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RWH 3/27/08

P.L. 2007, CHAPTER 10, *approved January 24, 2007*  
Assembly, No. 1897

1 AN ACT concerning financing underground storage tank closures  
2 and remediations, and amending and supplementing P.L.1997,  
3 c.235.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. Section 6 of P.L.1997, c.235 (C.58:10A-37.6) is amended to  
9 read as follows:

10 6. An eligible owner or operator seeking financial assistance  
11 from the fund shall file an application on a form to be developed by  
12 the authority. The application form shall be submitted with the  
13 application fee. The application fee per facility for residential  
14 petroleum underground storage tanks shall be \$250. The authority  
15 may establish the application fee per facility for nonresidential  
16 petroleum underground storage tanks.

17 The authority shall adopt rules and regulations listing the filing  
18 requirements for a complete application for financial assistance. If  
19 a financial assistance application is determined to be incomplete by  
20 the authority, an applicant shall have 30 days from the date of  
21 receipt of written notification of incompleteness to file such  
22 additional information as may be required by the authority for a  
23 completed application. If an applicant fails to file the additional  
24 information within the 30 days, the filing date for that application  
25 shall be the date that such additional information is received by the  
26 authority. If the additional information is filed within the 30 days  
27 and is satisfactory to the authority, the filing date for that  
28 application shall be the initial date of application with the authority.  
29 Notwithstanding the above, if a completed application has been  
30 submitted and the applicant fails to submit the filing fee, then the  
31 filing date for the application shall not be established until the date  
32 on which the authority receives the application fee. A change in the  
33 filing date resulting from failure to submit a completed application  
34 or from failure to submit the application fee in a timely fashion for  
35 applications filed for financial assistance for a regulated tank to  
36 meet the upgrade or closure requirements pursuant to 42 U.S.C.  
37 s.6991 et seq. or P.L.1986, c.102 (C.58:10A-21 et seq.) or for the  
38 remediation of a discharge from any such regulated tank shall not  
39 render the application ineligible for financial assistance as long as  
40 the initial date of application is prior to **[June 30, 2005]** June 30,  
41 2010, or for a regulated tank that is not operational, 18 months from  
42 the date of discovery of the tank or **[18 months from the effective**

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AEN committee amendments adopted February 9, 2006.

1 date of P.L.2003, c.148] June 30, 2010, whichever is later.

2 An applicant shall have 120 days from receipt of notice of  
3 approval of a financial assistance award to submit to the authority  
4 an executed contract for the upgrade, closure, or remediation, or all  
5 three, as the case may be, that is consistent with the terms and  
6 conditions of the financial assistance approval. Failure to submit an  
7 executed contract within the allotted time, without good cause, may  
8 result in an alteration of an applicant's priority ranking.

9 (cf: P.L.2003, c.148, s.4)

10

11 2. Section 7 of P.L.1997, c.235 (C.58:10A-37.7) is amended to  
12 read as follows:

13 7. a. The authority shall award financial assistance to an owner  
14 or operator of a facility only if the facility is properly registered  
15 with the department pursuant to section 3 of P.L.1986, c.102  
16 (C.58:10A-23), where applicable, and if all fees or penalties due  
17 and payable on the facility to the department pursuant to P.L.1986,  
18 c.102 have either been paid or the nature or the amount of the fee or  
19 penalty is being contested in accordance with law.

20 b. The authority may deny an application for financial  
21 assistance, and any award of financial assistance may be  
22 recoverable by the authority, upon a finding that:

23 (1) in the case of financial assistance awarded for a remediation,  
24 the discharge was proximately caused by the applicant's knowing  
25 conduct;

26 (2) in the case of financial assistance awarded for a remediation,  
27 the discharge was proximately caused or exacerbated by knowing  
28 conduct by the applicant with regard to any lawful requirement  
29 applicable to petroleum underground storage tanks intended to  
30 prevent, or to facilitate the early detection of, the discharge;

31 (3) the applicant failed to commence or complete a remediation,  
32 closure, or an upgrade for which an award of financial assistance  
33 was made within the time required by the department in accordance  
34 with the applicable rules and regulations, within the time prescribed  
35 in an administrative order, an administrative consent agreement, a  
36 memorandum of agreement, or a court order; or

37 (4) the applicant provided false information or withheld  
38 information on a loan or grant application, or other relevant  
39 information required to be submitted to the authority, on any matter  
40 that would otherwise render the applicant ineligible for financial  
41 assistance from the fund, that would alter the priority of the  
42 applicant to receive financial assistance from the fund, that resulted  
43 in the applicant receiving a larger grant or loan award than the  
44 applicant would otherwise be eligible, or that resulted in payments  
45 from the fund in excess of the actual eligible project costs incurred  
46 by the applicant or the amount to which the applicant is legally  
47 eligible.

48 Nothing in this subsection shall be construed to require the

1 authority to undertake an investigation or make any findings  
2 concerning the conduct described in this subsection.

3 c. An application for financial assistance from the fund for an  
4 upgrade or closure of a regulated tank shall include all regulated  
5 tanks at the facility for which the applicant is seeking financial  
6 assistance. Once financial assistance for an upgrade or closure is  
7 awarded for a facility, no additional award of financial assistance  
8 for upgrade or closure costs may be made for that facility. However,  
9 if an applicant discovers while performing upgrade or closure  
10 activities that a remediation is necessary at the site of a facility, and  
11 if financial assistance was previously awarded for that site only for  
12 an upgrade or closure of a regulated tank, the applicant may amend  
13 his application and apply for financial assistance for the required  
14 remediation subject to the limitations enumerated in section 5 of  
15 P.L.1997, c.235 (C.58:10A-37.5). An application for financial  
16 assistance for an upgrade or closure of a regulated tank shall be  
17 conditioned upon the applicant agreeing to perform, at the time of  
18 the upgrade or closure, any remediation necessary as a result of a  
19 discharge from the regulated tank and commencement of the  
20 remediation within the time prescribed and in accordance with the  
21 rules and regulations of the department.

22 d. Except as provided below, no financial assistance for upgrade  
23 shall be awarded for any regulated tank required to meet the  
24 upgrade or closure requirements pursuant to 42 U.S.C.s.6991 et seq.  
25 or P.L.1986, c.102 (C.58:10A-21 et seq.), unless the application is  
26 filed with the authority prior to January 1, 1999 and the application  
27 is complete and the application fee is received by August 1, 1999.  
28 No financial assistance for upgrade shall be awarded for any  
29 underground storage tank with a capacity of over 2,000 gallons used  
30 to store heating oil for onsite consumption in a nonresidential  
31 building required to be upgraded pursuant to P.L.1986, c.102  
32 (C.58:10A-21 et seq.) but not pursuant to 42 U.S.C.s.6991 et seq.,  
33 unless the applicant has received an extension of the deadline for  
34 compliance with the standards pursuant to subsection b. of section 9  
35 of P.L.1986, c.102 (C.58:10A-29), the application is filed with the  
36 authority prior to June 30, 2005 and the application is complete and  
37 the application fee is received by December 31, 2005.

38 No financial assistance for closure shall be awarded for any  
39 regulated tank required to meet the upgrade or closure requirements  
40 pursuant to 42 U.S.C.s.6991 et seq. or P.L.1986, c.102 (C.58:10A-  
41 21 et seq.), or for the remediation of a discharge from any such  
42 regulated tank except as provided in subsection c. of this section,  
43 unless the application is filed with the authority prior to **June 30,**  
44 **2005** June 30, 2010 and the application is complete and the  
45 application fee is received by **December 31, 2005** December 31,  
46 2010.

47 In the case of a regulated tank that is not operational, financial

1 assistance for the closure or the remediation of any discharge  
2 therefrom may be awarded if the application is filed with the  
3 authority no more than 18 months after the date of discovery of the  
4 existence of the regulated tank, or [18 months from the effective  
5 date of P.L.2003, c.148] no later than June 30, 2010, whichever is  
6 later.

7 e. The date of occurrence of a discharge shall not affect  
8 eligibility for financial assistance from the fund. Except for a  
9 preliminary assessment or a site investigation performed after the  
10 effective date of P.L.1997, c.235 (C.58:10A-37.1 et seq.), and  
11 except as provided in subsections g. through j. of this section, no  
12 award of financial assistance shall be made from the fund for the  
13 otherwise eligible project costs of a remediation, closure, or an  
14 upgrade, or parts thereof, completed prior to an award of financial  
15 assistance from the fund.

16 f. No financial assistance may be awarded from the fund for the  
17 remediation of a discharge from a petroleum underground storage  
18 tank if financial assistance from the Hazardous Discharge Site  
19 Remediation Fund established pursuant to section 26 of P.L.1993,  
20 c.139 (C.58:10B-4) has previously been made for a remediation at  
21 that site as a result of a discharge from that petroleum underground  
22 storage tank. No financial assistance may be awarded from the fund  
23 for the remediation of a discharge from a petroleum underground  
24 storage tank if the discharge began subsequent to the completion of  
25 an upgrade of that petroleum underground storage tank, which  
26 upgrade was intended to meet all applicable upgrade regulations of  
27 the department, no matter when the upgrade was performed.

28 g. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
29 37.1 et seq.), where an eligible owner or operator has filed an  
30 application for financial assistance from the fund, and there are  
31 either insufficient monies in the fund or the authority has not yet  
32 acted upon the application or awarded the financial assistance, the  
33 eligible owner or operator may expend its own funds for the  
34 upgrade, closure, or remediation, and upon approval of the  
35 application, the authority shall award the financial assistance as a  
36 reimbursement of the monies expended for eligible project costs.

37 h. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
38 37.1 et seq.) to the contrary, if an applicant has expended the  
39 applicant's own funds on a remediation after filing an application  
40 for financial assistance from the fund for the eligible project costs  
41 of the remediation, the authority, upon approval of the application,  
42 may make a grant from the fund pursuant to paragraph (1) of  
43 subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to  
44 reimburse the eligible owner or operator for the eligible project  
45 costs of the remediation.

46 i. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
47 37.1 et seq.) to the contrary, if an applicant that is an independent

1 institution of higher education has expended the applicant's own  
2 funds on a remediation prior to filing an application for financial  
3 assistance from the fund for the eligible project costs of the  
4 remediation, the authority, upon approval of the application, may  
5 make a grant from the fund pursuant to paragraph (1) of subsection  
6 c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to reimburse the  
7 applicant for expenditures for the eligible project costs of the  
8 remediation made on or after December 1, 1996 in an amount not to  
9 exceed \$500,000 for each independent institution of higher  
10 education.

11 j. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
12 37.1 et seq.) to the contrary, if an applicant has expended the  
13 applicant's own funds for a remediation of a petroleum underground  
14 storage tank used to store heating oil at the applicant's primary  
15 residence prior to filing an application for financial assistance from  
16 the fund for the eligible project costs of the remediation, the  
17 authority, upon approval of the application, may make a grant from  
18 the fund pursuant to paragraph (1) of subsection c. of section 5 of  
19 P.L.1997, c.235 (C.58:10A-37.5) to reimburse the applicant for the  
20 eligible project costs of the remediation.  
21 (cf: P.L.2003, c.148, s.5)

22  
23 3. (New section) The Department of Environmental Protection  
24 shall notify the governing body of each municipality in the State of  
25 the existence of the Petroleum Underground Storage Tank  
26 Remediation, Upgrade, and Closure Fund and shall describe the  
27 eligibility criteria and the availability of loans and grants from the  
28 fund.

29  
30 4. This act shall take effect immediately.

31

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33

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35 \_\_\_\_\_  
36 Extends application deadline for financing for closure and  
37 associated remediation of regulated underground storage tanks;  
38 requires notification to municipalities by DEP of underground  
storage tank fund.

# ASSEMBLY, No. 1897

## STATE OF NEW JERSEY 212th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman JOSEPH J. ROBERTS, JR.**

**District 5 (Camden and Gloucester)**

**Co-Sponsored by:**

**Assemblyman Gordon**

**SYNOPSIS**

Extends application deadline for financing for closure and associated remediation of regulated underground storage tanks; requires notification to municipalities by DEP of underground storage tank fund.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 2/7/2006)**



1 AN ACT concerning financing underground storage tank closures  
2 and remediations, and amending and supplementing P.L.1997,  
3 c.235.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

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9 read as follows:

10 6. An eligible owner or operator seeking financial assistance  
11 from the fund shall file an application on a form to be developed by  
12 the authority. The application form shall be submitted with the  
13 application fee. The application fee per facility for residential  
14 petroleum underground storage tanks shall be \$250. The authority  
15 may establish the application fee per facility for nonresidential  
16 petroleum underground storage tanks.

17 The authority shall adopt rules and regulations listing the filing  
18 requirements for a complete application for financial assistance. If  
19 a financial assistance application is determined to be incomplete by  
20 the authority, an applicant shall have 30 days from the date of  
21 receipt of written notification of incompleteness to file such  
22 additional information as may be required by the authority for a  
23 completed application. If an applicant fails to file the additional  
24 information within the 30 days, the filing date for that application  
25 shall be the date that such additional information is received by the  
26 authority. If the additional information is filed within the 30 days  
27 and is satisfactory to the authority, the filing date for that  
28 application shall be the initial date of application with the authority.  
29 Notwithstanding the above, if a completed application has been  
30 submitted and the applicant fails to submit the filing fee, then the  
31 filing date for the application shall not be established until the date  
32 on which the authority receives the application fee. A change in the  
33 filing date resulting from failure to submit a completed application  
34 or from failure to submit the application fee in a timely fashion for  
35 applications filed for financial assistance for a regulated tank to  
36 meet the upgrade or closure requirements pursuant to 42 U.S.C.  
37 s.6991 et seq. or P.L.1986, c.102 (C.58:10A-21 et seq.) or for the  
38 remediation of a discharge from any such regulated tank shall not  
39 render the application ineligible for financial assistance as long as  
40 the initial date of application is prior to [June 30, 2005] June 30,  
41 2010, or for a regulated tank that is not operational, 18 months from  
42 the date of discovery of the tank or [18 months from the effective  
43 date of P.L.2003, c.148] June 30, 2010, whichever is later.

44 An applicant shall have 120 days from receipt of notice of

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 approval of a financial assistance award to submit to the authority  
2 an executed contract for the upgrade, closure, or remediation, or all  
3 three, as the case may be, that is consistent with the terms and  
4 conditions of the financial assistance approval. Failure to submit an  
5 executed contract within the allotted time, without good cause, may  
6 result in an alteration of an applicant's priority ranking.

7 (cf: P.L.2003, c.148, s.4)

8

9 2. Section 7 of P.L.1997, c.235 (C.58:10A-37.7) is amended to  
10 read as follows:

11 7. a. The authority shall award financial assistance to an owner  
12 or operator of a facility only if the facility is properly registered  
13 with the department pursuant to section 3 of P.L.1986, c.102  
14 (C.58:10A-23), where applicable, and if all fees or penalties due  
15 and payable on the facility to the department pursuant to P.L.1986,  
16 c.102 have either been paid or the nature or the amount of the fee or  
17 penalty is being contested in accordance with law.

18 b. The authority may deny an application for financial  
19 assistance, and any award of financial assistance may be  
20 recoverable by the authority, upon a finding that:

21 (1) in the case of financial assistance awarded for a remediation,  
22 the discharge was proximately caused by the applicant's knowing  
23 conduct;

24 (2) in the case of financial assistance awarded for a remediation,  
25 the discharge was proximately caused or exacerbated by knowing  
26 conduct by the applicant with regard to any lawful requirement  
27 applicable to petroleum underground storage tanks intended to  
28 prevent, or to facilitate the early detection of, the discharge;

29 (3) the applicant failed to commence or complete a remediation,  
30 closure, or an upgrade for which an award of financial assistance  
31 was made within the time required by the department in accordance  
32 with the applicable rules and regulations, within the time prescribed  
33 in an administrative order, an administrative consent agreement, a  
34 memorandum of agreement, or a court order; or

35 (4) the applicant provided false information or withheld  
36 information on a loan or grant application, or other relevant  
37 information required to be submitted to the authority, on any matter  
38 that would otherwise render the applicant ineligible for financial  
39 assistance from the fund, that would alter the priority of the  
40 applicant to receive financial assistance from the fund, that resulted  
41 in the applicant receiving a larger grant or loan award than the  
42 applicant would otherwise be eligible, or that resulted in payments  
43 from the fund in excess of the actual eligible project costs incurred  
44 by the applicant or the amount to which the applicant is legally  
45 eligible.

46 Nothing in this subsection shall be construed to require the  
47 authority to undertake an investigation or make any findings  
48 concerning the conduct described in this subsection.

A1897 MCKEON, ROBERTS

4

1 c. An application for financial assistance from the fund for an  
2 upgrade or closure of a regulated tank shall include all regulated  
3 tanks at the facility for which the applicant is seeking financial  
4 assistance. Once financial assistance for an upgrade or closure is  
5 awarded for a facility, no additional award of financial assistance  
6 for upgrade or closure costs may be made for that facility. However,  
7 if an applicant discovers while performing upgrade or closure  
8 activities that a remediation is necessary at the site of a facility, and  
9 if financial assistance was previously awarded for that site only for  
10 an upgrade or closure of a regulated tank, the applicant may amend  
11 his application and apply for financial assistance for the required  
12 remediation subject to the limitations enumerated in section 5 of  
13 P.L.1997, c.235 (C.58:10A-37.5). An application for financial  
14 assistance for an upgrade or closure of a regulated tank shall be  
15 conditioned upon the applicant agreeing to perform, at the time of  
16 the upgrade or closure, any remediation necessary as a result of a  
17 discharge from the regulated tank and commencement of the  
18 remediation within the time prescribed and in accordance with the  
19 rules and regulations of the department.

20 d. Except as provided below, no financial assistance for upgrade  
21 shall be awarded for any regulated tank required to meet the  
22 upgrade or closure requirements pursuant to 42 U.S.C.s.6991 et seq.  
23 or P.L.1986, c.102 (C.58:10A-21 et seq.), unless the application is  
24 filed with the authority prior to January 1, 1999 and the application  
25 is complete and the application fee is received by August 1, 1999.  
26 No financial assistance for upgrade shall be awarded for any  
27 underground storage tank with a capacity of over 2,000 gallons used  
28 to store heating oil for onsite consumption in a nonresidential  
29 building required to be upgraded pursuant to P.L.1986, c.102  
30 (C.58:10A-21 et seq.) but not pursuant to 42 U.S.C.s.6991 et seq.,  
31 unless the applicant has received an extension of the deadline for  
32 compliance with the standards pursuant to subsection b. of section 9  
33 of P.L.1986, c.102 (C.58:10A-29), the application is filed with the  
34 authority prior to June 30, 2005 and the application is complete and  
35 the application fee is received by December 31, 2005.

36 No financial assistance for closure shall be awarded for any  
37 regulated tank required to meet the upgrade or closure requirements  
38 pursuant to 42 U.S.C.s.6991 et seq. or P.L.1986, c.102 (C.58:10A-  
39 21 et seq.), or for the remediation of a discharge from any such  
40 regulated tank except as provided in subsection c. of this section,  
41 unless the application is filed with the authority prior to [June 30,  
42 2005] June 30, 2010 and the application is complete and the  
43 application fee is received by [December 31, 2005] December 31,  
44 2010.

45 In the case of a regulated tank that is not operational, financial  
46 assistance for the closure or the remediation of any discharge  
47 therefrom may be awarded if the application is filed with the

1 authority no more than 18 months after the date of discovery of the  
2 existence of the regulated tank, or [18 months from the effective  
3 date of P.L.2003, c.148] no later than June 30, 2010, whichever is  
4 later.

5 e. The date of occurrence of a discharge shall not affect  
6 eligibility for financial assistance from the fund. Except for a  
7 preliminary assessment or a site investigation performed after the  
8 effective date of P.L.1997, c.235 (C.58:10A-37.1 et seq.), and  
9 except as provided in subsections g. through j. of this section, no  
10 award of financial assistance shall be made from the fund for the  
11 otherwise eligible project costs of a remediation, closure, or an  
12 upgrade, or parts thereof, completed prior to an award of financial  
13 assistance from the fund.

14 f. No financial assistance may be awarded from the fund for the  
15 remediation of a discharge from a petroleum underground storage  
16 tank if financial assistance from the Hazardous Discharge Site  
17 Remediation Fund established pursuant to section 26 of P.L.1993,  
18 c.139 (C.58:10B-4) has previously been made for a remediation at  
19 that site as a result of a discharge from that petroleum underground  
20 storage tank. No financial assistance may be awarded from the fund  
21 for the remediation of a discharge from a petroleum underground  
22 storage tank if the discharge began subsequent to the completion of  
23 an upgrade of that petroleum underground storage tank, which  
24 upgrade was intended to meet all applicable upgrade regulations of  
25 the department, no matter when the upgrade was performed.

26 g. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
27 37.1 et seq.), where an eligible owner or operator has filed an  
28 application for financial assistance from the fund, and there are  
29 either insufficient monies in the fund or the authority has not yet  
30 acted upon the application or awarded the financial assistance, the  
31 eligible owner or operator may expend its own funds for the  
32 upgrade, closure, or remediation, and upon approval of the  
33 application, the authority shall award the financial assistance as a  
34 reimbursement of the monies expended for eligible project costs.

35 h. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
36 37.1 et seq.) to the contrary, if an applicant has expended the  
37 applicant's own funds on a remediation after filing an application  
38 for financial assistance from the fund for the eligible project costs  
39 of the remediation, the authority, upon approval of the application,  
40 may make a grant from the fund pursuant to paragraph (1) of  
41 subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to  
42 reimburse the eligible owner or operator for the eligible project  
43 costs of the remediation.

44 i. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
45 37.1 et seq.) to the contrary, if an applicant that is an independent  
46 institution of higher education has expended the applicant's own  
47 funds on a remediation prior to filing an application for financial

1 assistance from the fund for the eligible project costs of the  
2 remediation, the authority, upon approval of the application, may  
3 make a grant from the fund pursuant to paragraph (1) of subsection  
4 c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to reimburse the  
5 applicant for expenditures for the eligible project costs of the  
6 remediation made on or after December 1, 1996 in an amount not to  
7 exceed \$500,000 for each independent institution of higher  
8 education.

9 j. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
10 37.1 et seq.) to the contrary, if an applicant has expended the  
11 applicant's own funds for a remediation of a petroleum underground  
12 storage tank used to store heating oil at the applicant's primary  
13 residence prior to filing an application for financial assistance from  
14 the fund for the eligible project costs of the remediation, the  
15 authority, upon approval of the application, may make a grant from  
16 the fund pursuant to paragraph (1) of subsection c. of section 5 of  
17 P.L.1997, c.235 (C.58:10A-37.5) to reimburse the applicant for the  
18 eligible project costs of the remediation.

19 (cf: P.L.2003, c.148, s.5)

20

21 3. (New section) The Department of Environmental Protection  
22 shall notify the governing body of each municipality in the State of  
23 the existence of the Petroleum Underground Storage Tank  
24 Remediation, Upgrade, and Closure Fund and shall describe the  
25 eligibility criteria and the availability of loans and grants from the  
26 fund.

27

28 4. This act shall take effect immediately.

29

30

31

## STATEMENT

32

33 This bill would extend the deadline for the filing of applications  
34 for financing from the Petroleum Underground Storage Tank  
35 Remediation, Upgrade and Closure Fund for the closure or  
36 associated remediation of a regulated underground storage tanks  
37 from June 30, 2005 to June 30, 2010.

38 This bill would also extend the application deadline for financing  
39 the closure or remediation of a nonoperational regulated  
40 underground storage tank to June 30, 2010 or 18 months from the  
41 discovery of the tank, whichever is later.

42 Finally, this bill would require the Department of Environmental  
43 Protection to notify the governing body of each municipality in the  
44 State of the existence of the Petroleum Underground Storage Tank  
45 Remediation, Upgrade, and Closure Fund and to describe the  
46 eligibility criteria and the availability of loans and grants from the  
47 fund.

ASSEMBLY ENVIRONMENT AND SOLID WASTE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1897**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 6, 2006

This bill would extend the deadline for the filing of applications for financing from the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund for the closure or associated remediation of a regulated underground storage tank from June 30, 2005 to June 30, 2010.

This bill would also extend the application deadline for financing the closure or remediation of a nonoperational regulated underground storage tank to June 30, 2010 or 18 months from the discovery of the tank, whichever is later.

Finally, this bill would require the Department of Environmental Protection to notify the governing body of each municipality in the State of the existence of the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund and to describe the eligibility criteria and the availability of loans and grants from the fund.

This bill was pre-filed for introduction in the 2006-2007 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 1897**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 27, 2006

The Senate Environment Committee reports favorably Assembly Bill No. 1897.

This bill would extend the deadline for the filing of applications for financing from the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund for the closure or associated remediation of regulated underground storage tanks from June 30, 2005 to June 30, 2010.

The bill would also extend the application deadline for financing the closure or remediation of a nonoperational regulated underground storage tank to June 30, 2010 or 18 months from the discovery of the tank, whichever is later.

Finally, the bill would require the Department of Environmental Protection to notify the governing body of each municipality in the State of the existence of the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund and to describe the eligibility criteria and the availability of loans and grants from the fund.



**SENATE, No. 1879**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

INTRODUCED MAY 18, 2006

**Sponsored by:**

**Senator HENRY P. MCNAMARA**

**District 40 (Bergen, Essex and Passaic)**

**SYNOPSIS**

Extends application deadline for financing for closure and associated remediation of regulated underground storage tanks; requires notification to municipalities by DEP of underground storage tank fund.

**CURRENT VERSION OF TEXT**

As introduced.



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2

1 AN ACT concerning financing underground storage tank closures  
2 and remediations, and amending and supplementing P.L.1997,  
3 c.235.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. Section 6 of P.L.1997, c.235 (C.58:10A-37.6) is amended to  
9 read as follows:

10 6. An eligible owner or operator seeking financial assistance  
11 from the fund shall file an application on a form to be developed by  
12 the authority. The application form shall be submitted with the  
13 application fee. The application fee per facility for residential  
14 petroleum underground storage tanks shall be \$250. The authority  
15 may establish the application fee per facility for nonresidential  
16 petroleum underground storage tanks.

17 The authority shall adopt rules and regulations listing the filing  
18 requirements for a complete application for financial assistance. If  
19 a financial assistance application is determined to be incomplete by  
20 the authority, an applicant shall have 30 days from the date of  
21 receipt of written notification of incompleteness to file such  
22 additional information as may be required by the authority for a  
23 completed application. If an applicant fails to file the additional  
24 information within the 30 days, the filing date for that application  
25 shall be the date that such additional information is received by the  
26 authority. If the additional information is filed within the 30 days  
27 and is satisfactory to the authority, the filing date for that  
28 application shall be the initial date of application with the authority.  
29 Notwithstanding the above, if a completed application has been  
30 submitted and the applicant fails to submit the filing fee, then the  
31 filing date for the application shall not be established until the date  
32 on which the authority receives the application fee. A change in the  
33 filing date resulting from failure to submit a completed application  
34 or from failure to submit the application fee in a timely fashion for  
35 applications filed for financial assistance for a regulated tank to  
36 meet the upgrade or closure requirements pursuant to 42 U.S.C.  
37 s.6991 et seq. or P.L.1986, c.102 (C.58:10A-21 et seq.) or for the  
38 remediation of a discharge from any such regulated tank shall not  
39 render the application ineligible for financial assistance as long as  
40 the initial date of application is prior to **[June 30, 2005]** June 30,  
41 2010, or for a regulated tank that is not operational, 18 months from  
42 the date of discovery of the tank or **[18 months from the effective**  
43 **date of P.L.2003, c.148]** June 30, 2010, whichever is later.

44 An applicant shall have 120 days from receipt of notice of  
45 approval of a financial assistance award to submit to the authority

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

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1 an executed contract for the upgrade, closure, or remediation, or all  
2 three, as the case may be, that is consistent with the terms and  
3 conditions of the financial assistance approval. Failure to submit an  
4 executed contract within the allotted time, without good cause, may  
5 result in an alteration of an applicant's priority ranking.

6 (cf: P.L.2003, c.148, s.4)

7

8 2. Section 7 of P.L.1997, c.235 (C.58:10A-37.7) is amended to  
9 read as follows:

10 7. a. The authority shall award financial assistance to an owner  
11 or operator of a facility only if the facility is properly registered  
12 with the department pursuant to section 3 of P.L.1986, c.102  
13 (C.58:10A-23), where applicable, and if all fees or penalties due  
14 and payable on the facility to the department pursuant to P.L.1986,  
15 c.102 have either been paid or the nature or the amount of the fee or  
16 penalty is being contested in accordance with law.

17 b. The authority may deny an application for financial  
18 assistance, and any award of financial assistance may be  
19 recoverable by the authority, upon a finding that:

20 (1) in the case of financial assistance awarded for a remediation,  
21 the discharge was proximately caused by the applicant's knowing  
22 conduct;

23 (2) in the case of financial assistance awarded for a remediation,  
24 the discharge was proximately caused or exacerbated by knowing  
25 conduct by the applicant with regard to any lawful requirement  
26 applicable to petroleum underground storage tanks intended to  
27 prevent, or to facilitate the early detection of, the discharge;

28 (3) the applicant failed to commence or complete a remediation,  
29 closure, or an upgrade for which an award of financial assistance  
30 was made within the time required by the department in accordance  
31 with the applicable rules and regulations, within the time prescribed  
32 in an administrative order, an administrative consent agreement, a  
33 memorandum of agreement, or a court order; or

34 (4) the applicant provided false information or withheld  
35 information on a loan or grant application, or other relevant  
36 information required to be submitted to the authority, on any matter  
37 that would otherwise render the applicant ineligible for financial  
38 assistance from the fund, that would alter the priority of the  
39 applicant to receive financial assistance from the fund, that resulted  
40 in the applicant receiving a larger grant or loan award than the  
41 applicant would otherwise be eligible, or that resulted in payments  
42 from the fund in excess of the actual eligible project costs incurred  
43 by the applicant or the amount to which the applicant is legally  
44 eligible.

45 Nothing in this subsection shall be construed to require the  
46 authority to undertake an investigation or make any findings  
47 concerning the conduct described in this subsection.

1 c. An application for financial assistance from the fund for an  
2 upgrade or closure of a regulated tank shall include all regulated  
3 tanks at the facility for which the applicant is seeking financial  
4 assistance. Once financial assistance for an upgrade or closure is  
5 awarded for a facility, no additional award of financial assistance  
6 for upgrade or closure costs may be made for that facility. However,  
7 if an applicant discovers while performing upgrade or closure  
8 activities that a remediation is necessary at the site of a facility, and  
9 if financial assistance was previously awarded for that site only for  
10 an upgrade or closure of a regulated tank, the applicant may amend  
11 his application and apply for financial assistance for the required  
12 remediation subject to the limitations enumerated in section 5 of  
13 P.L.1997, c.235 (C.58:10A-37.5). An application for financial  
14 assistance for an upgrade or closure of a regulated tank shall be  
15 conditioned upon the applicant agreeing to perform, at the time of  
16 the upgrade or closure, any remediation necessary as a result of a  
17 discharge from the regulated tank and commencement of the  
18 remediation within the time prescribed and in accordance with the  
19 rules and regulations of the department.

20 d. Except as provided below, no financial assistance for upgrade  
21 shall be awarded for any regulated tank required to meet the  
22 upgrade or closure requirements pursuant to 42 U.S.C.s.6991 et seq.  
23 or P.L.1986, c.102 (C.58:10A-21 et seq.), unless the application is  
24 filed with the authority prior to January 1, 1999 and the application  
25 is complete and the application fee is received by August 1, 1999.  
26 No financial assistance for upgrade shall be awarded for any  
27 underground storage tank with a capacity of over 2,000 gallons used  
28 to store heating oil for onsite consumption in a nonresidential  
29 building required to be upgraded pursuant to P.L.1986, c.102  
30 (C.58:10A-21 et seq.) but not pursuant to 42 U.S.C.s.6991 et seq.,  
31 unless the applicant has received an extension of the deadline for  
32 compliance with the standards pursuant to subsection b. of section 9  
33 of P.L.1986, c.102 (C.58:10A-29), the application is filed with the  
34 authority prior to June 30, 2005 and the application is complete and  
35 the application fee is received by December 31, 2005.

36 No financial assistance for closure shall be awarded for any  
37 regulated tank required to meet the upgrade or closure requirements  
38 pursuant to 42 U.S.C.s.6991 et seq. or P.L.1986, c.102 (C.58:10A-  
39 21 et seq.), or for the remediation of a discharge from any such  
40 regulated tank except as provided in subsection c. of this section,  
41 unless the application is filed with the authority prior to **June 30,**  
42 **2005** June 30, 2010 and the application is complete and the  
43 application fee is received by **December 31, 2005** December 31,  
44 2010.

45 In the case of a regulated tank that is not operational, financial  
46 assistance for the closure or the remediation of any discharge  
47 therefrom may be awarded if the application is filed with the  
48 authority no more than 18 months after the date of discovery of the

1 existence of the regulated tank, or [18 months from the effective  
2 date of P.L.2003, c.148] no later than June 30, 2010, whichever is  
3 later .

4 e. The date of occurrence of a discharge shall not affect  
5 eligibility for financial assistance from the fund. Except for a  
6 preliminary assessment or a site investigation performed after the  
7 effective date of P.L.1997, c.235 (C.58:10A-37.1 et seq.), and  
8 except as provided in subsections g. through j. of this section, no  
9 award of financial assistance shall be made from the fund for the  
10 otherwise eligible project costs of a remediation, closure, or an  
11 upgrade, or parts thereof, completed prior to an award of financial  
12 assistance from the fund.

13 f. No financial assistance may be awarded from the fund for the  
14 remediation of a discharge from a petroleum underground storage  
15 tank if financial assistance from the Hazardous Discharge Site  
16 Remediation Fund established pursuant to section 26 of P.L.1993,  
17 c.139 (C.58:10B-4) has previously been made for a remediation at  
18 that site as a result of a discharge from that petroleum underground  
19 storage tank. No financial assistance may be awarded from the fund  
20 for the remediation of a discharge from a petroleum underground  
21 storage tank if the discharge began subsequent to the completion of  
22 an upgrade of that petroleum underground storage tank, which  
23 upgrade was intended to meet all applicable upgrade regulations of  
24 the department, no matter when the upgrade was performed.

25 g. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
26 37.1 et seq.), where an eligible owner or operator has filed an  
27 application for financial assistance from the fund, and there are  
28 either insufficient monies in the fund or the authority has not yet  
29 acted upon the application or awarded the financial assistance, the  
30 eligible owner or operator may expend its own funds for the  
31 upgrade, closure, or remediation, and upon approval of the  
32 application, the authority shall award the financial assistance as a  
33 reimbursement of the monies expended for eligible project costs.

34 h. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
35 37.1 et seq.) to the contrary, if an applicant has expended the  
36 applicant's own funds on a remediation after filing an application  
37 for financial assistance from the fund for the eligible project costs  
38 of the remediation, the authority, upon approval of the application,  
39 may make a grant from the fund pursuant to paragraph (1) of  
40 subsection c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to  
41 reimburse the eligible owner or operator for the eligible project  
42 costs of the remediation.

43 i. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
44 37.1 et seq.) to the contrary, if an applicant that is an independent  
45 institution of higher education has expended the applicant's own  
46 funds on a remediation prior to filing an application for financial  
47 assistance from the fund for the eligible project costs of the  
48 remediation, the authority, upon approval of the application, may

1 make a grant from the fund pursuant to paragraph (1) of subsection  
2 c. of section 5 of P.L.1997, c.235 (C.58:10A-37.5) to reimburse the  
3 applicant for expenditures for the eligible project costs of the  
4 remediation made on or after December 1, 1996 in an amount not to  
5 exceed \$500,000 for each independent institution of higher  
6 education.

7 j. Notwithstanding any provision of P.L.1997, c.235 (C.58:10A-  
8 37.1 et seq.) to the contrary, if an applicant has expended the  
9 applicant's own funds for a remediation of a petroleum underground  
10 storage tank used to store heating oil at the applicant's primary  
11 residence prior to filing an application for financial assistance from  
12 the fund for the eligible project costs of the remediation, the  
13 authority, upon approval of the application, may make a grant from  
14 the fund pursuant to paragraph (1) of subsection c. of section 5 of  
15 P.L.1997, c.235 (C.58:10A-37.5) to reimburse the applicant for the  
16 eligible project costs of the remediation.

17 (cf: P.L.2003, c.148, s.5)

18

19 3. (New section) The Department of Environmental Protection  
20 shall notify the governing body of each municipality in the State of  
21 the existence of the Petroleum Underground Storage Tank  
22 Remediation, Upgrade, and Closure Fund and shall describe the  
23 eligibility criteria and the availability of loans and grants from the  
24 fund.<sup>1</sup>

25

26 4. This act shall take effect immediately.

27

28

29

#### STATEMENT

30

31 This bill would extend the deadline for the filing of applications  
32 for financing from the Petroleum Underground Storage Tank  
33 Remediation, Upgrade and Closure Fund for the closure or  
34 associated remediation of regulated underground storage tanks from  
35 June 30, 2005 to June 30, 2010.

36 The bill would also extend the application deadline for financing  
37 the closure or remediation of a nonoperational regulated  
38 underground storage tank to June 30, 2010 or 18 months from the  
39 discovery of the of tank, whichever is later. Finally, the bill would  
40 require the Department of Environmental Protection to notify the  
41 governing body of each municipality in the State of the existence of  
42 the Petroleum Underground Storage Tank Remediation, Upgrade,  
43 and Closure Fund and to describe the eligibility criteria and the  
44 availability of loans and grants from the fund.

SENATE ENVIRONMENT COMMITTEE

STATEMENT TO

**SENATE, No. 1879**

**STATE OF NEW JERSEY**

DATED: NOVEMBER 27, 2006

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Finally, the bill would require the Department of Environmental Protection to notify the governing body of each municipality in the State of the existence of the Petroleum Underground Storage Tank Remediation, Upgrade, and Closure Fund and to describe the eligibility criteria and the availability of loans and grants from the fund.