

ASSEMBLY BILL NO. 675—COMMITTEE ON COMMERCE AND LABOR

MARCH 22, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to hazardous materials. (BDR 40-808)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to hazardous materials; providing certain persons with immunity from liability for certain contaminated property; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 459 of NRS is hereby amended by adding thereto
2 a new section to read as follows:

3 ***1. A person who has a security interest in property which is***
4 ***contaminated with a hazardous waste or hazardous substance is immune***
5 ***from liability and free from any obligations imposed by this chapter and***
6 ***any regulations adopted pursuant thereto, for any contamination that***
7 ***existed on the date the security interest was obtained if he did not know***
8 ***that the property was contaminated at the time that he obtained the***
9 ***security interest and if he has not caused or contributed to the***
10 ***contamination or hazardous condition.***

11 ***2. A person who is immune from liability pursuant to subsection 1,***
12 ***may foreclose upon and sell the contaminated property without incurring***
13 ***liability or any obligations imposed by this chapter and any regulation***
14 ***adopted pursuant thereto, if the person gives the department written***
15 ***notice of his intention to foreclose upon and sell the property at least 20***
16 ***days before the foreclosure and if the person has not caused or***
17 ***contributed to the contamination.***

18 ***3. A person:***

19 ***(a) Who purchases contaminated property at a foreclosure sale from a***
20 ***person who is immune from liability pursuant to subsection 2; or***

1 (b) Who obtains title to contaminated property from a person who is
2 immune from liability and whose chain of title contains a purchase
3 described in paragraph (a),
4 is immune from liability and free from any obligations imposed by this
5 chapter and any regulation adopted pursuant thereto, if the person has
6 not caused or contributed to the contamination.

7 4. This section must not be construed to grant immunity from
8 liability and obligations to a person who causes or contributes to the
9 contamination upon or in the property.

10 5. As used in this section:

11 (a) The phrase "cause or contribute to contamination" includes,
12 without limitation, knowingly and intentionally interfering with or
13 preventing a person from cleaning or decontaminating the property. The
14 phrase does not include, without limitation:

15 (1) Holding, enforcing, abandoning or releasing a security interest
16 in the property;

17 (2) Foreclosing upon the property;

18 (3) Cleaning or decontaminating the property; or

19 (4) Selling or otherwise conveying title to the property.

20 (b) "Hazardous substance" has the meaning ascribed to it in NRS
21 459.429.

22 (c) "Hazardous waste" has the meaning ascribed to in NRS 459.430.

23 (d) "Security interest" means an interest in real estate or personal
24 property, created by contract or conveyance, that secures payment or
25 performance of an obligation. The term includes a lien created by a
26 mortgage, deed of trust, trust deed, security deed, contract for deed, land
27 sales contract, lease intended as security, assignment of lease or rents
28 intended as security and any other consensual lien or contract for
29 retention of title intended as security for an obligation.

30 **Sec. 2.** NRS 459.770 is hereby amended to read as follows:

31 459.770 Any county or city in this state may adopt an ordinance
32 authorizing its legal representative to initiate recovery by legal action from
33 the person responsible for any hazardous material involved in a spill or
34 accident of the amount of any costs incurred by the county or city in
35 responding to the spill of or accident involving hazardous material. **A**
36 **county or city shall not adopt an ordinance pursuant to this section that**
37 **imposes liability upon a person who is immune from liability pursuant to**
38 **section 1 of this act.**