

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

HOUSE BILL 1396

5 By: Representative Leding
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For An Act To Be Entitled

8 AN ACT CONCERNING INVESTIGATION, SITE ASSESSMENT, AND
9 CORRECTIVE ACTION RELATING TO STORAGE TANKS; TO
10 CLARIFY THE RIGHT OF THE ARKANSAS DEPARTMENT OF
11 ENVIRONMENTAL QUALITY AND AN OWNER OR OPERATOR TO
12 ACCESS PROPERTY FOR PURPOSES OF INVESTIGATION, SITE
13 ASSESSMENT, OR CORRECTIVE ACTION; TO PROHIBIT A
14 RELEASE SITE PROPERTY OWNER OR ADJACENT PROPERTY
15 OWNER FROM INTERFERING WITH INVESTIGATION, SITE
16 ASSESSMENT, OR CORRECTIVE ACTIONS; TO CLARIFY THE
17 RIGHTS OF A RELEASE SITE PROPERTY OWNER OR ADJACENT
18 PROPERTY OWNER WITH RESPECT TO INVESTIGATION, SITE
19 ASSESSMENT, OR CORRECTIVE ACTIONS; AND FOR OTHER
20 PURPOSES.
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Subtitle

23 TO CLARIFY THE RIGHT OF THE ARKANSAS
24 DEPARTMENT OF ENVIRONMENTAL QUALITY AND
25 AN OWNER OR OPERATOR TO ACCESS PROPERTY
26 FOR PURPOSES OF INVESTIGATION, SITE
27 ASSESSMENT, OR CORRECTIVE ACTION.
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31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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33 SECTION 1. Arkansas Code § 8-7-801, concerning the definitions to be
34 used in relation to regulated substance storage tanks, is amended to add an
35 additional subdivision to read as follows:

36 (14) "Release site property owner" means a person, other than an



1 owner or operator, that owns an interest in a property on which a release has
2 occurred.

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4 SECTION 2. Arkansas Code § 8-7-807(c), concerning the responsibility
5 and liability of an owner in relation to a regulated substance storage tank,
6 is amended to read as follows:

7 (c)(1)(A) ~~No~~ A release site property owner or adjacent property owner
8 shall not unduly impede or interfere with ~~any~~ the efforts of the department
9 or the owner or operator to undertake investigation, site assessment, or
10 corrective action in accordance with the requirements of this subchapter.

11 (B) The department or the owner or operator shall
12 undertake investigation, site assessment, or corrective action, as approved
13 by the department after notice to the affected parties, that minimizes to the
14 most reasonable extent practicable any interference with the release site
15 property owner's or adjacent property owner's use and enjoyment of the
16 property, taking into consideration the relevant private and commercial
17 interests and the release site property owner's or adjacent property owner's
18 need for access.

19 (2)(A) ~~Any~~ A release site property owner or adjacent property
20 owner violating that violates subdivision (c)(1) of this section ~~shall be~~ is
21 liable for any investigation, site assessment, or corrective action costs
22 resulting from ~~such~~ the violation.

23 (B) If the release site property owner or adjacent
24 property owner denies access to property when ~~such~~ the access is reasonably
25 necessary for investigation, site assessment, or corrective action undertaken
26 by the department or by the owner or operator under a department directive,
27 order, or approved corrective action plan, the department may order the
28 release site property owner or adjacent property owner to undertake the
29 portion of investigation, site assessment, or corrective action ~~which~~ that
30 was prohibited by the denial of access.

31 (3) This section does not impair any right of the release site
32 property owner or adjacent property owner to seek equitable or legal
33 remedies, including without limitation claims for trespass, compensation as
34 the result of eminent domain, damages for temporary or permanent takings of
35 rights in land, contribution, and any other right or remedy allowed by state
36 or federal law or regulation.