

**HOUSE . . . . . No. 863**

By Mr. Scibak of South Hadley, petition of John W. Scibak and James R. Miceli relative to the establishment of a residential petroleum clean up fund within the Department of Environmental Protection. Environment, Natural Resources and Agriculture.

**The Commonwealth of Massachusetts**

In the Year Two Thousand and Seven.

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 Offi-  
2 cial Edition, is hereby amended by adding After section 11 the  
3 following section:—

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

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

13 i.) such moneys as appropriated by the Legislature from the Envi-  
14 ronmental Challenge Fund as defined in Section 2J of Chapter 29;

15 ii.) any monies received as repayment of principal and interest on  
16 outstanding loans made from the Residential Petroleum Clean Up  
17 Fund;

18 iii.) any monies recovered through liens pursuant to subsection (e)  
19 of this act;

20 (c) Fund proceeds may only be awarded to the owner of a resi-  
21 dential property who is unable to initiate or complete the remedia-  
22 tion of a fuel leak and removal of ground contamination because of  
23 financial hardship. In determining whether an applicant qualifies for

24 assistance, the Department shall base its determination upon the  
25 applicant's taxable income in the year prior to the date of the appli-  
26 cation and the applicant's personal and business assets, exclusive of  
27 the applicant's primary residence.

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

31 (a.) An award of financial assistance, either as a loan or a grant, or  
32 a combination of both, may be for up to 100% of the eligible project  
33 costs.

34 (b.) The actual amount and the structure of the award as a loan or  
35 a grant shall be determined by the Department after reviewing the  
36 projected costs of the remediation project and the applicant's ability  
37 to repay all or a portion of those costs, given the applicant's assets  
38 and net worth.

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

42 (e.) The Department may also file a lien on the property where the  
43 leak occurred. Liens filed pursuant to this subsection shall not affect  
44 any valid lien, right or interest in the real property filed in accor-  
45 dance with established procedure prior to the filing of this notice of  
46 lien.

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

50 (g.) The Department may deny an application for financial assis-  
51 tance, and any award of financial assistance may be recoverable by  
52 the Department, upon a finding that:—

53 (a.) the fuel leak was proximately caused by the applicant's  
54 knowing conduct;

55 (b.) the applicant provided false information or withheld informa-  
56 tion on a loan or grant application, or other relevant information  
57 required to be submitted to the Department, on any matter that  
58 would otherwise render the applicant ineligible for financial assis-  
59 tance from the fund.

60 (h) If a property owner has insurance coverage for the remedia-  
61 tion of the fuel leak, the

62 insurance coverage shall be the primary coverage for the costs of  
63 a remediation. The property owner may apply for financial assis-  
64 tance from the Fun for any excess, provided that the owner can  
65 demonstrate financial hardship for the excess costs.