

ACT 267

S.B. NO. 1718

A Bill for an Act Relating to Underground Storage Tanks.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 210-3, Hawaii Revised Statutes, is amended to read as follows:

“§210-3 Hawaii capital loan revolving fund. There is established the Hawaii capital loan revolving fund into which shall be deposited all moneys received as repayment of loans and interest payments as provided in this chapter[.] and in section 342L-36.5.”

SECTION 2. Section 342L-36.5, Hawaii Revised Statutes, is amended to read as follows:

“[~~§~~342L-36.5] Financial responsibility guarantee fund.] Underground storage tank fees. (a) [There is established in the state treasury a special fund to be known as the “underground storage tank financial responsibility guarantee fund”. The moneys in the fund shall be held separate and apart from all other moneys, funds, and accounts in the state treasury.] The department shall collect underground storage tank fees that, after the deduction of administrative expenses necessary for the implementation of this chapter, are to be placed into a separate account of the Hawaii capital loan revolving fund for the purpose of making loans to businesses to replace, upgrade, close, take remedial action relating to, and clean up releases from, their underground storage tanks.

(b) The director may suspend the collection of fees at any time that the director determines, on both actuarial and environmental grounds, that the [fund] account has a sufficient balance to meet actual and projected [claims.] loans.

(c) Beginning October 1, [1990, but not later than October 26, 1990,] 1991, every owner [or operator] who has complied with the notification requirements of section 342L-30 and whose tank is currently in use, shall pay a [maintenance] registration fee of [\$200] \$250 to the director for each petroleum underground storage tank [and not later than April 26 and October 26 of each]. Every year thereafter, every owner [or operator] who has complied with the notification requirements of section 342L-30 and whose tank is currently in use, shall

pay [a biannual maintenance] an annual registration fee of [\$100] \$250 to the director for each petroleum underground storage tank [unless the fee is suspended by the director pursuant to subsection (b)].

The director may increase or decrease the amount of the fee pursuant to rules adopted under chapter 91 in order to maintain an adequate level in the [fund.] account.

[(d) In addition to any other moneys appropriated by the legislature, the fund shall consist of:

- (1) Funds from the annual maintenance fees; and
- (2) Any interest earned on moneys deposited into the fund.

(e) No later than twenty days prior to the convening of the 1991 regular legislative session, the department shall submit a report to the legislature, with accompanying proposed legislation, to provide for a financial guarantee program. The program shall contain the following features:

- (1) An actuarially sound program covering those losses or expenses which cannot be otherwise covered by the certified persons;
- (2) A program which will qualify under United States Environmental Protection Agency guidelines; and
- (3) A program which will ensure that no state moneys, other than any directly appropriated for such purposes, are at risk.

The department shall present any other insurance or guarantee program that should be considered as alternatives.

(f) (d) The department [shall] may adopt rules pursuant to chapter 91 to establish the conditions and eligibility requirements related to tank replacement, upgrade, closure, and remediation, and the clean up of releases, necessary for persons to [acquire and maintain certification under the] utilize the Hawaii capital loan program[. The department shall design a certificate to verify the standing of any individual. The conditions required for the granting of certifications shall include, but not be limited to:

- (1) The submittal of release detection data by the applicant to demonstrate that a tank is not leaking; and
- (2) The submittal of sufficient soil and groundwater data by the applicant to demonstrate that any existing contamination at the site has been characterized.

(g) The department shall distribute information on interim application requirements and publicize the availability of applications. Interim application requirements shall include, but not be limited to:

- (1) General information on the owner or operator, and the identity and description of the petroleum underground storage tank and facility;
- (2) The submittal of sufficient soil and groundwater data to demonstrate that any existing contamination at the site has been characterized; and
- (3) Release detection data which demonstrate that the petroleum underground storage tank is not leaking.

(h) The department shall review all completed interim applications received prior to October 26, 1990, and issue its determination on the approval or disapproval of all interim applications prior to October 26, 1991, with regard to interim participation in the program.

(i) Only those applicants who have complied with the notification requirements of section 342L-30 and have been granted interim approval for participation in the program shall be deemed certified under the fund.

(j) The department shall coordinate with and enlist the assistance of the

department of commerce and consumer affairs on matters relating to finance and insurance.

(k) The department shall adopt rules in accordance with chapter 91 to carry out this section.

(l) The department may use the fund for the payment of administrative expenses including but not limited [to]¹ the hiring of consultants, actuaries, and attorneys on a contractual basis, for the study required under this section.] established under chapter 210.

(e) As used in this section:

"Account" means the separate account established in the Hawaii capital loan revolving fund that, after deduction for administrative expenses needed for the implementation of this chapter, is to be used for the purpose of making loans to businesses replacing, upgrading, closing, taking remedial action relating to, or cleaning up releases from, their underground storage tanks.

"Hawaii capital loan revolving fund" means the revolving fund established pursuant to section 210-3."

SECTION 3. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that this Act shall be repealed on January 1, 1993; provided further that on January 1, 1993, section 210-3 and section 342L-36.5, Hawaii Revised Statutes, are reenacted in the form in which they read on the day before the approval of this Act.

(Approved June 14, 1991.)

Note

1. So in original.