

Ohio Revised Code

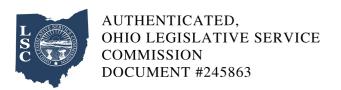
Section 3746.122 Affirmative defense to action for release of hazardous substances from facility.

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.