



General Assembly

January Session, 2003

Amendment

LCO No. 7574

HB0654607574HD0

Offered by:

REP. WIDLITZ, 98th Dist.

SEN. WILLIAMS, 29th Dist.

To: Subst. House Bill No. 6546

File No. 763

Cal. No. 406

(As Amended)

**"AN ACT CONCERNING THIRD-PARTY LIABILITY FOR
CONTAMINATED PROPERTY."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. (NEW) (*Effective October 1, 2003*) (a) No owner of real
4 property shall be liable for any costs or damages pursuant to any
5 provision of the general statutes or common law to any person other
6 than this state, any other state or the federal government, with respect
7 to any pollution or source of pollution on or emanating from such
8 owner's real property that occurred or existed prior to such owner
9 taking title to such property, provided:

10 (1) The owner did not establish or create a condition or facility at or
11 on such property that reasonably can be expected to create a source of
12 pollution to the waters of the state for purposes of section 22a-432 of

13 the general statutes and such owner is not responsible pursuant to any
14 other provision of the general statutes for creating any pollution or
15 source of pollution on such property;

16 (2) The owner is not affiliated with any person responsible for such
17 pollution or source of pollution through any direct or indirect familial
18 relationship, or any contractual, corporate or financial relationship
19 other than that by which such owner's interest in the property was
20 conveyed or financed; and

21 (3) The Commissioner of Environmental Protection has approved in
22 writing: (A) An investigation report of the pollution and sources of
23 pollution on or emanating from the real property which pollution or
24 sources of pollution occurred prior to such owner's taking title to such
25 property, conducted in accordance with the prevailing standards and
26 guidelines which investigation was conducted by an environmental
27 professional licensed in accordance with section 22a-133v of the
28 general statutes; and (B) a final remedial action report prepared by a
29 licensed environmental professional that demonstrates that
30 remediation of such pollution and sources of pollution was completed
31 in accordance with the remediation standards in regulations adopted
32 pursuant to section 22a-133k of the general statutes. Prior to the
33 initiation of an investigation or a remediation undertaken to meet the
34 criteria of this section, an owner of the subject real property shall
35 notify, by certified mail, the owners of the adjoining properties of such
36 initiation. Such reports shall be forwarded, by certified mail, to the
37 owners of the adjoining properties.

38 (b) This section shall not relieve any such liability where (1) an
39 owner failed to file or comply with the provisions of an environmental
40 land use restriction created pursuant to section 22a-133o of the general
41 statutes for such real property or with the conditions of a variance for
42 the real property that was approved by the commissioner in
43 accordance with regulations adopted pursuant to section 22a-133k of
44 the general statutes, or (2) the commissioner, at any time, determines
45 that an owner provided information that it knew or had reason to

46 know was false or misleading or otherwise failed to satisfy all of the
47 requirements of subsection (a) of this section. Nothing in this section
48 shall be construed to relieve an owner of any liability for pollution or
49 sources of pollution on or emanating from such property that occurred
50 or were created after the owner took title to such property. Nothing in
51 this section shall be construed to hold an innocent landowner, as
52 defined in section 22a-452d of the general statutes, who meets the
53 requirements of this section liable to this state, any other state or the
54 federal government for costs or damages in an amount greater than the
55 amount that an innocent landowner may be held liable pursuant to
56 section 22a-432 of the general statutes.

57 (c) If an owner of real property is found to be liable under this
58 section because the owner is affiliated with the person responsible for
59 the pollution or source of pollution, as provided in subdivision (2) of
60 subsection (a) of this section, such owner shall be liable for a civil
61 penalty in an amount not less than one hundred thousand dollars nor
62 more than the cost of remediating the pollution or source of pollution."