



Senate Bill No. 795

Public Act No. 05-90

AN ACT CONCERNING THIRD-PARTY LIABILITY FOR CONTAMINATED PROPERTY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective October 1, 2005*) (a) Notwithstanding any provision of the general statutes, and except as provided in this section, no owner of real property shall be liable for any costs or damages to any person other than this state, any other state or the federal government, with respect to any pollution or source of pollution on or emanating from such owner's real property that occurred or existed prior to such owner taking title to such property, provided:

(1) The owner did not establish or create a condition or facility at or on such property that reasonably can be expected, as determined by the Commissioner of Environmental Protection, to create a source of pollution to the waters of the state for purposes of section 22a-432 of the general statutes and such owner is not responsible pursuant to any other provision of the general statutes for creating any pollution or source of pollution on such property;

(2) The owner is not affiliated with any person responsible for such pollution or source of pollution through any direct or indirect familial

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relationship, or any contractual, corporate or financial relationship other than that by which such owner's interest in the property was conveyed or financed; and

(3) The Commissioner of Environmental Protection has approved in writing: (A) An investigation report regarding such pollution or sources of pollution, provided the investigation was conducted in accordance with the prevailing standards and guidelines by an environmental professional licensed in accordance with section 22a-133v of the general statutes; and (B) a final remedial action report prepared by a licensed environmental professional that demonstrates that remediation of such pollution and sources of pollution was completed in accordance with the remediation standards in regulations adopted pursuant to section 22a-133k of the general statutes. Prior to the initiation of an investigation or a remediation undertaken to meet the criteria of this section, an owner of the subject real property shall notify, by certified mail, the owners of the adjoining properties of such initiation. Such reports shall be forwarded, by certified mail, to the owners of the adjoining properties.

(b) This section shall not relieve any such liability where (1) an owner failed to file or comply with the provisions of an environmental land use restriction created pursuant to section 22a-133o of the general statutes for such real property or with the conditions of a variance for the real property that was approved by the commissioner in accordance with regulations adopted pursuant to section 22a-133k of the general statutes, or (2) the commissioner, at any time, determines that an owner provided information that the owner knew or had reason to know was false or misleading or otherwise failed to satisfy all of the requirements of subsection (a) of this section. Nothing in this section shall be construed to relieve an owner of any liability for pollution or sources of pollution on or emanating from such property that occurred or were created after the owner took title to such

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property. Nothing in this section shall be construed to hold an innocent landowner, as defined in section 22a-452d of the general statutes, who meets the requirements of this section liable to this state for costs or damages in an amount greater than the amount that an innocent landowner may be held liable pursuant to section 22a-432 of the general statutes.

(c) If an owner of real property is found to be liable under this section because the owner is affiliated with the person responsible for the pollution or source of pollution, as provided in subdivision (2) of subsection (a) of this section, such owner shall be liable for a civil penalty of one hundred thousand dollars or the cost of remediating the pollution or source of pollution, whichever is greater.

Approved June 7, 2005