

CS FOR SENATE BILL NO. 110(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/5/99

Referred: Today's Calendar

Sponsor(s): SENATOR WILKEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to liability involving certain property acquired by a governmental
2 entity; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 46.03.822 is amended by adding a new subsection to read:

5 (l) A unit of state or local government that acquired ownership or control of
6 a vessel or facility through bankruptcy, foreclosure, deed in lieu of foreclosure, tax
7 delinquency proceeding, abandonment, escheat, the exercise of eminent domain
8 authority by purchase or condemnation, or circumstances in which the governmental
9 unit involuntarily acquired title by virtue of its function as a sovereign is not liable as
10 an owner or operator under this section unless the governmental unit has caused or
11 contributed to the release or threatened release of a hazardous substance at or from the
12 facility or vessel, in which case, the governmental unit is subject to liability under this
13 section in the same manner and to the same extent, both procedurally and
14 substantively, as any nongovernmental entity. For purposes of this subsection, "caused

1 or contributed to the release or threatened release of a hazardous substance"

2 (1) does not include the failure to prevent the passive leaching at or
3 from a facility or vessel of a hazardous substance in the air, land, or water that had
4 first been released to the environment by a person other than the governmental unit
5 that acquired the facility or vessel;

6 (2) does not include the exercise or failure to exercise regulatory or
7 enforcement authority;

8 (3) after the ownership or control of the facility or vessel has been
9 acquired by the governmental unit, includes

10 (A) the spilling, leaking, pumping, pouring, emptying, injecting,
11 escaping, or dumping of a hazardous substance from barrels, tanks, containers,
12 or other closed receptacles; or

13 (B) the abandonment or discarding of barrels, tanks, containers,
14 or other closed receptacles containing a hazardous substance.

15 * **Sec. 2.** APPLICABILITY. AS 46.03.822(1), as added in sec. 1 of this Act, applies to a
16 vessel or facility acquired by a governmental entity on or after the effective date of this Act.
17 For purposes of this section, when foreclosure by a municipality is involved, the property is
18 acquired on the date it is deeded to the municipality under AS 29.45.450.

19 * **Sec. 3.** This Act takes effect immediately under AS 01.10.070(c).