



General Assembly

January Session, 2005

Committee Bill No. 795

LCO No. 4684

04684SB00795ENV

Referred to Committee on Environment

Introduced by:
(ENV)

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

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

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

9 (1) The owner did not establish or create a condition or facility at or
10 on such property that reasonably can be expected to create a source of
11 pollution to the waters of the state for purposes of section 22a-432 of
12 the general statutes and such owner is not responsible pursuant to any
13 other provision of the general statutes for creating any pollution or
14 source of pollution on such property;

15 (2) The owner is not affiliated with any person responsible for such

16 pollution or source of pollution through any direct or indirect familial
17 relationship, or any contractual, corporate or financial relationship
18 other than that by which such owner's interest in the property was
19 conveyed or financed; and

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

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

49 innocent landowner, as defined in section 22a-452d of the general
50 statutes, who meets the requirements of this section liable to this state
51 for costs or damages in an amount greater than the amount that an
52 innocent landowner may be held liable pursuant to section 22a-432 of
53 the general statutes.

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	New section

Statement of Purpose:

To protect a purchaser of land, under certain conditions, from liability to persons other than this state, any other state or the federal government for pollution on such land that existed or occurred prior to purchase.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]

Co-Sponsors: SEN. MCKINNEY, 28th Dist.; REP. URBAN, 43rd Dist.
REP. WIDLITZ, 98th Dist.

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