S T A T E O F N E W Y O R K

S. 228 A. 335

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2009

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to determining municipality responsibility for hazardous waste remedial programs

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 4 of section 27-1313 of the environmental conservation law, as added by chapter 282 of the laws of 1979, is amended to read as follows:

4. Any order issued pursuant to subdivision three of this section shall be issued only after notice and the opportunity for a hearing is provided to persons who may be the subject of such order. The commissioner shall determine which persons are responsible pursuant to said subdivision according to applicable principles of statutory or common law liability, EXCEPT THAT A MUNICIPALITY WHICH RECEIVED TITLE TO THE PROPERTY THROUGH ESCHEAT, OR THROUGH ANY OTHER INVOLUNTARY TRANSFER OR ACQUISITION, OR THROUGH THE EXERCISE OF EMINENT DOMAIN AUTHORITY BY PURCHASE OR CONDEMNATION SHALL NOT BE CONSIDERED RESPONSIBLE FOR THE CONTAMINATION OF THE PROPERTY, UNLESS THE MUNICIPALITY GENERATED, TRANSPORTED, OR DISPOSED OF, ARRANGED FOR, OR THE MUNICIPALITY CAUSED THE GENERATION, TRANSPORTATION, OR DISPOSAL OF HAZARDOUS WASTES OR SUBSTANCES LOCATED AT REAL PROPERTY PROPOSED TO BE INVESTIGATED OR TO BE REMEDIATED. Such persons shall be entitled to raise any statutory or common law defense at any such hearing and such defenses shall have the same force and effect at such hearings as they would have in a court of

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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law. In the event a hearing is held, no order shall be issued by the commissioner under subdivision three of this section until a final decision has been rendered. Any such order shall be reviewable pursuant to article seventy-eight of the civil practice law and rules within thirty days after service of such order. The commissioner may request the participation of the attorney general in such hearings.

S 2. This act shall take effect immediately.