**A** **BILL**

TO AMEND SECTION 44‑2‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SUPERB ACCOUNT AND THE SUPERB FINANCIAL RESPONSIBILITY FUND ESTABLISHED TO ASSIST IN CARRYING OUT THE PURPOSES OF THE STATE UNDERGROUND PETROLEUM ENVIRONMENTAL RESPONSE BANK ACT, SO AS TO DEFINE “USUAL, CUSTOMARY, AND REASONABLE COSTS”, OF SITE REHABILITATION OF RELEASES FROM UNDERGROUND STORAGE TANKS CONTAINING PETROLEUM, AS PAYMENTS NOT LESS THAN THE JULY 1, 2011, SUPERB ALLOWABLE COST REIMBURSEMENT SCHEDULE AND TO FURTHER PROVIDE FOR THE USE AND APPLICATION OF THIS REIMBURSEMENT SCHEDULE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑2‑40(A) of the 1976 Code is amended to read:

“(A) There is created within the state treasury two separate and distinct accounts which ~~are to~~ must be administered by the Department of Health and Environmental Control. These accounts, the ‘Superb Account’ and the ‘Superb Financial Responsibility Fund’, are created to assist owners and operators of underground storage tanks containing petroleum and petroleum products to the extent provided for in this chapter but not to relieve the owner or operator of any liability that cannot be satisfied by the provisions of this chapter.

The Superb Account must be used for payment of usual, customary, and reasonable costs for site rehabilitation of releases from underground storage tanks containing petroleum or petroleum products. For the purposes of this chapter, ‘usual, customary, and reasonable costs’ of site rehabilitation means payments not less than the July 1, 2011, SUPERB Allowable Cost reimbursement schedule. If the current rate schedule does not comply with this definition, the current rate schedule must be immediately amended. Site rehabilitation work currently in progress must be reimbursed at the July 1, 2011, rates upon completion of work. The July 1, 2011, SUPERB Allowable Cost reimbursement rates remain in effect until the sunset date of the SUPERB Act of 1988, or any extended sunset date, and must be adjusted annually for inflation.

The Superb Financial Responsibility Fund must be used for compensating third parties for actual costs for bodily injury and property damage caused by accidental releases from underground storage tanks containing petroleum or petroleum products. The Superb Financial Responsibility Fund must not be used for reimbursing claims for punitive damages.

Except for releases reported before July 1, 1994, sites where the underground storage tank, at the time of discovery and reporting of the release to the department, is not in substantial compliance with regulations promulgated pursuant to Section 44‑2‑50(A), are not eligible for compensation from the Superb Account, and no third party claims resulting from that release may be paid from the Superb Financial Responsibility Fund.”

SECTION 2. This act takes effect upon approval by the Governor.

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