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

1848

2009-2010 Regular Sessions

I N A S S E M B L Y

January 12, 2009

Introduced by M. of A. MORELLE, DESTITO, SCHIMMINGER -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, the public health law and the navigation law, in relation to actions for damages relating to the ownership or operation of a property

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

Section 1. The environmental conservation law is amended by adding a new section 3-0319 to read as follows:

S 3-0319. FIDUCIARY.

1. AS USED IN THIS SECTION "FIDUCIARY" MEANS A FIDUCIARY AS DEFINED IN THE ESTATES, POWERS AND TRUSTS LAW.

2. A FIDUCIARY, INCLUDING A TRUSTEE OF AN INTER VIVOS TRUST, SHALL NOT BE LIABLE IN HIS OR HER INDIVIDUAL, OR ITS CORPORATE CAPACITY FOR CLAIMS MADE UNDER TITLE 13 OF ARTICLE 27 OF THIS CHAPTER UNLESS SUCH FIDUCIARY'S NEGLIGENT ACTS OR OMISSIONS OR INSTITUTIONAL MISCONDUCT HAVE CAUSED OR CONTRIBUTED TO THE INACTIVE HAZARDOUS WASTE DISPOSAL SITE AS DEFINED BY SUCH TITLE. NOTHING IN THIS SUBDIVISION SHALL PRECLUDE CLAIMS UNDER SUCH TITLE AGAINST SUCH A FIDUCIARY IN ITS REPRESENTATIVE CAPACITY ON THE ASSETS OF THE ESTATE OR TRUST ADMINISTERED BY THE FIDUCIARY.

S 2. The public health law is amended by adding a new section 1311 to read as follows:

S 1311. FIDUCIARY EXEMPTION. 1. AS USED IN THIS SECTION "FIDUCIARY" MEANS A FIDUCIARY AS DEFINED IN THE ESTATES, POWERS AND TRUSTS LAW.

2. A FIDUCIARY, INCLUDING A TRUSTEE OF AN INTER VIVOS TRUST, SHALL NOT BE LIABLE IN HIS OR HER INDIVIDUAL, OR ITS CORPORATE CAPACITY FOR CLAIMS MADE UNDER THIS CHAPTER UNLESS SUCH FIDUCIARY'S NEGLIGENT ACTS OR OMISSIONS OR INSTITUTIONAL MISCONDUCT HAVE CAUSED OR CONTRIBUTED TO THE INACTIVE HAZARDOUS WASTE DISPOSAL SITE AS DEFINED BY TITLE THIRTEEN OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW. NOTHING IN THIS SUBDIVISION SHALL PRECLUDE CLAIMS UNDER SUCH TITLE AGAINST SUCH A

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

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FIDUCIARY IN ITS REPRESENTATIVE CAPACITY ON THE ASSETS OF THE ESTATE OR TRUST ADMINISTERED BY THE FIDUCIARY.

S 3. Subdivision 4 of section 181 of the navigation law is amended by adding a new paragraph (d) to read as follows:

(D) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, A FIDUCIARY, INCLUDING A TRUSTEE OF AN INTER VIVOS TRUST, SHALL NOT BE LIABLE IN HIS OR HER INDIVIDUAL, OR ITS CORPORATE CAPACITY FOR CLAIMS MADE UNDER THIS CHAPTER UNLESS SUCH FIDUCIARY'S NEGLIGENT ACTS OR OMISSIONS OR INSTITUTIONAL MISCONDUCT HAVE CAUSED OR CONTRIBUTED TO THE INACTIVE HAZARDOUS WASTE DISPOSAL SITE AS DEFINED BY TITLE THIRTEEN OF ARTICLE TWENTY-SEVEN OF THE ENVIRONMENTAL CONSERVATION LAW. NOTHING IN THIS SUBDIVISION SHALL PRECLUDE CLAIMS UNDER SUCH TITLE AGAINST SUCH A FIDUCIARY IN ITS REPRESENTATIVE CAPACITY ON THE ASSETS OF THE ESTATE OR TRUST ADMINISTERED BY THE FIDUCIARY FOR PURPOSES OF THIS SUBDIVISION. FIDUCIARY MEANS A FIDUCIARY AS DEFINED IN THE ESTATES, POWERS AND TRUSTS LAW.

S 4. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to all actions and proceedings pending on or after such effective date in which the party is not an owner or operator of the property.