

**1999 DRAFTING REQUEST**

**Bill**

Received: **09/22/98**

Received By: **traderc**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Wong**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Environment - env. cleanup**

Extra Copies: **DNR  
PEN**

**Topic:**

DOA:.....Wong - Responsibility of lenders and representatives for environmental cleanup

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	traderc 10/6/98	gilfokm 10/6/98	lpaasch 10/6/98	_____	lrb_docadmin 10/6/98		

FE Sent For:

<END>

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1?	traderc	1-10-6 King	10-6-98 L.P.	<del>10-6-98</del> PS			

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<END>

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Received: 09/22/98

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Wanted: As time permits

Identical to LRB:

For: Natural Resources

By/Representing:

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May Contact:

Alt. Drafters:

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Extra Copies:

**Topic:**

Responsibility of lenders and representatives for environmental cleanup

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/?	traderc		106 LP.	<del>106 LP.</del>			

FE Sent For:

<END>

**Division:** Air and Waste  
**Bureau:** Remediation and Redevelopment  
**Issue/Topic:** Responsibility of lenders and representatives (s. 292.21(1)(c), Stats.)  
**Proposed Change:** Repeal s. 292.21(1)(c)1.b. and create s. 292.21(1)(c)1.g.1.-3.

292.21(1)(c) *Acquisition of real property.*

1. . . . .

~~b. Any discharge of a hazardous substance was not from an underground storage tank regulated under 42 USC 6991 to 6991i.~~

. . . . .

g. The lender:

1. agrees to allow the department, any authorized representative of the department, any party that possessed or controlled the hazardous substance or caused the discharge of the hazardous substance and any consultant or contractor of such party to enter the property to take action to respond to the discharge; and

2. agrees to avoid any interference with action undertaken to respond to the discharge and to avoid actions that worsen the discharge; and

3. agrees to any other condition that the department determines is reasonable and necessary to ensure that the department or other person described in subd. 1. can adequately respond to the discharge.

2. . . . .

**Explanatory Note:** Section 292.21(1)(c), Stats., provides a liability exemption from the Spill Law to lenders that acquire contaminated property. We suggest two changes to this statutory language:

**1) Underground Storage Tanks –**

The current language requires lenders to address any discharge of a hazardous substance from an underground storage tank regulated under 42 USC 6991 to 6991i., when foreclosing on a property, even though they are exempt from investigating or cleaning up any other type of hazardous substance discharge. We request elimination of the requirement that lenders investigate and cleanup any discharge of a hazardous substance from an underground storage tank through the deletion of s. 292.21(1)(c)1.b., Stats. The exclusion of underground storage tanks from the lender liability exemption may, in some situations, prevent a lender from pursuing redevelopment of a brownfield contaminated by a leaking underground storage tank.

**2) Access to Sites –**

The current statutory language does not give the state or the responsible party the authority to access sites and conduct environmental investigations when a lender acquires a liability exemption for the property under s. 292.21(1)(c), Stats. We request statutory language that requires the lender, as a condition for receiving the exemption, to give the Department or the responsible party access to the property for the purpose of conducting environmental investigations or cleanups. The authority to access a site that a lender acquires under s. 292.21(1)(c), Stats. provides the Department with greater ability to require a viable responsible party to proceed with a cleanup, especially if the lender's property is impacted by off-site contamination.

**Desired Effective Date:** Effective date of budget

**Contact Person:** Eric Ebersberger, MB/5, 266-0818; Sam Essak, RR/3, 266-7019



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0256/1

RCT.....  
King

SOON

DOA:.....Wong - Responsibility of lenders and representatives for environmental cleanup

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT <sup>Don't Gen. Cat.</sup> relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**ENVIRONMENT**

**HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP** ✓

Current law generally requires a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance to restore the environment to the extent practicable and to minimize the harmful effects of the discharge on the environment. Under current law, a lender of money who acquires land through enforcement of a security interest is not liable for a discharge of a hazardous substance on that land if certain requirements are satisfied. This bill requires a lender to provide access to the land on which the discharge occurred for the purpose of letting someone else conduct a cleanup of the hazardous substance. Under current law, the lender's liability exemption is not available if the discharge is from an underground petroleum storage tank. This bill makes the lender's liability exemption available if the discharge is from an underground petroleum storage tank. ✓

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1 SECTION 1. 292.21 (1) (c) 1. b. of the statutes is repealed.

2 SECTION 2. 292.21 (1) (c) 1. g. of the statutes is created to read:

3 <sup>(c) l.g. lender</sup>  
~~292.21~~ 292.13 (1) ~~(d)~~ The person agrees to allow the department, any authorized  
 4 representatives of the department, any party that possessed or controlled the  
 5 hazardous substance or caused the discharge of the hazardous substance and any  
 6 consultant or contractor of such a party to enter the <sup>real</sup> property to take action to respond  
 7 to the discharge.

8 History: 1997 a. 27.

SECTION 3. 292.21 (1) (c) 1. h. of the statutes is created to read:

9 <sup>292.21 (c) l.h. lender</sup>  
~~292.21~~ 292.13 (1) ~~(h)~~ The person agrees to avoid any interference with action  
 10 undertaken to respond to the discharge and to avoid actions that worsen the  
 11 discharge.

12 History: 1997 a. 27.

SECTION 4. 292.21 (1) (c) 1. i. of the statutes is created to read:

13 <sup>(c) l.i. lender</sup>  
~~292.21~~ 292.13 (1) ~~(i)~~ The person agrees to any other condition that the department  
 14 determines is reasonable and necessary to ensure that the department or other  
 15 person described in <sup>subd. l.g.</sup> par. ~~(d)~~ can adequately respond to the discharge.

16 History: 1997 a. 27.

(END)

✓ Kopen - I brought in  
 secs. 2 to 4 using  
 add'l section, then I  
 changed the components to action  
 creates.  
 Seely



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-0256/1  
RCT:kmg:lp

DOA:.....Wong - Responsibility of lenders and representatives for  
environmental cleanup

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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