

## **IC 13-23-9**

### **Chapter 9. Payment From Excess Liability Fund**

#### **IC 13-23-9-1**

##### **Duties of administrator regarding requests for payments**

Sec. 1. The administrator of the excess liability trust fund shall process, approve, and deny requests made for payments from the excess liability trust fund under sections 2 and 3 of this chapter.

*As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.21; P.L.14-2001, SEC.14.*

#### **IC 13-23-9-2**

##### **Requirements for claimant to receive money from fund; corrective action plan; cost effectiveness; notification; failure to meet requirements**

Sec. 2. (a) To receive money from the excess liability trust fund under IC 13-23-8-1(1), a claimant must:

- (1) submit a corrective action plan to the administrator of the excess liability trust fund for the administrator's approval; and
- (2) submit a copy of a work receipt for work that has been performed.

(b) If, after receiving a corrective action plan and a work receipt under subsection (a), the administrator determines that:

- (1) the corrective action plan may be approved and that the work that has been performed is consistent with the approved corrective action plan;
- (2) the work or part of the work that has been performed is reasonable and cost effective;
- (3) the work that has been performed concerns the elimination or mitigation of a release of petroleum from an underground storage tank including:
  - (A) release investigation;
  - (B) mitigation of fire and safety hazards;
  - (C) tank removal;
  - (D) soil remediation; or
  - (E) ground water remediation and monitoring; and
- (4) the claimant is in compliance with the requirements of this article and the rules adopted under this article;

the administrator shall approve the request for money to be paid from the excess liability trust fund for work that has been performed.

(c) The administrator shall develop criteria for determining the cost effectiveness of corrective action. Although not required for payment from the excess liability trust fund, a claimant may seek pre-approval from the administrator stating that the work to be performed is reasonable and cost effective.

(d) The administrator shall notify the claimant of an approval or a denial of a request made under subsection (b) not later than sixty (60) days after receiving the request. Except as provided in subsection (f), the administrator shall notify the claimant of all reasons for a denial or partial denial.

(e) Not later than seven (7) days after a request is approved by the administrator under subsection (b) for the reimbursement of costs for corrective action, the administrator shall forward a copy of a request approved under this section to the auditor of state.

(f) Not later than thirty (30) days after receiving an approved request under this section, the auditor of state shall pay to the claimant that submitted the approved work receipt the approved amount from money available in the excess liability trust fund.

(g) If a reason the administrator denies a request made under subsection (b) is for failure to meet the requirements of subsection (b)(1), the administrator shall notify the claimant in writing not later than sixty (60) days after receiving the request. The claimant has thirty (30) days from the receipt of the denial to notify the administrator of the claimant's intention to appeal the denial. If the claimant does not notify the administrator of an intention to appeal in the time provided, further review of the application is not required. If an intention to appeal is submitted within the time provided, the administrator has thirty (30) days after the receipt of the notice of the intention to appeal to provide the claimant with all additional reasons for the denial or partial denial of the request or to specify that all reasons have been provided. The claimant has thirty (30) days after receiving notification from the administrator of all additional reasons for the denial or partial denial or notice specifying that all reasons have been provided to file a petition for review of the denial or partial denial.

*As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.22; P.L.14-2001, SEC.15.*

### **IC 13-23-9-3**

#### **Requirements for claimant to receive money from fund; request for indemnification; approval or denial by attorney general**

Sec. 3. (a) To receive money from the excess liability trust fund under IC 13-23-8-1(2), a claimant must:

(1) submit to the administrator a request for indemnification of a third party containing any information required by the administrator; and

(2) forward a copy of the request under subdivision (1) to the attorney general for the attorney general's approval.

(b) The attorney general shall approve a request submitted under subsection (a) if the attorney general determines that there is:

(1) a legally enforceable and final judgment against the claimant caused by a release of petroleum that was not entered as a result of:

(A) fraud;

(B) negligence; or

(C) an inadequate defense on the part of the attorney of the claimant; or

(2) a reasonable settlement between the claimant and the third party.

(c) If the attorney general approves a request under subsection (b),

the administrator shall approve the request if the claimant is in compliance with the requirements of this article and the rules adopted under this article.

(d) The attorney general shall approve or deny a request submitted under subsection (a) not later than sixty (60) days after the attorney general receives the request.

(e) Not later than seven (7) days after the attorney general has approved a request under this section, the attorney general shall forward a copy of the approved request to the auditor of state.

(f) Not later than thirty (30) days after receiving an approved request under this section, the auditor of state shall pay to the claimant that made the request the approved amount from money available in the excess liability trust fund.

(g) If the attorney general denies a request submitted under this section, the attorney general shall notify the claimant that made the request of the denial not later than ten (10) days after the request has been denied.

*As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.23; P.L.14-2001, SEC.16.*

#### **IC 13-23-9-4**

##### **Requests for payment from fund; appeal and review; procedure**

Sec. 4. If the administrator denies a request made under section 2 or 3 of this chapter, the owner or operator who made the request may appeal the denial under IC 4-21.5 to the office of environmental adjudication under IC 4-21.5-7.

*As added by P.L.1-1996, SEC.13. Amended by P.L.25-1997, SEC.15.*

#### **IC 13-23-9-5**

##### **Insufficient amount of money in fund**

Sec. 5. If the amount of money in the excess liability trust fund is not sufficient to meet approved claims made against the excess liability trust fund:

- (1) the state; and
- (2) the excess liability trust fund;

are not liable for the claims.

*As added by P.L.1-1996, SEC.13. Amended by P.L.9-1996, SEC.24.*

#### **IC 13-23-9-6**

##### **Criminal penalty for application misstatement**

Sec. 6. A person who, with intent to defraud, knowingly or intentionally makes a material misstatement in connection with a request for payment from the excess liability trust fund commits a Level 6 felony.

*As added by P.L.137-2007, SEC.26. Amended by P.L.158-2013, SEC.193.*