

By: Flores

H.B. No. 2252

A BILL TO BE ENTITLED

AN ACT

1
2 relating to exemptions for certain individuals from cost recovery
3 actions and liens placed on homesteads by the Texas Commission on
4 Environmental Quality.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 361.181(c), Health and Safety Code, is
7 amended to read as follows:

8 (c) In this subchapter:

9 (1) "Facility" [~~,"facility"~~] means any building,
10 structure, installation, equipment, pipe, or pipeline (including
11 any pipe into a sewer or publicly owned treatment works, well, pit,
12 pond, lagoon, impoundment, ditch, landfill, storage container,
13 motor vehicle, rolling stock, or aircraft), or any site or area
14 where a hazardous substance has been deposited, stored, disposed
15 of, or placed or otherwise come to be located. The term does not
16 include any consumer product in consumer use or any vessel.

17 (2) "Homestead" has the meaning designated by Section
18 51, Article XVI, Texas Constitution.

19 SECTION 2. Section 361.194, Health and Safety Code, is
20 amended by amending Subsection (a) and adding Subsection (a-1) to
21 read as follows:

22 (a) Except as provided by Subsection (a-1), in [~~In~~] addition
23 to all other remedies available to the state under this chapter or
24 other law, all remediation costs for which a person is liable to the

1 state constitute a lien in favor of the state on the real property
2 and the rights to the real property that are subject to or affected
3 by a remedial action. This provision is cumulative of other
4 remedies available to the state under this chapter.

5 (a-1) Remediation costs for which a person would otherwise be
6 liable to the state under this chapter do not constitute a lien in
7 favor of the state against an individual's homestead that is the
8 individual's only significant asset if the homestead:

9 (1) includes the facility subject to or affected by a
10 remedial action;

11 (2) is occupied by the individual as a home; and

12 (3) has a fair market value of \$250,000 or less.

13 SECTION 3. Section 361.197, Health and Safety Code, is
14 amended by adding Subsection (e) to read as follows:

15 (e) The commission may not file a cost recovery action under
16 this section against an individual if the individual's only
17 significant asset is a homestead that:

18 (1) includes the facility subject to or affected by a
19 remedial action;

20 (2) is occupied by the individual as a home; and

21 (3) has a fair market value of \$250,000 or less.

22 SECTION 4. Section 361.201, Health and Safety Code, is
23 amended by adding Subsections (d) and (e) to read as follows:

24 (d) The commission shall determine whether a potentially
25 responsible party is financially capable of conducting any
26 necessary remediation studies or remedial action if the responsible
27 party is an individual whose homestead includes the facility

1 subject to or affected by a remedial action.

2 (e) The commission by rule shall adopt criteria for
3 determining the financial capability of an individual under
4 Subsection (d). The rules must provide that the value of the
5 individual's homestead may not be included in the total amount of
6 the individual's assets if:

7 (1) the individual is occupying the homestead as a
8 home; and

9 (2) the fair market value of the homestead is \$250,000
10 or less.

11 SECTION 5. (a) The change in law made by Sections 2 and 3 of
12 this Act apply to a lien affidavit prepared under Section 361.194,
13 Health and Safety Code, or a cost recovery action filed under
14 Section 361.197, Health and Safety Code, by the Texas Commission on
15 Environmental Quality to recover money spent by the Texas
16 Commission on Environmental Quality for a hazardous waste
17 remediation project that is completed under Subchapter F, Chapter
18 361, Health and Safety Code, on or after the effective date of this
19 Act.

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

24 (c) Not later than December 1, 2003, the Texas Commission on
25 Environmental Quality shall adopt rules to implement the changes in
26 law made by Sections 361.181, 361.194, 361.197, and 361.201, Health
27 and Safety Code, as amended by this Act.

1 SECTION 6. This Act takes effect September 1, 2003.