



Ohio Revised Code

Section 3746.122 Affirmative defense to action for release of hazardous substances from facility.

Effective: September 15, 2020

Legislation: House Bill 168 - 133rd General Assembly

(A) As used in this section :

(1) "Bona fide prospective purchaser" has the same meaning as in 42 U.S.C. 9601, including the requirement that a person acquired ownership of a facility after January 11, 2002.

(2) "Facility" has the same meaning as in 42 U.S.C. 9601.

(B) In a civil action to address a release or threatened release of hazardous substances from a facility, it is an affirmative defense, and a person is immune from liability to this state for performing investigational and remedial activities, if all of the following apply:

(1) The person demonstrates that the person is a bona fide prospective purchaser of the facility.

(2) The state's cause of action against the person rests upon the person's status as an owner or operator of the facility.

(3) The person does not impede a response action or a natural resource restoration at the facility.

(C) Nothing in this section precludes the application of section 3746.02 of the Revised Code to this section.

(D) The affirmative defense provided for in division (B) of this section may be asserted in either of the following:

(1) A civil action pending on the effective date of this section;

(2) A civil action initiated after the effective date of this section.



(E) The general assembly finds that this section is remedial in nature. Therefore, the general assembly hereby declares its purpose in enacting this section is to do both of the following:

(1) Adopt the federal definition of bona fide prospective purchaser in 42 U.S.C. 9601 for purposes of this section;

(2) Extend the affirmative defense as specified in division (D)(1) of this section.
