

2012 Kansas Statutes

65-34,132. UST redevelopment fund; reimbursement. (a) The secretary may provide for the reimbursement to eligible property owners in accordance with the provisions of this section and subject to the availability of moneys in the UST redevelopment fund. A property owner shall be eligible for reimbursement under this section, if such property owner has been approved by the secretary and:

- (1) The property owner has never placed petroleum in the underground storage tank or withdrawn petroleum from the underground storage tank;
- (2) the property owner is not the United States government or any of its agencies;
- (3) the property owner is in substantial compliance with the Kansas storage tank act;
- (4) the property owner provides 30-day notice and access to the department to perform an environmental assessment of the site during the underground storage tank removal; and
- (5) if petroleum contamination is discovered during the environmental assessment of this site, the property owner applies to the underground fund to perform corrective action to address the contamination.

(b) A property owner shall not be eligible for reimbursement unless the underground storage tank owner or operator is unable or unwilling to perform corrective action or cannot be found. In such case the secretary may recover all reimbursement paid and any related administrative and legal expenses, from the underground storage tank owner or operator.

(c) Reimbursement pursuant to subsection (a) is subject to the following:

- (1) The property owner must submit an application for reimbursement on forms supplied by the department and receive approval from the secretary of the proposed underground storage tank removal plan;
- (2) upon approval of such plan, the property owner shall obtain and submit to the secretary at least three bids from persons qualified to perform the underground storage tank removal except that, the secretary may waive this requirement upon a showing that the property owner has made a good faith effort, but has not been able to obtain three bids from qualified bidders.
- (3) The secretary may, in the secretary's discretion, determine those costs which are allowable as underground storage tank removal costs.

(d) The secretary may reimburse the property owner for permanent closure expenses, in the amount specified in subsection (e), if all of the following criteria are met:

- (1) The underground storage tank facility was registered with the department on or after May 1, 1981;
- (2) the underground storage tank contained petroleum products; and
- (3) a deed restriction was placed on the property prohibiting the installation of underground storage tanks for the 10 years following the date of the underground storage tank removal. As a condition for reimbursement, the applicant must provide a notarized copy of the recorded deed restriction for the property with the seal of the register of deeds to the department.

(e) Only expenses for activities reasonable and necessary to permanently close [an] underground storage tank facility are eligible for reimbursement. Reasonable and necessary activities eligible for reimbursement include, but are not limited to, the following:

- (A) Removal of the tank and piping system;
- (B) cleaning and disposal of tanks; and
- (C) disposal of waste petroleum and other waste material including concrete.

(f) Applications for reimbursement must be made on forms supplied by the department. Applications for reimbursement must include documentation of the facility upgrade or permanent closure activities and expense. Proof of payment of all expenses for which reimbursement is requested must be provided. The department will review those expenses based on current industry costs and provide reimbursement of reasonable and necessary costs. The department shall reimburse an applicant for 90% of the approved cost of the facility upgrade or permanent closure not to exceed \$25,000 per facility. Disputes regarding application approval, reimbursement rates or reimbursement amounts will be referred to the UST redevelopment fund compensation advisory board.

(g) The secretary may adopt such rules and regulations deemed necessary to carry out the provisions of this section.

(h) The provisions of this section shall be part of and supplemental to the Kansas storage tank act.

History: L. 2006, ch. 50, § 2; L. 2007, ch. 34, § 4; L. 2007, ch. 180, § 16; L. 2012, ch. 22, § 6; July 1.