



ALERTS

Indiana Eases Access, Expands Cap For Eligible Underground Storage Tank (UST) Corrective Action Costs

March 25, 2016

On March 22, Indiana Gov. Mike Pence signed into law Senate Bill 255, which ushers in sweeping changes to Indiana's Underground Petroleum Storage Tank Excess Liability Trust Fund (ELTF) statute. These statutory **changes become effective on July 1**, and will cover "eligible releases" after this date.

The legislation streamlines the ELTF statute by clarifying the ELTF eligibility and the ELTF claims process for UST owners and operators. Some of the more significant changes to the ELTF statute include:

- Eliminating the standard of "substantial compliance" as a component of eligibility
- Adding definitions of "eligible party" and "eligible release," and clarifying that the ELTF shall pay claims for costs related to an "eligible release" that are submitted by an "eligible party"
- Reducing the deductible to \$15,000 regardless of the UST system technical specifications; however, the deductible for a release will, under certain circumstances, be increased by the amount of unpaid fees that are due for the UST and an additional \$1,000 for each registration fee due but not paid in the year the fee was originally due
- Increasing the total amount that may be reimbursed per eligible release from \$2 million to \$2.5 million
- Increasing the annual cap for payments from the ELTF to \$10

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million per year for any eligible party

- Requiring Indiana Department of Environmental Management (IDEM) to conduct an independent actuarial study of the ELTF every five years to examine future obligations and fiscal sustainability of the ELTF

IDEM is tasked with implementing the statutory changes. Releases reported after July 1, 2016, the effective date of the legislation, will be subject to the new eligibility requirements for ELTF coverage.

For more information regarding these important statutory changes to the ELTF statute or questions concerning UST compliance or corrective action issues in general, please contact the Barnes & Thornburg attorney with whom you work, or David Gillay at David.Gillay@btlaw.com or 317-231-7474.

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