

Sec. 4. Section 153.37, Code 1993, is amended to read as follows:

153.37 DENTAL COLLEGE AND DENTAL HYGIENE PROGRAM FACULTY PERMITS.
The state board of dental examiners may issue to members of the faculty of the college of dentistry a faculty permit entitling the holder to practice dentistry or dental hygiene within the college of dentistry or a dental hygiene program and its affiliated teaching facilities as an adjunct to the faculty members' teaching positions, associated responsibilities, and functions. The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the state board of dental examiners those bona fide members of the college's or a dental hygiene program's faculty who are not licensed and registered to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing the member's duties in the college of dentistry or a dental hygiene program, make written application to the state board of dental examiners for a permit. The permit shall expire on the first day of July next following the date of issuance and may at the discretion of the state board of dental examiners, be renewed on a yearly basis. A fee of fifteen dollars shall be paid by the applicant for issuance and renewal of the faculty permit. The fee for the faculty permit and the renewal shall be set by the state board of dental examiners based upon the administrative cost of issuance of the permit. The fee shall be deposited in the same manner as fees provided for in section 147.82. The faculty permit shall be valid during the time the holder remains a member of the faculty of the college of dentistry and shall subject the holder to all provisions of this chapter.

Approved April 26, 1993

CHAPTER 42

LIABILITY FOR ENVIRONMENTAL CONTAMINATION

H.F. 645

AN ACT relating to exemptions from liability for environmental contamination and providing for a state lien on the property and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 455B.171, subsection 11, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purpose of imposing liability for violation of a section of this part, or a rule or regulation adopted by the department of natural resources under this part, "person" does not include a person who holds indicia of ownership in contaminated property from which prohibited discharges, deposits, or releases of pollutants into any water of the state have been or are evidenced, if the person has satisfied the requirements of section 455B.381, subsection 7, unnumbered paragraph 2, with respect to the contaminated property, regardless of whether the department has determined that the contaminated property constitutes a hazardous condition site.

Sec. 2. Section 455B.381, subsection 7, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Person having control over a hazardous substance" does not include a person who holds indicia of ownership in a hazardous condition site, if the person satisfies all of the following:

a. Holds indicia of ownership primarily to protect that person's security interest in the hazardous condition site, where the indicia of ownership was acquired either for the purpose of securing payment of a loan or other indebtedness, or in the course of protecting the security interest. The term "primarily to protect that person's security interest" includes, but is not limited to, ownership interests acquired as a consequence of that person exercising rights as

a security interest holder in the hazardous condition site, where the exercise is necessary or appropriate to protect the security interest, to preserve the value of the collateral, or to recover a loan or indebtedness secured by the interest. The person holding indicia of ownership in a hazardous condition site and who acquires title or a right to title to the site upon default under the security arrangement, or at, or in lieu of, foreclosure, shall continue to hold the indicia of ownership primarily to protect that person's security interest so long as the subsequent actions of the person with respect to the site are intended to protect the collateral secured by the interest, and demonstrate that the person is seeking to sell or liquidate the secured property rather than holding the property for investment purposes.

b. Does not exhibit managerial control of, or managerial responsibility for, the daily operation of the hazardous condition site through the actual, direct, and continual or recurrent exercise of managerial control over the hazardous condition site in which that person holds a security interest, which managerial control materially divests the borrower, debtor, or obligor of control.

c. Has taken no subsequent action with respect to the site which causes or exacerbates a release or threatened release of a hazardous substance.

Sec. 3. Section 455B.392, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. a. There is no liability under this section for a person who has satisfied the requirements of section 455B.381, subsection 7, unnumbered paragraph 2, regardless of when that person acquired title or right to title to the hazardous condition site, except that a person otherwise exempt from liability under this subsection shall be liable to the state for the lesser of:

(1) The total reasonable cleanup costs incurred by the state to cleanup a hazardous substance at the hazardous condition site; or

(2) The amount representing the postcleanup fair market value of the property comprising the hazardous condition site.

b. Liability under this subsection shall only be imposed when the person holds title to the hazardous condition site at the time the state incurs reasonable cleanup costs.

c. For purposes of this subsection, "postcleanup fair market value" means the actual amount of consideration received by such person upon sale or transfer of the hazardous condition site which has been cleaned up by the state to a bona fide purchaser for value.

d. Cleanup expenses incurred by the state shall be a lien upon the real estate constituting the hazardous condition site, recordable and collectable in the same manner as provided for in section 424.11, subject to the terms of this subsection. The lien shall attach at the time the state incurs expenses to clean up the hazardous condition site. The lien shall be valid as against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, only when a notice of the lien is filed with the recorder of the county in which the property is located. Upon payment by the person to the state, of the amount specified in this subsection, the state shall release the lien. If no lien has been recorded at the time the person sells or transfers the property, then the person shall not be liable for any cleanup costs incurred by the state.

Sec. 4. Section 455B.418, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. For the purpose of determining violations under this section and section 455B.417, the term "person" does not include a person who holds indicia of ownership in the hazardous waste or hazardous substance disposal site which contains a hazardous waste or hazardous substance, or where hazardous substances or wastes are treated, stored, or disposed of, if such person has satisfied the requirements of section 455B.381, subsection 7, unnumbered paragraph 2, with respect to the disposal site, whether or not the director has determined that such disposal site constitutes a hazardous condition site.

Sec. 5. Section 455B.471, subsection 6, unnumbered paragraph 2, Code 1993, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

"Owner" does not include a person who holds indicia of ownership in the underground storage tank or the tank site property if all of the following apply:

(a) The person holds indicia of ownership primarily to protect that person's security interest in the underground storage tank or tank site property, where such indicia of ownership was

acquired either for the purpose of securing payment of a loan or other indebtedness, or in the course of protecting the security interest. The term "primarily to protect that person's security interest" includes but is not limited to ownership interests acquired as a consequence of that person exercising rights as a security interest holder in the underground storage tank or tank site property, where such exercise is necessary or appropriate to protect the security interest, to preserve the value of the collateral, or to recover a loan or indebtedness secured by such interest. The person holding indicia of ownership in the underground storage tank or tank site property and who acquires title or a right to title to such underground storage tank or tank site property upon default under the security arrangement, or at, or in lieu of, foreclosure, shall continue to hold such indicia of ownership primarily to protect that person's security interest so long as subsequent actions taken by that person with respect to the underground storage tank or tank site property are intended to protect the collateral secured by the interest, and demonstrate that the person is seeking to sell or liquidate the secured property rather than holding the property for investment purposes.

(b) The person does not exhibit managerial control of, or managerial responsibility for, the daily operation of the underground storage tank or tank site property through the actual, direct, and continual or recurrent exercise of managerial control over the underground storage tank or tank site property in which that person holds a security interest, which managerial control materially divests the borrower, debtor, owner or operator of the underground storage tank or tank site property of such control.

(c) The person has taken no subsequent action with respect to the site which causes or exacerbates a release or threatened release of a hazardous substance.

Sec. 6. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 26, 1993

CHAPTER 43

UNIFORM COMMERCIAL CODE FINANCING STATEMENTS

S.F. 38

AN ACT providing for requirements of a financing statement filed under the uniform commercial code, and providing applicability and effective dates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 554.9402, subsection 8, Code 1993, is amended to read as follows:

8. A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. The change of the mailing address of the debtor from a rural route address to a street address as a result of the implementation of an E911 emergency telephone system which occurs during the period that the financing statement is effective shall not be considered seriously misleading.

Sec. 2. APPLICABILITY AND EFFECTIVE DATES.

1. This Act applies to all financing statements filed before, on, or after the effective date of this Act.

2. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 26, 1993