

Senate File 2230

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1 3 AN ACT
1 4 RELATING TO IMMUNITY FROM THIRD-PARTY LIABILITY FOR CLAIMS
1 5 RESULTING FROM CONTAMINATED PROPERTY AND PROVIDING AN
1 6 EFFECTIVE DATE.
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1 8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 9
1 10 Section 1. NEW SECTION. 455B.751 DEFINITIONS.
1 11 As used in this division, unless the context otherwise
1 12 requires:
1 13 1. "Acquired" means purchased, leased, or obtained by
1 14 inheritance or descent and distribution.
1 15 2. "Hazardous substance" means the same as defined in
1 16 section 455B.381 or 455B.411.
1 17 3. "Hazardous waste" means the same as defined in section
1 18 455B.411.
1 19 4. "Potentially responsible party" means a person whose
1 20 acts or omissions were a proximate cause of the contamination
1 21 of the acquired property.
1 22 5. "Regulated substance" means the same as defined in
1 23 section 455B.471.
1 24 6. "Response action" means any action taken to reduce,
1 25 minimize, eliminate, clean up, control, assess, or monitor a
1 26 release of hazardous substances, hazardous waste, or regulated
1 27 substances to protect the public health, safety, or the
1 28 environment.
1 29 7. "Third party" means any person other than a person that
1 30 holds indicia of title to property as identified in section
1 31 455B.752, subsection 1, or that has acquired property as
1 32 identified in section 455B.752, subsection 2.
1 33 8. "Third-party liability" means any liability or
1 34 obligation arising out of or resulting from contamination of
1 35 property by a hazardous substance, hazardous waste, or a
2 1 regulated substance, including without limitation, claims for
2 2 illness, personal injury, death, consequential damages,
2 3 exemplary damages, lost profits, trespass, loss of use of
2 4 property, loss of rental value, reduction in property value,
2 5 property damages, or statutory or common law nuisance.
2 6 Sec. 2. NEW SECTION. 455B.752 IMMUNITY FROM THIRD-PARTY
2 7 LIABILITY.
2 8 1. A person that holds indicia of ownership of property
2 9 contaminated by a hazardous substance, hazardous waste, or
2 10 regulated substance, and that satisfies all of the conditions
2 11 provided in section 455B.381, subsection 7, paragraphs "a",
2 12 "b", and "c", or section 455B.471, subsection 6, paragraph
2 13 "b", subparagraphs (1), (2), and (3), shall not be liable to
2 14 any third party for any third-party liability arising from
2 15 such contamination.
2 16 2. A person that has acquired property contaminated by a
2 17 hazardous substance, hazardous waste, or regulated substance
2 18 shall not be liable to any third party for any third-party
2 19 liability arising by reason of such contamination, provided
2 20 that all of the following apply:
2 21 a. The person does not knowingly cause or permit a new or
2 22 additional hazardous substance, hazardous waste, or regulated
2 23 substance to arise on or from the acquired property that
2 24 injures a third party or contaminates property owned or leased
2 25 by a third party.
2 26 b. The person is not a potentially responsible party or
2 27 affiliated with any potentially responsible party by reason of
2 28 any of the following:
2 29 (1) Any direct or indirect familial relationship.
2 30 (2) Any contractual, corporate, or financial relationship,
2 31 other than a contractual, corporate, or financial relationship
2 32 that is created by the instruments by which title to the
2 33 property is conveyed or financed or by a contract for the sale
2 34 of goods or services.
2 35 (3) A reorganization of a business entity that is or was a
3 1 potentially responsible party.
3 2 Sec. 3. NEW SECTION. 455B.753 ACCESS TO PROPERTY.
3 3 A person that holds indicia of title to property as
3 4 identified in section 455B.752, subsection 1, or a person that
3 5 has acquired property as identified in section 455B.752,

3 6 subsection 2, shall provide reasonable access to the acquired
3 7 property to any potentially responsible party or to any
3 8 authorized regulatory authority for the purpose of
3 9 investigating or evaluating any contamination, planning, or
3 10 preparing a remedial plan for any abatement of the
3 11 contamination, and for any required remediation.

3 12 Sec. 4. NEW SECTION. 455B.754 LEGAL RESPONSIBILITY.

3 13 This division shall not be interpreted to affect the legal
3 14 responsibility to the state to conduct response actions under
3 15 any applicable state law.

3 16 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
3 17 immediate importance, takes effect upon enactment.

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3 21 _____
3 22 JEFFREY M. LAMBERTI
3 23 President of the Senate

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3 25 _____
3 26 CHRISTOPHER C. RANTS
3 27 Speaker of the House

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3 29 I hereby certify that this bill originated in the Senate and
3 30 is known as Senate File 2230, Eightieth General Assembly.

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3 34 _____
3 35 MICHAEL E. MARSHALL
3 36 Secretary of the Senate

4 1 Approved _____, 2004

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4 6 THOMAS J. VILSACK

4 6 Governor