The surety shall be liable on the bond obligation when the environmental
22 service firm fails to perform as specified in the contract. A performance-based contract
23 shall provide that cleanup will be completed within the time and for the cost stated in
24 the contract. The Department shall select environmental services firms for
25 performance-based cleanup through a competitive bidding process. The Commission
26 shall adopt rules governing the competitive bidding process and any other rules
27 necessary to implement this subsection. The rules shall establish qualifications for
28 environmental services firms and for individuals and firms that provide engineering
29 services as part of a contract to satisfactorily complete work associated with cleanup."

1 **SECTION 2.** G.S. 143-215.94D(f) reads as rewritten:

2 "(f) **(Effective until October 1, 2006)** On the first day of each fiscal quarter, the
3 Department may allocate up to fifty percent (50%) of the funds in the Noncommercial
4 Fund that are not otherwise obligated for performance-based cleanups as provided in
5 this subsection. The Department may also use any funds that are available from any
6 other source and that are specifically intended to be used for performance-based
7 cleanups as provided in this section. Each performance-based cleanup shall comply with
8 the requirements of this Part and any other provisions of law that govern the cleanup of
9 environmental damage resulting from the discharge or release of a petroleum product
10 from a noncommercial underground storage tank. The Department may contract for
11 performance-based cleanups with environmental services firms that the Department has
12 determined to be qualified to satisfactorily complete the work associated with a cleanup.
13 Before the award of the contract, the environmental service firm shall secure a surety or
14 performance bond equal to the price of the firm's services under the contract and shall
15 demonstrate having secured the surety or performance bond to the satisfaction of the
16 Department. The surety shall be liable on the bond obligation when the environmental
17 service firm fails to perform as specified in the contract. A performance-based contract
18 shall provide that cleanup will be completed within the time and for the cost stated in
19 the contract. The Department shall select environmental services firms for
20 performance-based cleanup through a competitive bidding process. The Commission
21 shall adopt rules governing the competitive bidding ~~process~~-process and any other rules
22 necessary to implement this subsection. The rules shall establish qualifications for
23 environmental services firms and for individuals and firms that provide engineering
24 services as part of a contract to satisfactorily complete work associated with cleanup."

25 **SECTION 3.** This act is effective when it becomes law.