

SENATE BILL REPORT

SB 5010

As Reported By Senate Committee On:
Financial Institutions, Insurance & Housing, January 28, 1997
Ways & Means, February 13, 1997

Title: An act relating to heating oil pollution liability protection.

Brief Description: Expanding the duties of the director of the Washington state pollution liability insurance agency.

Sponsors: Senators Prentice and Winsley; by request of Pollution Liability Insurance Agency.

Brief History:

Committee Activity: Financial Institutions, Insurance & Housing: 1/23/97, 1/28/97 [DPS-WM].

Ways & Means: 2/11/97, 2/13/97 [DPS (FIH)].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 5010 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey and Prentice.

Staff: Catherine Mele (786-7470)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5010 as recommended by Committee on Financial Institutions, Insurance & Housing be substituted therefor, and the substitute bill do pass.

Signed by Senators West, Chair; Deccio, Vice Chair; Strannigan, Vice Chair; Bauer, Kohl, Long, McDonald, Rossi, Schow, Sheldon, Snyder, Swecker, Thibaudeau and Winsley.

Staff: Cathy Baker (786-7708)

Background: In 1989, the Legislature created the Pollution Liability Insurance Agency (PLIA). The Legislature created PLIA in response to the requirements of the Environmental Protection Agency (EPA) that owners and operators of petroleum underground storage tanks demonstrate financial responsibility for the cleanup of contamination resulting from spills or releases of petroleum.

The PLIA underground storage tank program provides reinsurance to commercial insurance companies, which in turn provide pollution liability insurance to underground storage tank owners in Washington. This reinsurance program is meant to improve the availability and

affordability of pollution liability insurance for owners and operators of underground storage tanks by selling reinsurance at a price significantly below the private market price for similar insurance. The discount is passed to owners and operators of underground storage tanks through reduced insurance premiums and increased availability of insurance.

In 1995, the Legislature directed PLIA to develop and administer a program that provides pollution liability insurance for heating oil tanks. This program currently provides insurance coverage for the cost of cleanup of contamination resulting from release from active heating oil tanks. The program does not provide insurance for abandoned or inactive heating oil tanks. The insurance policy provides coverage of \$60,000 per occurrence for each site per year. Generally, the insurance policy covers the owner of the tank for cleanup, property damage, and bodily injury.

Property owners are liable for the pollution that occurs on their property. In 1994, the Legislature enacted laws requiring sellers of residential real property to make an extensive list of disclosures concerning their property to the buyer. The law mandates that the seller disclose possible environmental hazards from heating oil tanks.

There are concerns that when homeowners sell their residences they incur needless high costs of testing for contamination and sometimes for removal of heating oil tanks. Currently, there is no formal program that provides owners of heating oil tanks with technical assistance, and key information regarding an owner's options and responsibilities concerning heating oil tanks.

Summary of Substitute Bill: The Director of the Pollution Liability Insurance Agency is authorized to implement a program that provides advice and technical assistance to owners and operators of active and abandoned heating oil tanks. If the director finds that contamination is not present, or that contamination is not a threat to human health and the environment, the director may provide written opinions and conclusions about the results of the investigation to owners and operators. The director is authorized to establish a public information program to provide the public with information regarding liability, technical, and environmental requirements associated with heating oil tanks. The Pollution Liability Insurance Agency is authorized to collect the costs for providing advice and assistance from the persons seeking such services. These new responsibilities expire on June 1, 2001.

Substitute Bill Compared to Original Bill: The substitute bill clarifies that the advice, opinions, and conclusions made by the Pollution Liability Insurance Agency (PLIA) apply to both active and abandoned heating oil tanks, and makes PLIA advice and assistance more formal. The PLIA is specifically allowed to provide conclusions about whether or not contamination exists. In addition, the new version removes language that states that PLIA's advice and assistance is nonbinding on state agencies and local governments.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Financial Institutions, Insurance & Housing): This legislation responds to what has become a serious problem and an impediment to the conclusion of real estate transactions if the property in question has an active or abandoned heating oil tank. Sellers of property with an active or abandoned tank are often required to spend large sums of money either to remove a heating oil tank that is no longer in service, or to clean up contamination that is minor and does not constitute a threat to human life and the environment. This added cost to real estate transactions is the result of confusion and a lack of information on the part of several parties to the real estate transfer. This bill allows the Pollution Liability Insurance Agency (PLIA) to address misinformation by providing technical assistance and advice to owners of heating oil tanks. Under this legislation PLIA will be able to begin educating consumers, realtors, and lenders through a much needed public education campaign.

Testimony Against (Financial Institutions, Insurance & Housing): None.

Testified (Financial Institutions, Insurance & Housing): Glen Hudson, Sam Pace, Washington Association of Realtors (pro); Jim Sims, Pollution Liability Insurance Agency (pro).

Testimony For (Ways & Means): The legislation will help homeowners evaluate the condition of heating oil tanks. State technical assistance will help avoid unnecessary and expensive cleanups and will facilitate real estate transactions.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): Jim Sims, Pollution Liability Insurance Agency (pro).