



AN ACT PROVIDING A LOCAL GOVERNMENT ENTITY WITH A DEFENSE AGAINST LIABILITY IN A TORT ACTION FOR DAMAGES SUFFERED AS A RESULT OF AN ACT OR OMISSION THAT CONSTITUTES A VIOLATION OF THE CLEAN WATER STATUTES, THE SOLID WASTE MANAGEMENT ACT, THE HAZARDOUS WASTE ACT, PETROLEUM STORAGE TANK CLEANUP REQUIREMENTS, OR THE UNDERGROUND STORAGE TANK ACT ON PROPERTY ACQUIRED BY VIRTUE OF THE LOCAL GOVERNMENT'S AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Liability -- defense and exclusions. (1) A person has a defense against liability in a tort action for damages suffered as a result of an act or omission that constitutes a violation of this chapter, a rule adopted under this chapter, or a condition of a permit or authorization required by a rule adopted under this chapter if the person can establish by a preponderance of the evidence that:

(a) the person is a government entity that acquired ownership or control through bankruptcy, tax delinquency, abandonment, or lien foreclosure in which the government entity acquired title by virtue of the government entity's authority;

(b) the person has not caused or contributed to the violation; and

(c) the person is making an effort to abate the violation.

(2) For the purposes of this part, "government entity" includes a consolidated city-county, a county, and an incorporated city or town.

Section 2. Liability -- defense and exclusions. (1) A person has a defense against liability in a tort action for damages suffered as a result of an act or omission that constitutes a violation of this part, a rule adopted under this part, or a condition of a permit or authorization required by a rule adopted under this part if the person can establish by a preponderance of the evidence that:

(a) the person is a government entity that acquired ownership or control through bankruptcy, tax

delinquency, abandonment, or lien foreclosure in which the government entity acquired title by virtue of the government entity's authority;

- (b) the person has not caused or contributed to the violation; and
- (c) the person is making an effort to abate the violation.

(2) For the purposes of this part, "government entity" includes a consolidated city-county, a county, and an incorporated city or town.

Section 3. Liability -- defense and exclusions. (1) A person has a defense against liability in a tort action for damages suffered as a result of an act or omission that constitutes a violation of this part, a rule adopted under this part, or a condition of a permit or authorization required by a rule adopted under this part if the person can establish by a preponderance of the evidence that:

(a) the person is a government entity that acquired ownership or control through bankruptcy, tax delinquency, abandonment, or lien foreclosure in which the government entity acquired title by virtue of the government entity's authority;

- (b) the person has not caused or contributed to the violation; and
- (c) the person is making an effort to abate the violation.

(2) For the purposes of this part, "government entity" includes a consolidated city-county, a county, and an incorporated city or town.

Section 4. Liability -- defense and exclusions. (1) A person has a defense against liability in a tort action for damages suffered as a result of an act or omission that constitutes a violation of this part, a rule adopted under this part, or a condition of a permit or authorization required by a rule adopted under this part if the person can establish by a preponderance of the evidence that:

(a) the person is a government entity that acquired ownership or control through bankruptcy, tax delinquency, abandonment, or lien foreclosure in which the government entity acquired title by virtue of the government entity's authority;

- (b) the person has not caused or contributed to the violation; and
- (c) the person is making an effort to abate the violation.

(2) For the purposes of this part, "government entity" includes a consolidated city-county, a county, and

an incorporated city or town.

Section 5. Liability -- defense and exclusions. (1) A person has a defense against liability in a tort action for damages suffered as a result of an act or omission that constitutes a violation of this part, a rule adopted under this part, or a condition of a permit or authorization required by a rule adopted under this part if the person can establish by a preponderance of the evidence that:

(a) the person is a government entity that acquired ownership or control through bankruptcy, tax delinquency, abandonment, or lien foreclosure in which the government entity acquired title by virtue of the government entity's authority;

(b) the person has not caused or contributed to the violation; and

(c) the person is making an effort to abate the violation.

(2) For the purposes of this part, "government entity" includes a consolidated city-county, a county, and an incorporated city or town.

Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 75, chapter 5, and the provisions of Title 75, chapter 5, apply to [section 1].

(2) [Section 2] is intended to be codified as an integral part of Title 75, chapter 10, part 2, and the provisions of Title 75, chapter 10, part 2, apply to [section 2].

(3) [Section 3] is intended to be codified as an integral part of Title 75, chapter 10, part 4, and the provisions of Title 75, chapter 10, part 4, apply to [section 3].

(4) [Section 4] is intended to be codified as an integral part of Title 75, chapter 11, part 3, and the provisions of Title 75, chapter 11, part 3, apply to [section 4].

(5) [Section 5] is intended to be codified as an integral part of Title 75, chapter 11, part 5, and the provisions of Title 75, chapter 11, part 5, apply to [section 5].

Section 7. Saving clause. [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

Section 8. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid

part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Two-thirds vote required. Because [this act] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

Section 10. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 0137, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2013.

Speaker of the House

Signed this _____ day
of _____, 2013.

SENATE BILL NO. 137

INTRODUCED BY OLSON, REGIER

AN ACT PROVIDING A LOCAL GOVERNMENT ENTITY WITH A DEFENSE AGAINST LIABILITY IN A TORT ACTION FOR DAMAGES SUFFERED AS A RESULT OF AN ACT OR OMISSION THAT CONSTITUTES A VIOLATION OF THE CLEAN WATER STATUTES, THE SOLID WASTE MANAGEMENT ACT, THE HAZARDOUS WASTE ACT, PETROLEUM STORAGE TANK CLEANUP REQUIREMENTS, OR THE UNDERGROUND STORAGE TANK ACT ON PROPERTY ACQUIRED BY VIRTUE OF THE LOCAL GOVERNMENT'S AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.