

ASSEMBLY BILL NO. 485—COMMITTEE ON NATURAL RESOURCES,
AGRICULTURE, AND MINING

MARCH 24, 2003

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions relating to relief from liability for certain persons regarding certain real property at which hazardous substance has been or may have been released. (BDR 40-776)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 that certain bona fide prospective purchasers, innocent purchasers and owners of contiguous real property are not liable for response actions and cleanup with respect to certain real property at which a hazardous substance has been or may have been released; clarifying that such relief from liability does not limit certain authorities of the Division of Environmental Protection of the State Department of Conservation and Natural Resources, the Administrator of the Division or the State Environmental Commission with respect to persons who are actually responsible for the contamination or pollution of real property; providing for the imposition of certain liens in certain circumstances; and providing other matters properly relating thereto.

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



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

3 1. *Notwithstanding any other provision of law to the contrary*
4 *and regardless of whether he is a participant in a program, a*
5 *person who:*

6 (a) *Is a bona fide prospective purchaser is not liable for any*
7 *response action or cleanup that may be required with respect to*
8 *any real property pursuant to NRS 445A.300 to 445A.730,*
9 *inclusive, 445B.100 to 445B.640, inclusive, 459.400 to 459.600,*
10 *inclusive, or any other applicable provision of law.*

11 (b) *Is an innocent purchaser is not liable for any response*
12 *action or cleanup that may be required with respect to any real*
13 *property pursuant to NRS 445A.300 to 445A.730, inclusive,*
14 *445B.100 to 445B.640, inclusive, 459.400 to 459.600, inclusive, or*
15 *any other applicable provision of law.*

16 (c) *Owens real property that:*

17 (1) *Is contiguous to or otherwise similarly situated with*
18 *respect to; and*

19 (2) *Is or may be contaminated by a release or threatened*
20 *release of a hazardous substance from,*
21 *other real property that the person does not own, is not liable for*
22 *any response action or cleanup that may be required with respect*
23 *to the release or threatened release, provided that the person meets*
24 *the requirements set forth in section 107(q)(1) of the*
25 *Comprehensive Environmental Response, Compensation, and*
26 *Liability Act of 1980, 42 U.S.C. § 9607(q)(1).*

27 2. *The provisions of this section do not otherwise limit the*
28 *authority of the Administrator, the Commission or the Division to*
29 *require any person who is responsible for the contamination or*
30 *pollution of real property, by improperly managing hazardous*
31 *substances at or on that real property, to perform a response*
32 *action or cleanup with respect to that real property.*

33 3. *If there are costs relating to a response action or cleanup*
34 *that are incurred and unrecovered by the State of Nevada with*
35 *respect to real property for which a bona fide prospective*
36 *purchaser of the real property is not liable pursuant to the*
37 *provisions of this section, the State of Nevada:*

38 (a) *Has a lien against that real property in an amount not to*
39 *exceed the increase in the fair market value of the real property*
40 *that is attributable to the response action or cleanup, which*
41 *increase in fair market value must be measured at the time of the*
42 *sale or other disposition of the real property; or*

43 (b) *May, with respect to those incurred and unrecovered costs*
44 *and by agreement with the bona fide prospective purchaser of the*
45 *real property, obtain from that bona fide prospective purchaser:*



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1 (1) A lien on any other real property owned by the bona
2 *fide prospective purchaser; or*

3 (2) Another form of assurance or payment that is
4 satisfactory to the Administrator.

5 4. The provisions of this section apply only to real property
6 that is acquired on or after the date that is 60 days after the
7 effective date of this act.

8 5. As used in this section:

9 (a) "Administrator" means the Administrator of the Division.

10 (b) "Bona fide prospective purchaser" has the meaning
11 ascribed to it in section 101(40) of the Comprehensive
12 Environmental Response, Compensation, and Liability Act of
13 1980, 42 U.S.C. § 9601(40).

14 (c) "Commission" means the State Environmental
15 Commission.

16 (d) "Division" means the Division of Environmental
17 Protection of the State Department of Conservation and Natural
18 Resources.

19 (e) "Hazardous substance" has the meaning ascribed to it in
20 NRS 459.620.

21 (f) "Innocent purchaser" means a person who qualifies for the
22 exemption from liability set forth in section 107(b)(3) of the
23 Comprehensive Environmental Response, Compensation, and
24 Liability Act of 1980, 42 U.S.C. § 9607(b)(3).

25 (g) "Participant" has the meaning ascribed to it in
26 NRS 459.622.

27 (h) "Program" means a program of voluntary cleanup and
28 relief from liability set forth in NRS 459.610 to 459.658, inclusive.

29 (i) "Response action" means any action to mitigate, attempt to
30 mitigate or assist in the mitigation of the effects of a leak or spill
31 of or an accident involving a hazardous substance, including,
32 without limitation, any action to:

33 (1) Contain and dispose of the hazardous substance;

34 (2) Clean and decontaminate the area affected by the leak,
35 spill or accident; or

36 (3) Investigate the occurrence of the leak, spill or accident.

37 **Sec. 2.** This act becomes effective upon passage and approval.

