

MAR 4 2004  
Place On Calendar

Withdrawn  
4/13/04

HOUSE FILE 2435  
BY COMMITTEE ON COMMERCE,  
REGULATION AND LABOR

(SUCCESSOR TO HSB 612)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to immunity from third-party liability for claims  
2 resulting from contaminated property.

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

4  
5  
6

HF 2435

**HOUSE FILE 2435**

**H-8179**

1 Amend House File 2435 as follows:  
2 1. Page 1, by inserting after line 14 the  
3 following:  
4 "5A. "Response action" means any action taken to  
5 reduce, minimize, eliminate, clean up, control,  
6 assess, or monitor a release of hazardous substances,  
7 hazardous waste, or regulated substances to protect  
8 the public health, safety, or the environment."  
9 2. Page 2, by inserting after line 32 the  
10 following:  
11 "Sec. \_\_\_\_ . NEW SECTION. 455B.754 LEGAL  
12 RESPONSIBILITY.  
13 This division shall not be interpreted to affect  
14 the legal responsibility to the state to conduct  
15 response actions under any applicable state law.  
16 Sec. \_\_\_\_ . EFFECTIVE DATE. This Act, being deemed  
17 of immediate importance, takes effect upon enactment."  
18 3. Title page, line 2, by inserting after the  
19 word "property" the following: "and providing an  
20 effective date".

By SANDS of Louisa

**H-8179** FILED MARCH 8, 2004

1 Section 1. NEW SECTION. 455B.751 DEFINITIONS.

2 As used in this division, unless the context otherwise  
3 requires:

4 1. "Acquired" means purchased, leased, or obtained by  
5 inheritance or descent and distribution.

6 2. "Hazardous substance" means the same as defined in  
7 section 455B.381 or 455B.411.

8 3. "Hazardous waste" means the same as defined in section  
9 455B.411.

10 4. "Potentially responsible party" means a person whose  
11 acts or omissions were a proximate cause of the contamination  
12 of the acquired property.

13 5. "Regulated substance" means the same as defined in  
14 section 455B.471.

15 6. "Third party" means any person other than a person that  
16 holds indicia of title to property as identified in section  
17 455B.752, subsection 1, or that has acquired property as  
18 identified in section 455B.752, subsection 2.

19 7. "Third-party liability" means any liability or  
20 obligation arising out of or resulting from contamination of  
21 property by a hazardous substance, hazardous waste, or a  
22 regulated substance, including without limitation, claims for  
23 illness, personal injury, death, consequential damages,  
24 exemplary damages, lost profits, trespass, loss of use of  
25 property, loss of rental value, reduction in property value,  
26 property damages, or statutory or common law nuisance.

27 Sec. 2. NEW SECTION. 455B.752 IMMUNITY FROM THIRD-PARTY  
28 LIABILITY.

29 1. A person that holds indicia of ownership of property  
30 contaminated by a hazardous substance, hazardous waste, or  
31 regulated substance, and that satisfies all of the conditions  
32 provided in section 455B.381, subsection 7, paragraphs "a",  
33 "b", and "c", or section 455B.471, subsection 6, paragraph  
34 "b", subparagraphs (1), (2), and (3), shall not be liable to  
35 any third party for any third-party liability arising from

1 such contamination.

2 2. A person that has acquired property contaminated by a  
3 hazardous substance, hazardous waste, or regulated substance  
4 shall not be liable to any third party for any third-party  
5 liability arising by reason of such contamination, provided  
6 that all of the following apply:

7 a. The person does not knowingly cause or permit a new or  
8 additional hazardous substance, hazardous waste, or regulated  
9 substance to arise on or from the acquired property that  
10 injures a third party or contaminates property owned or leased  
11 by a third party.

12 b. The person is not a potentially responsible party or  
13 affiliated with any potentially responsible party by reason of  
14 any of the following:

15 (1) Any direct or indirect familial relationship.

16 (2) Any contractual, corporate, or financial relationship,  
17 other than a contractual, corporate, or financial relationship  
18 that is created by the instruments by which title to the  
19 property is conveyed or financed or by a contract for the sale  
20 of goods or services.

21 (3) A reorganization of a business entity that is or was a  
22 potentially responsible party.

23 Sec. 3. NEW SECTION. 455B.753 ACCESS TO PROPERTY.

24 A person that holds indicia of title to property as  
25 identified in section 455B.752, subsection 1, or a person that  
26 has acquired property as identified in section 455B.752,  
27 subsection 2, shall provide reasonable access to the acquired  
28 property to any potentially responsible party or to any  
29 authorized regulatory authority for the purpose of  
30 investigating or evaluating any contamination, planning, or  
31 preparing a remedial plan for any abatement of the  
32 contamination, and for any required remediation.

33 EXPLANATION

34 This bill relates to immunity from third-party liability  
35 for claims resulting from contaminated property.

1 The bill provides that a person that holds indicia of  
2 ownership of property contaminated by a hazardous substance,  
3 hazardous waste, or regulated substance, and that satisfies  
4 certain ownership-related requirements, shall not be liable to  
5 any third party for any third-party liability arising from  
6 such contamination. The ownership-related requirements  
7 include holding indicia of ownership primarily to protect that  
8 person's security interest in the hazardous condition site,  
9 where the indicia of ownership was acquired either for the  
10 purpose of securing payment of a loan or other indebtedness,  
11 or in the course of protecting the security interest; not  
12 exhibiting managerial control of, or managerial responsibility  
13 for, the daily operation of the hazardous condition site  
14 through the actual, direct, and continual or recurrent  
15 exercise of managerial control over the hazardous condition  
16 site in which that person holds a security interest, which  
17 managerial control materially divests the borrower, debtor, or  
18 obligor of control; and taking no subsequent action with  
19 respect to the site which causes or exacerbates a release or  
20 threatened release of a hazardous substance.

21 The bill provides that a person that has acquired property  
22 contaminated by a hazardous substance, hazardous waste, or  
23 regulated substance shall not be liable to any third party for  
24 any third-party liability arising by reason of such  
25 contamination, provided that the person does not knowingly  
26 cause or permit a new or additional hazardous substance,  
27 hazardous waste, or regulated substance to arise on or from  
28 the acquired property that injures a third party or  
29 contaminates property owned or leased by a third party, and  
30 the person is not a potentially responsible party or  
31 affiliated with any potentially responsible party by reason of  
32 certain relationships. The relationships include any direct  
33 or indirect familial relationship; any contractual, corporate,  
34 or financial relationship, other than a contractual,  
35 corporate, or financial relationship that is created by the

1 instruments by which title to the property is conveyed or  
2 financed or by a contract for the sale of goods or services;  
3 or a reorganization of a business entity that is or was a  
4 potentially responsible party.

5     The bill requires a person that holds indicia of title to  
6 property as identified in this bill or a person that has  
7 acquired property as identified in this bill to provide  
8 reasonable access to the acquired property to any potentially  
9 responsible party or to any authorized regulatory authority  
10 for the purpose of investigating or evaluating any  
11 contamination, planning, or preparing a remedial plan for any  
12 abatement of the contamination, and for any required  
13 remediation.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

SAWDS, CH  
MAWTERNACH  
QUIRK

SF 02435 HSB612  
COMMERCE, REGULATION & LABOR  
HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
COMMERCE, REGULATION  
AND LABOR BILL BY  
CHAIRPERSON JENKINS)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to immunity from third-party liability for claims  
2 resulting from contaminated property.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

1 Section 1. NEW SECTION. 455B.751 DEFINITIONS.

2 As used in this division, unless the context otherwise  
3 requires:

4 1. "Acquired" means purchased, leased, or obtained by  
5 inheritance or descent and distribution.

6 2. "Hazardous substance" means the same as defined in  
7 section 455B.381 or 455B.411.

8 3. "Hazardous waste" means the same as defined in section  
9 455B.411.

10 4. "Potentially responsible party" means a person whose  
11 acts or omissions were a proximate cause of the contamination  
12 of the acquired property.

13 5. "Regulated substance" means the same as defined in  
14 section 455B.471.

15 6. "Third party" means any person other than a person that  
16 holds indicia of title to property as identified in section  
17 455B.752, subsection 1, or that has acquired property as  
18 identified in section 455B.752, subsection 2.

19 7. "Third-party liability" means any liability or  
20 obligation arising out of or resulting from contamination of  
21 property by a hazardous substance, hazardous waste, or a  
22 regulated substance, including without limitation, claims for  
23 illness, personal injury, death, consequential damages,  
24 exemplary damages, lost profits, trespass, loss of use of  
25 property, loss of rental value, reduction in property value,  
26 property damages, or statutory or common law nuisance.

27 Sec. 2. NEW SECTION. 455B.752 IMMUNITY FROM THIRD-PARTY  
28 LIABILITY.

29 1. A person that holds indicia of ownership of property  
30 contaminated by a hazardous substance, hazardous waste, or  
31 regulated substance, and that satisfies all of the conditions  
32 provided in section 455B.381, subsection 7, paragraphs "a",  
33 "b", and "c", or section 455B.471, subsection 6, paragraph  
34 "b", subparagraphs (1), (2), and (3), shall not be liable to  
35 any third party for any third-party liability arising from

1 such contamination.

2 2. A person that has acquired property contaminated by a  
3 hazardous substance, hazardous waste, or regulated substance  
4 shall not be liable to any third party for any third-party  
5 liability arising by reason of such contamination, provided  
6 that all of the following apply:

7 a. The person does not knowingly cause or permit a new or  
8 additional hazardous substance, hazardous waste, or regulated  
9 substance to arise on or from the acquired property that  
10 injures a third party or contaminates property owned or leased  
11 by a third party.

12 b. The person is not a potentially responsible party or  
13 affiliated with any potentially responsible party by reason of  
14 any of the following:

15 (1) Any direct or indirect familial relationship.

16 (2) Any contractual, corporate, or financial relationship,  
17 other than a contractual, corporate, or financial relationship  
18 that is created by the instruments by which title to the  
19 property is conveyed or financed or by a contract for the sale  
20 of goods or services.

21 (3) A reorganization of a business entity that is or was a  
22 potentially responsible party.

23 Sec. 3. NEW SECTION. 455B.753 ACCESS TO PROPERTY.

24 A person that holds indicia of title to property as  
25 identified in section 455B.752, subsection 1, or a person that  
26 has acquired property as identified in section 455B.752,  
27 subsection 2, shall provide reasonable access to the acquired  
28 property to any potentially responsible party or to any  
29 authorized regulatory authority for the purpose of  
30 investigating or evaluating any contamination, planning, or  
31 preparing a remedial plan for any abatement of the  
32 contamination, and for any required remediation.

33 EXPLANATION

34 This bill relates to immunity from third-party liability  
35 for claims resulting from contaminated property.



1 The bill provides that a person that holds indicia of  
2 ownership of property contaminated by a hazardous substance,  
3 hazardous waste, or regulated substance, and that satisfies  
4 certain ownership-related requirements, shall not be liable to  
5 any third party for any third-party liability arising from  
6 such contamination. The ownership-related requirements  
7 include holding indicia of ownership primarily to protect that  
8 person's security interest in the hazardous condition site,  
9 where the indicia of ownership was acquired either for the  
10 purpose of securing payment of a loan or other indebtedness,  
11 or in the course of protecting the security interest; not  
12 exhibiting managerial control of, or managerial responsibility  
13 for, the daily operation of the hazardous condition site  
14 through the actual, direct, and continual or recurrent  
15 exercise of managerial control over the hazardous condition  
16 site in which that person holds a security interest, which  
17 managerial control materially divests the borrower, debtor, or  
18 obligor of control; and taking no subsequent action with  
19 respect to the site which causes or exacerbates a release or  
20 threatened release of a hazardous substance.

21 The bill provides that a person that has acquired property  
22 contaminated by a hazardous substance, hazardous waste, or  
23 regulated substance shall not be liable to any third party for  
24 any third-party liability arising by reason of such  
25 contamination, provided that the person does not knowingly  
26 cause or permit a new or additional hazardous substance,  
27 hazardous waste, or regulated substance to arise on or from  
28 the acquired property that injures a third party or  
29 contaminates property owned or leased by a third party, and  
30 the person is not a potentially responsible party or  
31 affiliated with any potentially responsible party by reason of  
32 certain relationships. The relationships include any direct  
33 or indirect familial relationship; any contractual, corporate,  
34 or financial relationship, other than a contractual,  
35 corporate, or financial relationship that is created by the

612

1 instruments by which title to the property is conveyed or  
2 financed or by a contract for the sale of goods or services;  
3 or a reorganization of a business entity that is or was a  
4 potentially responsible party.

5     The bill requires a person that holds indicia of title to  
6 property as identified in this bill or a person that has  
7 acquired property as identified in this bill to provide  
8 reasonable access to the acquired property to any potentially  
9 responsible party or to any authorized regulatory authority  
10 for the purpose of investigating or evaluating any  
11 contamination, planning, or preparing a remedial plan for any  
12 abatement of the contamination, and for any required  
13 remediation.

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35