

Reprinted 3/26/86

FEB 20 1986

HOUSE FILE 2336

Place On Calendar

BY COMMITTEE ON ENERGY AND
AND ENVIRONMENTAL PRO-
TECTION

(Formerly House Study Bill 522)

Passed House, Date 3-26-86 (p. 1017) Passed Senate, Date _____

Vote: Ayes 65 Nays 29 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the authority of the department of water, air
2 and waste management over hazardous substances and hazardous
3 conditions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2336

1 Section 1. NEW SECTION. 455B.396 PRIORITY CLAIM OF
2 STATE.

3 Liability to the state under this part or part 5 of this
4 division is a debt to the state. The debt, together with
5 interest on the debt at the maximum lawful rate of interest
6 permitted pursuant to section 535.2, subsection 3, paragraph
7 "a", from the date the debt becomes due, is a lien on all
8 property, and rights to real property owned at the time the
9 statement of claim is filed or after acquired, of the persons
10 liable under this part or part 5, if a statement of claim,
11 describing the property subject to the lien and signed by the
12 executive director and approved by the commission is filed
13 within one hundred twenty days after the incurrence of costs
14 and expenses and submission of the report required by section
15 455B.397 or section 455B.430, subsection 5. The statement
16 shall be filed with, accepted by, and recorded by the county
17 recorder in any county in which property subject to the lien
18 is located.

19 A lien filed pursuant to this part has priority over a
20 prior encumbrance, security interest, or levying creditor of
21 the owner of the property subject to the lien. The lien may
22 be dissolved by filing with the appropriate recording
23 officials a certificate signed by the executive director that
24 the debt for which the lien is attached, together with
25 interest and costs on the debt, has been paid or legally
26 abated. Notwithstanding the priority of the lien provided in
27 this section, if the proceeds of liquidation are sufficient to
28 satisfy the interest of a first mortgage, this lien shall not
29 defeat the interest by more than fifty percent. The proceeds
30 of liquidation of property will be distributed in the
31 following order:

32 1. All proceeds up to an amount equal to the liability to
33 the state under this part or part 5, or equal to fifty percent
34 of the interest of the secured lienholder, whichever is less,
35 shall go to the state.

1 2. The excess remaining after application of subsection 1,
2 if any, up to fifty percent of the interest of the secured
3 lienholder, shall go to the lienholder.

4 3. The excess remaining after application of subsection 2,
5 if any, up to an amount necessary to satisfy the liability to
6 the state under this part or part 5, goes to the state.

7 4. The excess remaining after application of subsection 3,
8 if any, goes to satisfy the interest of the secured
9 lienholder.

10 5. The excess remaining after application of subsection 4,
11 if any, is distributed according to applicable law.

12 However, if the secured lienholder is the purchaser of the
13 property upon liquidation, the purchaser shall pay the lesser
14 of either an amount at least equal to the state's claim, or
15 fifty percent of the interest of the secured lienholder in
16 order to effect the purchase.

17 For purposes of this section, the interest of the secured
18 lienholder is that perfected prior to liability accruing under
19 this part or part 5, and valued at the time of the accrual,
20 less any subsequent payments on the secured lien. The
21 interest shall not be increased after liability accrues under
22 this part or part 5.

23 Sec. 2. NEW SECTION. 455B.397 FINANCIAL DISCLOSURE.

24 Immediately upon the incurrence of any liability to the
25 state under this part, the debtor shall submit to the
26 executive director a report consisting of documentation of the
27 debtor's liabilities and assets, including if filed, a copy of
28 the annual report submitted to the secretary of state pursuant
29 to chapter 496. A subsequent report pursuant to this section
30 shall be submitted annually on April 15 for the life of the
31 debt.

32 Sec. 3. Section 455B.430, Code 1985, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 5. Immediately upon the listing of real
35 property in the registry of abandoned or uncontrolled disposal

1 sites, a person liable for cleanup costs shall submit to the
2 executive director a report consisting of documentation of the
3 responsible person's liabilities and assets, including if
4 filed, a copy of the annual report submitted to the secretary
5 of state pursuant to chapter 496. A subsequent report
6 pursuant to this section shall be submitted annually on April
7 15 for the period the site remains on the registry.

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EXPLANATION

9 This bill provides that the state may perfect a lien
10 against real property of a person who is liable to the state
11 for cleanup of a hazardous condition or a hazardous waste
12 disposal site. The lien has limited priority over any other
13 encumbrance or levying creditor. All proceeds up to the
14 lesser of either the amount of the liability or fifty percent
15 of the interest of the secured lienholder goes to the state.
16 A procedure is established for distribution of any excess. A
17 person who incurs liability is required to file an annual
18 report with the executive director of the department of water,
19 air and waste management stating the person's assets and
20 liabilities.

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HOUSE FILE 2336

H-5505

1 Amend House File 2336 as follows:

2 1. Page 2, line 31, by inserting after the word
3 "debt." the following: "These reports shall be kept
4 confidential and shall not be available to the public."

H-5505 FILED MARCH 21, 1986

BY PETERSEN of Muscatine

ADOPTED (p. 974)

Revised 3/21

HOUSE FILE 2336

H-5551

1 Amend House File 2336 as follows:

2 1. By striking page 1, line 7 through page 2,
3 line 22 and inserting the following: "'a" from the
4 date costs and expenses are incurred by the department
5 is a lien on real property, except single and multi-
6 family residential property, on which the department
7 incurs costs and expenses creating a liability and
8 owned by the persons liable under this part or part 5.
9 To perfect the lien a statement of claim describing
10 the property subject to the lien, signed by the
11 executive director and approved by the commission must
12 be filed within one hundred twenty days after the
13 incurrence of costs and expenses by the department.
14 The statement shall be filed with, accepted by, and
15 recorded by the county recorder in the county in which
16 the property subject to the lien is located. The
17 statement of claim may be amended to include
18 subsequent liabilities. To be effective the statement
19 of claim shall be amended and filed within one hundred
20 twenty days after the occurrence of the event
21 resulting in the amendment.

22 The lien may be dissolved by filing with the
23 appropriate recording officials a certificate, signed
24 by the executive director, that the debt for which the
25 lien is attached, together with interest and costs on
26 the debt, has been paid or legally abated."

H-5551 FILED MARCH 25, 1986

BY SHOULTZ of Black Hawk

Adopted 3/24 (p. 1017)

H-5240

- 1 Amend House File 2336 as follows:
 2 1. Page 1, line 21, by inserting after the word
 3 "lien" the following: ", except a first mortgage real
 4 estate loan".
 5 2. Page 1, line 27, by striking the word
 6 "sufficient" and inserting the following:
 7 "insufficient".
 8 3. Page 1, line 29, by striking the words "The
 9 proceeds".
 10 4. By striking page 1, line 30 through page 2,
 11 line 22.

H-5240 FILED MARCH 4, 1986 BY WELDEN of Hardin

*Placed 3/31 (p. 974)**Placed 3/26 (p. 1017)*

HOUSE FILE 2336

H-5450

- 1 Amend House File 2336 as follows:
 2 1. Page 1, by striking line 7 and inserting the
 3 following: "'a", from the date costs and expenses are
 4 incurred by the state, is a lien on all".
 5 2. Page 1, line 10, by striking the words and
 6 figure "5, if a" and inserting the following: "5. To
 7 perfect the lien, a".
 8 3. Page 1, by striking lines 14 and 15 and
 9 inserting the following: "and expenses by the state.
 10 The statement of claim may be amended to include
 11 subsequent liabilities or to encumber additional real
 12 property which the department subsequently discovers
 13 to be owned by the person liable. To be effective the
 14 statement of claim shall be amended and filed within
 15 one hundred twenty days after the occurrence of the
 16 event resulting in the amendment. The statement".

H-5450 FILED MARCH 18, 1986 BY SHOULTZ of Black Hawk

Placed 2/16 3/26 (p. 1017)

HOUSE FILE 2336

H-5510

- 1 Amend amendment H-5450 to House File 2336 as
 2 follows:
 3 1. Page 1, by striking lines 2 through 4 and
 4 inserting the following:
 5 "1. Page 1, by striking line 7 and inserting the
 6 following: "'a", from the date costs and expenses are
 7 incurred by the state, is a lien on".
 8 _____. Page 1, by striking line 8 and inserting the
 9 following: "real property on which the department
 10 incurs costs and expenses creating a liability under
 11 this part owned at the time the".
 12 _____. Page 1, line 9, by striking the words "or
 13 after acquired".
 14 2. Page 1, by inserting after line 16 the
 15 following:
 16 "_____. Page 1, line 21, by inserting after the
 17 word "lien." the following: "However, the lien shall
 18 not have priority over a first mortgage perfected
 19 prior to the effective date of this Act.""

H-5510 FILED MARCH 21, 1986 BY SHOULTZ of Black Hawk

Placed 2/16 3/26 (p. 1017)

HOUSE FILE 2336

BY COMMITTEE ON ENERGY AND
AND ENVIRONMENTAL PRO-
TECTION

CORRECTED REPRINT

Substituted for S.F. 2343 4/4
(As Amended and Passed by the House March 26, 1986)

Passed House, Date 3-26-86 (p.1017) Passed Senate, Date 4-4-86 (p.1052)

Vote: Ayes 65 Nays 29 Vote: Ayes 48 Nays 0

Approved April 21, 1986 (p.1606)

A BILL FOR

1 An Act relating to the authority of the department of water, air
2 and waste management over hazardous substances and hazardous
3 conditions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

1 Section 1. NEW SECTION. 455B.396 PRIORITY CLAIM OF
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5 interest on the debt at the maximum lawful rate of interest
6 permitted pursuant to section 535.2, subsection 3, paragraph
7 "a" from the date costs and expenses are incurred by the
8 department is a lien on real property, except single and
9 multi-family residential property, on which the department
10 incurs costs and expenses creating a liability and owned by
11 the persons liable under this part or part 5. To perfect the
12 lien a statement of claim describing the property subject to
13 the lien, signed by the executive director and approved by the
14 commission must be filed within one hundred twenty days after
15 the incurrence of costs and expenses by the department. The
16 statement shall be filed with, accepted by, and recorded by
17 the county recorder in the county in which the property
18 subject to the lien is located. The statement of claim may be
19 amended to include subsequent liabilities. To be effective
20 the statement of claim shall be amended and filed within one
21 hundred twenty days after the occurrence of the event
22 resulting in the amendment.

23 The lien may be dissolved by filing with the appropriate
24 recording officials a certificate, signed by the executive
25 director, that the debt for which the lien is attached,
26 together with interest and costs on the debt, has been paid or
27 legally abated.

28 Sec. 2. NEW SECTION. 455B.397 FINANCIAL DISCLOSURE.

29 Immediately upon the incurrence of any liability to the
30 state under this part, the debtor shall submit to the
31 executive director a report consisting of documentation of the
32 debtor's liabilities and assets, including if filed, a copy of
33 the annual report submitted to the secretary of state pursuant
34 to chapter 496. A subsequent report pursuant to this section
35 shall be submitted annually on April 15 for the life of the

1 debt. These reports shall be kept confidential and shall not
2 be available to the public.

3 Sec. 3. Section 455B.430, Code 1985, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 5. Immediately upon the listing of real
6 property in the registry of abandoned or uncontrolled disposal
7 sites, a person liable for cleanup costs shall submit to the
8 executive director a report consisting of documentation of the
9 responsible person's liabilities and assets, including if
10 filed, a copy of the annual report submitted to the secretary
11 of state pursuant to chapter 496. A subsequent report
12 pursuant to this section shall be submitted annually on April
13 15 for the period the site remains on the registry.

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H.F. 2336

Handwritten: HSB 522

ENERGY AND ENVIRONMENTAL PROTECTION

SENATE HOUSE FILE 2336
BY (PROPOSED COMMITTEE ON
ENERGY AND ENVIRONMENT
AND COMMITTEE ON ENERGY
AND ENVIRONMENTAL PRO-
TECTION BILL BY THE
HAZARDOUS WASTE DISPOSAL
SITE STUDY COMMITTEE)

Study Bill 522

Energy and Environmental Protection: Shoultz, Chair; Hatch, Jay, McIntee and
Welden.

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the authority of the department of water, air
2 and waste management over hazardous substances and hazardous
3 conditions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 455B.396 PRIORITY CLAIM OF
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4 division is a debt to the state. The debt, together with
5 interest on the debt at the maximum lawful rate of interest
6 permitted pursuant to section 535.2, subsection 3, paragraph
7 "a", from the date the debt becomes due, is a lien on all
8 property, and rights to property, real and personal, owned at
9 the time the statement of claim is filed or after acquired, of
10 the persons liable under this part or part 5, if a statement
11 of claim, describing the property subject to the lien and
12 signed by the executive director and approved by the
13 commission is filed within one hundred twenty days after the
14 incurrence of costs and expenses and submission of the report
15 required by section 455B.397 or section 455B.430, subsection
16 5. The statement shall be filed with, accepted by, and
17 recorded by the county recorder in any county in which
18 property subject to the lien is located and with the secretary
19 of state, and in accordance with section 321.50.

20 A lien filed pursuant to this part has priority over a
21 prior encumbrance, security interest, or levying creditor of
22 the owner of the property subject to the lien. The lien may
23 be dissolved by filing with the appropriate recording
24 officials a certificate signed by the executive director that
25 the debt for which the lien is attached, together with
26 interest and costs on the debt, has been paid or legally
27 abated. Notwithstanding the priority of the lien provided in
28 this section, if the proceeds of liquidation are sufficient to
29 satisfy the interest of a first mortgage or purchase money
30 security interest holder, this lien shall not defeat the
31 interest by more than fifty percent. The proceeds of
32 liquidation of property will be distributed in the following
33 order:

34 1. All proceeds up to an amount equal to the liability to
35 the state under this part or part 5, or equal to fifty percent

1 of the interest of the secured lienholder, whichever is less,
2 shall go to the state.

3 2. The excess remaining after application of subsection 1,
4 if any, up to fifty percent of the interest of the secured
5 lienholder, shall go to the lienholder.

6 3. The excess remaining after application of subsection 2,
7 if any, up to an amount necessary to satisfy the liability to
8 the state under this part or part 5, goes to the state.

9 4. The excess remaining after application of subsection 3,
10 if any, goes to satisfy the interest of the secured
11 lienholder.

12 5. The excess remaining after application of subsection 4,
13 if any, is distributed according to applicable law.

14 However, if the secured lienholder is the purchaser of the
15 property upon liquidation, the purchaser shall pay the lesser
16 of either an amount at least equal to the state's claim, or
17 fifty percent of the interest of the secured lienholder in
18 order to effect the purchase.

19 For purposes of this section, the interest of the secured
20 lienholder is that perfected prior to liability accruing under
21 this part or part 5, and valued at the time of the accrual,
22 less any subsequent payments on the secured lien. The
23 interest shall not be increased after liability accrues under
24 this part or part 5.

25 Sec. 2. NEW SECTION. 455B.397 FINANCIAL DISCLOSURE.

26 Immediately upon the incurrance of any liability to the
27 state under this part, the debtor shall submit to the
28 executive director a report consisting of documentation of the
29 debtor's liabilities and assets, including if filed, a copy of
30 the annual report submitted to the secretary of state pursuant
31 to chapter 496. A subsequent report pursuant to this section
32 shall be submitted annually on April 15 for the life of the
33 debt.

34 Sec. 3. Section 455B.430, Code 1985, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 5. Immediately upon the listing of real
2 property in the registry of abandoned or uncontrolled disposal
3 sites, a person liable for cleanup costs shall submit to the
4 executive director a report consisting of documentation of the
5 responsible person's liabilities and assets, including if
6 filed, a copy of the annual report submitted to the secretary
7 of state pursuant to chapter 496. A subsequent report
8 pursuant to this section shall be submitted annually on April
9 15 for the period the site remains on the registry.

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EXPLANATION

This bill provides that the state may perfect a lien against any property of a person who is liable to the state for cleanup of a hazardous condition or a hazardous waste disposal site. The lien has limited priority over any other encumbrance, security interest, or levying creditor. All proceeds up to the lesser of either the amount of the liability or fifty percent of the interest of the secured lienholder goes to the state. A procedure is established for distribution of any excess. A person who incurs liability is required to file an annual report with the executive director of the department of water, air and waste management stating the person's assets and liabilities.

HOUSE FILE 2336

AN ACT

RELATING TO THE AUTHORITY OF THE DEPARTMENT OF WATER, AIR AND
WASTE MANAGEMENT OVER HAZARDOUS SUBSTANCES AND HAZARDOUS
CONDITIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 455B.396 PRIORITY CLAIM OF
STATE.

Liability to the state under this part or part 5 of this
division is a debt to the state. The debt, together with
interest on the debt at the maximum lawful rate of interest
permitted pursuant to section 535.2, subsection 3, paragraph
"a" from the date costs and expenses are incurred by the
department is a lien on real property, except single and
multi-family residential property, on which the department
incurs costs and expenses creating a liability and owned by
the persons liable under this part or part 5. To perfect the

lien a statement of claim describing the property subject to
the lien, signed by the executive director and approved by the
commission must be filed within one hundred twenty days after
the incurrence of costs and expenses by the department. The
statement shall be filed with, accepted by, and recorded by
the county recorder in the county in which the property
subject to the lien is located. The statement of claim may be
amended to include subsequent liabilities. To be effective
the statement of claim shall be amended and filed within one
hundred twenty days after the occurrence of the event
resulting in the amendment.

The lien may be dissolved by filing with the appropriate
recording officials a certificate, signed by the executive
director, that the debt for which the lien is attached,
together with interest and costs on the debt, has been paid or
legally abated.

Sec. 2. NEW SECTION. 455B.397 FINANCIAL DISCLOSURE.

Immediately upon the incurrence of any liability to the
state under this part, the debtor shall submit to the
executive director a report consisting of documentation of the
debtor's liabilities and assets, including if filed, a copy of
the annual report submitted to the secretary of state pursuant
to chapter 496. A subsequent report pursuant to this section
shall be submitted annually on April 15 for the life of the
debt. These reports shall be kept confidential and shall not
be available to the public.

Sec. 3. Section 455B.430, Code 1985, is amended by adding
the following new subsection:

NEW SUBSECTION. 5. Immediately upon the listing of real
property in the registry of abandoned or uncontrolled disposal
sites, a person liable for cleanup costs shall submit to the
executive director a report consisting of documentation of the
responsible person's liabilities and assets, including if
filed, a copy of the annual report submitted to the secretary
of state pursuant to chapter 496. A subsequent report

pursuant to this section shall be submitted annually on April 15 for the period the site remains on the registry.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2336, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 21, 1986

TERRY E. BRANSTAD
Governor