

65-34,107. Same; evidence of financial responsibility required; limitation of liability. (a) Each owner or operator of an underground storage tank shall provide evidence of financial responsibility.

(b) If the owner or operator is in bankruptcy, reorganization or arrangement pursuant to the federal bankruptcy law, or if jurisdiction in any state or federal court cannot be obtained over an owner or operator likely to be solvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this act may be asserted directly against the guarantor providing the evidence of financial responsibility. In the case of action pursuant to this subsection, the guarantor is entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if any action had been brought against the guarantor by the owner or operator.

(c) The total liability of a guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. This subsection does not limit any other state or federal statutory, contractual or common law liability of a guarantor to its owner or operator, including, but limited to, the liability of the guarantor for bad faith in negotiating or in failing to negotiate the settlement of any claim. This subsection does not diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, or other applicable law.

History: L. 1989, ch. 186, § 8; May 18.