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HEALTH AND SAFETY CODE - HSC

DIVISION 45. HAZARDOUS SUBSTANCE RESPONSE [78000 - 81050] (*Division 45 added by Stats. 2022, Ch. 257, Sec. 2.)*

PART 2. HAZARDOUS SUBSTANCE ACCOUNT [78000 - 81050] (*Part 2 added by Stats. 2022, Ch. 257, Sec. 2.)*

CHAPTER 8. Cost Recovery [79650 - 79955] (*Chapter 8 added by Stats. 2022, Ch. 257, Sec. 2.)*

ARTICLE 6. Liability of Residential Property Owner [79780 - 79800] (*Article 6 added by Stats. 2022, Ch. 257, Sec. 2.)*

79780. For purposes of this article, the following definitions apply:

(a) "Owner" means either (1) the owner of property who occupies a single-family residence or one-half of a duplex constructed on the property, or (2) the owner of common areas within a residential common interest development who owns those common areas for the benefit of the residential homeowners. This subdivision does not include the developer of the common interest development.

(b) "Property" means either (1) real property of five acres or less that is zoned for, and on which has been constructed, a single-family residence, or (2) common areas within a residential common interest development.

(*Added by Stats. 2022, Ch. 257, Sec. 2. (AB 2293) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 4 of Stats. 2022, Ch. 257.*)

79785. Notwithstanding any other provision of this part, this article governs liability pursuant to this part for an owner of property.

(*Added by Stats. 2022, Ch. 257, Sec. 2. (AB 2293) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 4 of Stats. 2022, Ch. 257.*)

79790. (a) Notwithstanding any other provision of this part, an owner of property that is the site of a hazardous substance release is presumed to have no liability pursuant to this part for either of the following:

(1) A hazardous substance release that has occurred on the property.

(2) A release of a hazardous substance to groundwater underlying the property if the release occurred at a site other than the property.

(b) The presumption may be rebutted as provided in Section 79800.

(*Added by Stats. 2022, Ch. 257, Sec. 2. (AB 2293) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 4 of Stats. 2022, Ch. 257.*)

79795. An action for recovery of costs or expenditures incurred from the state account pursuant to this part in response to a hazardous substance release may not be brought against an owner of property unless the department first certifies that, in the opinion of the department, one of the following applies:

(a) The hazardous substance release that occurred on the property occurred after the owner acquired the property.

(b) The hazardous substance release that occurred on the property occurred before the owner acquired the property and at the time of acquisition the owner knew or had reason to know of the hazardous substance release.

(c) The owner of property where there has been a release of a hazardous substance to groundwater underlying the property took, or is taking, one or more of the following actions:

(1) Caused or contributed to a release of a hazardous substance to the groundwater.

(2) Fails to provide the department, or its authorized representative, with access to the property.

(3) Interferes with response action activities.

(Added by Stats. 2022, Ch. 257, Sec. 2. (AB 2293) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 4 of Stats. 2022, Ch. 257.)

79800. In an action brought against an owner of property to recover costs or expenditures incurred from the state account pursuant to this part in response to a hazardous substance release, the presumption established in Section 79790 may be rebutted if it is established by a preponderance of the evidence that the facts upon which the department made the certification pursuant to subdivision (a), (b), or (c) of Section 79795 are true.

(Added by Stats. 2022, Ch. 257, Sec. 2. (AB 2293) Effective January 1, 2023. Operative January 1, 2024, pursuant to Sec. 4 of Stats. 2022, Ch. 257.)