

By: Representative Moody

To: Conservation and Water Resources

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1084

1 AN ACT TO PROVIDE IMMUNITY TO CERTAIN PERSONS SEEKING TO
2 REMEDIATE PROPERTY ON SITES THAT ARE ON THE NATIONAL PRIORITIES
3 LIST OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY OR THAT
4 ARE PROPOSED TO BE ON THE LIST OR THAT ARE ELIGIBLE TO BE ON THE
5 LIST; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** For purposes of this act, the following words and
8 phrases shall have the meanings ascribed in this section, unless
9 the context clearly indicates otherwise:

10 (a) "NPL property subject to restoration" means any
11 property on a site that is (i) proposed by the United States
12 Environmental Protection Agency for the National Priorities List
13 (NPL) but not listed on the NPL; (ii) eligible to be listed on the
14 NPL; or (iii) listed on the NPL, except those NPL sites for which
15 the United States Environmental Protection Agency has issued
16 certificates of completion of the remediation set forth in the
17 records of decision for those sites.

18 (b) "Bona fide prospective purchaser" means a person
19 who acquires ownership of a facility located on NPL property
20 subject to restoration and who establishes the criteria set forth
21 in 42 USCS Section 9601(40).

22 (c) "Owner of NPL property subject to restoration"
23 means a person who has purchased or otherwise is the owner of
24 record, other than the owner who caused the contamination, of NPL
25 property subject to restoration.

26 **SECTION 2.** (1) If a person who is a bona fide prospective
27 purchaser or owner, other than the owner who caused the
28 contamination, of NPL property subject to restoration complies



29 with all requirements of the United States Environmental
30 Protection Agency, or state or federal law, which may be imposed
31 with regard to the property, then he shall not be liable to
32 persons other than the United States or the state for
33 contamination or remediation of the NPL property subject to
34 restoration.

35 (2) The immunity provided under this section applies to the
36 following persons to the same extent as to the bona fide
37 prospective purchaser or owner, other than the owner who caused
38 the contamination, of the NPL property subject to restoration:

39 (a) Any person under the direction or control of the
40 bona fide prospective purchaser or owner, other than the owner who
41 caused the contamination, of NPL property subject to restoration
42 with regard to the remediation or redevelopment of the NPL
43 property subject to restoration;

44 (b) Any future owner, other than the owner who caused
45 the contamination, of the NPL property subject to restoration;

46 (c) Any person who develops, redevelops or lawfully
47 occupies the NPL property subject to restoration;

48 (d) Any lender or fiduciary that provided financing for
49 remediation or redevelopment of the NPL property subject to
50 restoration; and

51 (e) Any successor or assign of a person to whom the
52 immunity granted under this section applies.

53 (3) The immunity provided under this section shall be void
54 if a person to whom it is granted fails to comply with any order,
55 rule or regulation of the United States Environmental Protection
56 Agency or the Department of Environmental Quality pertaining to
57 the NPL property subject to restoration, or any state or federal
58 law pertaining to the environment.

59 (4) This section shall not create a defense against the
60 imposition of criminal, civil or administrative penalties for
61 violations of law on the part of the person to whom the immunity



62 is provided. Further, this section shall not affect the right of
63 any person alleged to have suffered damages in connection with the
64 NPL property subject to restoration to seek relief against a
65 person other than those described in this section as protected by
66 the immunity.

67 (5) The immunity granted under this section shall not
68 relieve any person from liability for payment of all costs
69 reasonably related to the remediation of the NPL property subject
70 to restoration which are required by the United States
71 Environmental Protection Agency and the Department of
72 Environmental Quality.

73 **SECTION 3.** This act shall take effect and be in force from
74 and after its passage.

