

28 19-8-119, Utah Code Annotated 1953



30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **19-8-119** is enacted to read:

32 **19-8-119. Brownfield sites - Limitations on liability.**

33 (1) As used in this section:

34 (a) "Bona fide prospective purchaser" has the meaning given in 42 U.S.C. § 9601(40),

35 Comprehensive Environmental Response, Compensation, and Liability Act of 1980,

36 substituting "executive director" for "President" and "title" for "chapter."

37 (b) "Contiguous landowner" means a person who qualifies for the exemption from

38 liability set forth in 42 U.S.C. § 9607(q)(1), Comprehensive Environmental Response,

39 Compensation, and Liability Act of 1980, substituting "executive director" for "President" and

40 "title" for "chapter."

41 (c) "Innocent purchaser" means a person who qualifies for the exemption from liability

42 set forth in 42 U.S.C. § 9607(b)(3), Comprehensive Environmental Response, Compensation,

43 and Liability Act of 1980.

44 (2) Notwithstanding any other provision of law and regardless of whether a person is a

45 participant in a program under this chapter, a person who is a bona fide prospective purchaser,

46 a contiguous landowner, or an innocent purchaser is not liable for any response action that may

47 be required with respect to any real property pursuant to:

48 (a) Title 19, Chapter 5, Water Quality Act, except as provided in Subsection (7);

49 (b) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, except as provided in

50 Subsection (7); or

51 (c) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act.

52 (3) This section does not limit any defense that may be available to a contiguous

53 landowner under any other provision of law, and does not impose liability on a contiguous

54 landowner that is not otherwise imposed by 42 U.S.C. § 9607(a), Comprehensive

55 Environmental Response, Compensation, and Liability Act of 1980.

56 (4) The executive director may issue a written assurance that no enforcement action

57 under this chapter or any other relevant chapter will be initiated against a contiguous

58 landowner, and an assurance that the state will not bring a cost recovery action or contribution

59 claim against a contiguous landowner under 42 U.S.C. § 9613(f), Comprehensive
60 Environmental Response, Compensation, and Liability Act of 1980.

61 (5) Subject to Subsection (2), this section does not limit the authority of the
62 Department of Environmental Quality to require any person responsible for the contamination
63 to perform a response action.

64 (6) If the state incurs unrecovered response costs concerning real property for which a
65 bona fide prospective purchaser of the real property is not liable under this section, the
66 executive director may place a lien on the real property in accordance with 42 U.S.C. §§
67 9607(r)(2), (3), and (4), Comprehensive Environmental Response, Compensation, and Liability
68 Act of 1980, substituting "executive director" for "Administrator" and "state" for "United
69 States."

70 (7) This section does not diminish or alter the authority of the state or the
71 responsibilities of persons under any program or authority delegated to the state by the United
72 States Environmental Protection Agency.

73 (8) The provisions of this section apply only to real property that is acquired on or after
74 May 3, 2004.

Legislative Review Note
as of 1-28-04 9:03 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0180

Brownfield Properties - Amendments

12-Feb-04

10:38 AM

State Impact

Provisions of this bill can be handled within existing budgets.

Individual and Business Impact

This bill may provide some savings to certain catagorical purchasers protected by provisions of the bill.

Office of the Legislative Fiscal Analyst