

BILL ANALYSIS

Senate Research Center
78R11581 SGA-D

H.B. 2252
By: Flores (Hinojosa)
Natural Resources
5/21/2003
Engrossed

DIGEST AND PURPOSE

Current law allows the Texas Commission on Environmental Quality to place a lien against certain landowners without considering an individual's ability to satisfy the lien. H.B. 2252 grants more flexibility to the executive director in determining whether to place a lien on a property and to do so in a way which better benefits the owner of the property.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission on Environmental Quality in SECTION 4 (Section 361.201, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 361.181(c), Health and Safety Code, to define "homestead." Makes a nonsubstantive change.

SECTION 2. Amends Section 361.194(b), Health and Safety Code, to require the executive director to determine whether to prepare an affidavit. Requires the executive director, in determining whether to prepare an affidavit or whether a lien's satisfied, to proceed in the manner the executive director determines will most likely result in the least overall costs to the state after any recovery action and authorizes the executive director to take into account a landowner's financial ability to satisfy the lien, among other factors.

SECTION 3. Amends Section 361.197, Health and Safety Code, by adding Subsection (e) to prohibit TCEQ from filing a cost recovery action under this section against an individual if the individual's only significant asset is a homestead that: includes the facility subject to or affected by a remedial action; is occupied by the individual as a home; and has a fair market value of \$250,000 or less.

SECTION 4. Amends Section 361.201, Health and Safety Code, by adding Subsections (d) and (e), as follows:

(d) Requires TCEQ to determine whether a potentially responsible party is financially capable of conducting any necessary remediation studies or remedial action if the responsible party is an individual whose homestead includes the facility subject to or affected by a remedial action.

(e) Requires TCEQ by rule to adopt criteria for determining the financial capability of an individual under Subsection (d). Requires the rules to provide that the value of the individual's homestead may not be included in the total amount of the individual's assets if the individual is occupying the homestead as a home, and the fair market value of the homestead is \$250,000 or less.

SECTION 5. (a) Provides that the change in law made by Sections 2 and 3 of this Act applies to a lien affidavit prepared under Section 361.194, Health and Safety Code, or a cost recovery action filed under Section 361.197, Health and Safety Code, by TCEQ to recover money spent by TCEQ for a hazardous waste remediation project that is completed under Subchapter F, Chapter 361, Health and Safety Code, on or after the effective date of this Act.

(b) Provides that the change in law made by Section 4 of this Act applies to a potential remediation project for which a remedial investigation or feasibility study under Section 361.185, Health and Safety Code, begins on or after the effective date of this Act.

(c) Requires TCEQ, not later than December 1, 2003, to adopt rules to implement the changes in law made by Sections 361.181, 361.194, 361.197, and 361.201, Health and Safety Code, as amended by this Act.

SECTION 6. Effective date: September 1, 2003.