

455B.472B Cost recovery enforcement.

1. *Full recovery sought by department.* The department may seek full recovery from an owner, operator, or other potentially responsible party liable for a release that is the subject of a corrective action for which moneys from the account are expended, or for which moneys from the Iowa comprehensive petroleum underground storage tank fund created in [section 455G.3, Code 2024](#), were expended, including for third-party liability and for all other costs. If federal cleanup moneys are recovered, the federal cleanup moneys shall be used solely for the purpose of future cleanup activities.

2. *Limitation of liability of owner or operator.* Except as provided in [subsection 3](#), the department shall not seek recovery for expenses in connection with corrective action for a release from an owner or operator eligible for assistance under the program, except for any unpaid portion of the deductible or copayment. [This subsection](#) does not affect any authorization of the department to impose or collect civil or administrative fines, penalties, or fees. Moneys from the account shall not be used to pay for any third-party liability.

3. *Owner or operator not in compliance.* Notwithstanding [subsection 2](#), the liability of an owner or operator shall be the full and total costs of corrective action and bodily injury or property damage to third parties, as specified in [subsection 1](#), if the owner or operator has not complied with the financial responsibility or other underground storage tank rules of the department or with [this part 8 of subchapter IV](#) or rules adopted under [this part](#).

4. *Lien on tank site.* Any amount for which an owner or operator is required to pay to the account by statute, rule, contract, or determination of liability by the department after hearing, if not paid when due, shall constitute a lien upon the real property where the tank that was the subject of corrective action is located, and the payment shall be collected in the same manner as the environmental protection charge pursuant to [section 424.11, Code 2016](#).

5. *Joinder of parties.* The department has standing in any case or contested action related to the account or a tank to assert any claim that the department may have regarding the tank at issue in the case or contested action. Upon motion and sufficient showing by a party to a cost recovery or subrogation action provided for under [this section](#), the court or the administrative law judge shall join to the action any potentially responsible party who may be liable for costs and expenditures of the type recoverable pursuant to [this section](#).

6. *Third-party contracts.* An insurance, indemnification, hold-harmless, conveyance, or similar risk-sharing or risk-shifting agreement shall not be effective to transfer any liability for costs recoverable under [this section](#). The department may proceed directly against the owner, operator, or other potentially responsible party. [This subsection](#) does not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs or expenditures under [this part 8 of subchapter IV](#), and does not modify rights between the parties to an agreement, except to the extent the agreement shifts liability to an owner or operator eligible for assistance under the program for any damages or other costs in connection with a corrective action for which another potentially responsible party is or may be liable. Any such provision is void and of no further force and effect.

7. *Later proceedings permitted against other parties.* The entry of judgment against a party to the action does not bar a future action by the department against another person who is later alleged to be or discovered to be liable for costs and expenditures paid from the account. Notwithstanding [section 668.5](#), a potentially responsible party shall not seek contribution or any other recovery from an owner or operator eligible for assistance under the program for damages or other costs in connection with corrective action for a release for which the potentially responsible party is or may be liable. Subsequent successful proceedings against another party shall not modify or reduce the liability of a party against whom judgment has been previously entered.

8. *Claims against potentially responsible parties.*

a. Upon payment from the account for corrective action or third-party liability pursuant to [this part 8 of subchapter IV](#), the rights of the claimant to recover payment from any potentially responsible party are assumed by the department to the extent paid from the account. A claimant shall not receive double compensation for the same injury.

b. In an action brought pursuant to [this part 8 of subchapter IV](#) seeking damages for corrective action or third-party liability, the court shall allow evidence and argument as to the

replacement or indemnification of actual economic losses incurred or to be incurred in the future by the claimant by reason of insurance benefits, governmental benefits or programs, or other sources.

c. A claimant may elect to authorize the department to pursue the claimant's cause of action for any injury not compensated from the fund against any potentially responsible party, provided the attorney general determines such representation would not be a conflict of interest. If a claimant so elects, the department's litigation expenses shall be shared on a pro rata basis with the claimant, but the claimant's share of litigation expenses is payable exclusively from any share of the settlement or judgment payable to the claimant.

9. *Exclusion of punitive damages.* Moneys from the account shall not be used to pay punitive damages.

[2024 Acts, ch 1054, §4](#)