

By: Representative Moody

To: Conservation and Water Resources

HOUSE BILL NO. 1084
(As Passed the House)

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; or (ii) listed on the NPL, except
14 those NPL sites for which the United States Environmental
15 Protection Agency has issued certificates of completion of the
16 remediation set forth in the records of decision for those sites.

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

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

25 **SECTION 2.** (1) If a person who is a bona fide prospective
26 purchaser or owner, other than any person or entity who caused the
27 contamination, of NPL property subject to restoration complies
28 with all requirements of the United States Environmental



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

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

39 (a) Any person under the direction or control of the
40 bona fide prospective purchaser or owner, other than any person or
41 entity who caused the contamination, of NPL property subject to
42 restoration with regard to the remediation or redevelopment of the
43 NPL property subject to restoration, except that such person shall
44 not be immune from any liability which may result from remediating
45 or cleaning the NPL property subject to restoration when he
46 remediates or cleans the property improperly or insufficiently or
47 without complying with any order, rule or regulation of the United
48 States Environmental Protection Agency or Department of
49 Environmental Quality or any state or federal law pertaining to
50 the environment;

51 (b) Any future owner, other than any person or entity
52 who caused the contamination, of the NPL property subject to
53 restoration;

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

56 (d) Any lender or fiduciary that provided financing for
57 remediation or redevelopment of the NPL property subject to
58 restoration; and

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



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

67 (4) This section shall not create a defense against the
68 imposition of criminal, civil or administrative penalties for
69 violations of law on the part of the person to whom the immunity
70 is provided. Further, this section shall not affect the right of
71 any person alleged to have suffered damages in connection with the
72 NPL property subject to restoration to seek relief against a
73 person other than those described in this section as protected by
74 the immunity.

75 (5) The immunity granted under this section shall not
76 relieve any person from liability for payment of all costs
77 reasonably related to the remediation of the NPL property subject
78 to restoration which are required by the United States
79 Environmental Protection Agency and the Department of
80 Environmental Quality.

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

