

58:10-23.11f

LEGISLATIVE HISTORY CHECKLIST

NJSA: 58:10-23.11f

(Spill compensation fund -- liens to cover expenditures -- required filing)

LAWS OF: 1983

CHAPTER: 182

Bill No: A1764

Sponsor(s): Lesniak

Date Introduced: Aug. 5, 1982

Committee: Assembly: Agriculture and Environment

Senate: Energy and Environment

Amended during passage: Yes Amendments denoted by asterisks

Date of Passage: Assembly: Dec. 16, 1982

Senate: March 30, 1983

Date of Approval: May 10, 1983

Following statements are attached if available:

Sponsor statement: Yes //

Committee statement: Assembly Yes //

Senate Yes //

Fiscal Note: /// No

Veto Message: /// No

Message on Signing: /// No

Following were printed:

Reports: /// No

Hearings: /// No

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CHAPTER 182 LAWS OF N. J. 1983
APPROVED 5-10-83

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ASSEMBLY, No. 1764

STATE OF NEW JERSEY

INTRODUCED AUGUST 5, 1982

By Assemblyman LESNIAK

AN ACT concerning lien filing procedures and amending P. L. 1976,
c. 141.

1 BE IT ENACTED by the Senate and General Assembly of the State of
2 New Jersey:

1 1. Section 7 of P. L. 1976, c. 141 (C. 58:10-23.11f.) is amended
2 to read as follows:

3 7. a. Whenever any hazardous substance is discharged, the de-
4 partment may, in its discretion act to remove or arrange for the
5 removal of such discharge or may direct the discharger to remove,
6 or arrange for the removal of, such discharge. **If the discharge*
7 *occurs at any hazardous or solid waste disposal facility, the depart-*
8 *ment may order the facility closed for the duration of the removal*
9 *operations. The department may monitor the discharger's com-*
9A *pliance with any such directive.** Any discharger who fails to
9B comply with such a directive shall be liable to the department in
9C an amount equal to three times the cost of such removal*, and
9D shall be subject to the revocation or suspension of any license or
9E permit he holds authorizing him to operate a hazardous or solid
9F waste disposal facility*.

10 Removal of hazardous substances and actions to minimize
11 damage from discharges shall, to the greatest extent possible, be in
12 accordance with the National Contingency Plan for removal of oil
13 and hazardous substances established pursuant to section 311 (c)
14 (2) of the Federal Water Pollution Control Act Amendments of
15 1972 (P. L. 92-500, 33 U. S. C. 1251 et seq.).

16 Whenever the department acts to remove a discharge or contracts

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics thus is new matter.

Matter enclosed in asterisks or stars has been adopted as follows:

*—Assembly committee amendments adopted September 20, 1982.

17 to secure prospective removal services, it is authorized to draw
18 upon the money available in the fund. Such moneys shall be used
19 to pay promptly for all cleanup costs incurred by the department
20 ~~in removing or in minimizing damage caused by such discharge.~~

21 Nothing in this section is intended to preclude removal and
22 cleanup operations by any person threatened by such discharges,
23 provided such persons coordinate and obtain approval for such
24 actions with ongoing State or federal operations. No action taken
25 by any person to contain or remove a discharge shall be construed
26 as an admission of liability for said discharge. No person who
27 renders assistance in continuing or removing a discharge shall be
28 liable for any civil damages to third parties resulting solely from
29 acts or omissions of such person in rendering such assistance except
30 for acts or omissions of gross negligence or willful misconduct.
31 In the course of cleanup operations, no person shall discharge
32 any detergent into the waters of this State without prior authoriza-
33 tion of the commissioner.

34 b. Notwithstanding any other provisions of P. L. 1976, c. 141
35 (C. 58:10-23.11 et seq.), the department, after notifying the ad-
36 ministrator and subject to the approval of the administrator with
37 regard to the availability of funds therefor, may remove or ar-
38 range for the removal of any hazardous substance which:

39 (1) Has not been discharged from a grounded or disabled vessel
40 if the department determines that such removal is necessary to
41 prevent an imminent discharge of such hazardous substance;

42 (2) Has not been discharged if the department determines that
43 such substance is not satisfactorily stored or contained and said
44 substance possesses any one or more of the following characteris-
45 ties:

46 (a) Explosiveness;

47 (b) High flammability;

48 (c) Radioactivity;

49 (d) Chemical properties which in combination with any dis-
50 charged hazardous substance at the same storage facility would
51 create a substantial risk of imminent damage to public health
52 or safety or an imminent and severe damage to the environ-
53 ment;

54 (e) Is stored in a container from which its discharge is im-
55 minent as a result of contact with a hazardous substance which
56 has already been discharged and such additional discharge
57 would create a substantial risk of imminent damage to public
58 health or safety or imminent and severe damage to the en-
59 vironment; or

60 (f) High toxicity and is stored or being transported in a
61 container or motor vehicle, truck, railcar or other mechanized
62 conveyance from which its discharge is imminent as a result
63 of the significant deterioration or the precarious location of
64 the container, motor vehicle, truck, railcar or other mechanized
65 conveyance, and such discharge would create a substantial risk
66 of imminent damage to public health or safety or imminent
67 and severe damage to the environment; or

68 (3) Has been discharged prior to the effective date of *[the act
69 to which this act is amendatory]* *P. L. 1976, c. 141*, if such dis-
70 charge poses a substantial risk of imminent damage to the public
71 health or safety or imminent and severe damage to the environ-
71A ment.

72 c. If and to the extent that he determines that funds are available,
73 the administrator shall approve and make payments for any cleanup
74 and removal costs incurred by the department for the removal of
75 a hazardous substance other than petroleum as authorized by sub-
76 section b. of this section; provided that in determining the avail-
77 ability of funds, the administrator shall not include as available
78 funds revenues realized or to be realized from the tax on the trans-
79 fer of petroleum to the extent that such revenues result from a
80 tax levied at a rate in excess of \$0.01 per barrel, pursuant to sub-
81 section 9b. of [the act to which this act is amendatory] P. L. 1976,
82 c. 141 (C. 58:10-23.11h), unless the administrator determines that
83 the sum of claims paid by the fund on behalf of petroleum dis-
84 charges or removals plus pending reasonable claims against the
85 fund on behalf of petroleum discharges or removals is greater than
86 30% of the sum of all claims paid by the fund plus all pending,
87 reasonable claims against the fund.

88 d. The administrator may only approve and make payments for
89 any cleanup and removal costs incurred by the department for the
90 removal of a hazardous substance discharged prior to the effective
91 date of *[the act to which this act is amendatory]* *P. L. 1976,
92 c. 141*, pursuant to subsection b. of this section, if, and to the
93 extent that, he determines that adequate funds from another
94 source are not or will not be available; and further provided, with
95 regard to the cleanup and removal costs incurred for discharges
96 which occurred prior to the effective date of *[the act to which
96A this act is amendatory]* *P. L. 1976, c. 141*, the administrator
97 may not during any 1 year period pay more than \$3,000,000.00 in
98 total or more than \$1,500,000.00 for any discharge or related set
99 or series of discharges.

100 e. Notwithstanding any other provisions of P. L. 1976, c. 141,
101 the administrator, upon the approval of the department after con-
102 sidering, among any other relevant factors, its priorities for
103 spending funds pursuant to P. L. 1976, c. 141, and within the limits
104 of available funds, shall make payments for the restoration or re-
105 placement of, or connection to an alternative water supply for, any
106 private residential well destroyed, contaminated, or impaired as a
107 result of a discharge prior to the effective date of P. L. 1976, c. 141,
108 provided however total payments for said purpose shall not exceed
109 \$500,000.00 for the period between the effective date of ***[the]***
110 **this** subsection ***[(e)]*** and January 1, 1983, and in any
111 calendar year thereafter.

112 f. Any expenditures made by the administrator pursuant to this
113 act shall constitute a first priority claim and lien paramount to all
114 other claims and liens upon the revenues and all real and personal
115 property of the discharger, whether or not the discharger is in-
116 solvent. *All liens under P. L. 1976, c. 141 (C. 58:10-23.11 et seq.)*
117 *shall be filed with the clerk or register of deeds and mortgages of the*
118 *county wherein the affected property is located, and with the clerk*
119 *of the Superior Court, and shall immediately attach to, and become*
120 *binding upon, all the property, whether real or personal, of the*
121 *party against whom the lien is filed. If it is believed that the party*
122 *chargeable under the lien has an interest or estate, whether vested*
123 *or contingent, in property within the State, but the exact location*
124 *of the property is not known, then the liens shall be filed with the*
125 *clerk of the Superior Court and shall become binding upon all the*
126 *property of the party chargeable under the lien wherever situated*
127 *within the State.*

1 2. This act shall take effect immediately.

108 provided however total payments for said purpose shall not exceed
109 \$500,000.00 for the period between the effective date of the sub-
110 section (e) and January 1, 1983, and in any calendar year there-
111 after.

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113 act shall constitute a first priority claim and lien paramount to all
114 other claims and liens upon the revenues and all real and personal
115 property of the discharger, whether or not the discharger is in-
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122 *chargeable under the lien has an interest or estate, whether vested*
123 *or contingent, in property within the State, but the exact location*
124 *of the property is not known, then the liens shall be filed with the*
125 *clerk of the Superior Court and shall become binding upon all the*
126 *property of the party chargeable under the lien wherever situated*
127 *within the State.*

1 2. This act shall take effect immediately.

STATEMENT

This bill amends the "Spill Compensation and Control Act," P. L. 1976, c. 141, to require the filing of all liens imposed to recover expenditures made from the "New Jersey Spill Compensation Fund." The liens shall be filed with the clerk of the Superior Court and with the clerk or register of deeds and mortgages of the county wherein the affected property is located. The recording of the liens will give public notice of the State's first priority claim and superior interest in the affected property.

ASSEMBLY AGRICULTURE AND ENVIRONMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 1764
with Assembly committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 1982

This bill amends the "Spill Compensation and Control Act," P. L. 1976, c. 141, to require the filing of all liens imposed to recover expenditures made from the "New Jersey Spill Compensation Fund." Specifically, the bill provides that liens shall be filed with the Clerk of the Superior Court and with the clerk or register of deeds and mortgages of the county wherein the affected property is located. The recording of the liens will give public notice of the State's first priority claim and superior interest in the affected property.

The Assembly Agriculture and Environment Committee amended the bill to bring it into conformance with the most recent text of P. L. 1976, c. 141.

SENATE ENERGY AND ENVIRONMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1764

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 1983

Assembly Bill No. 1764 amends the "Spill Compensation and Control Act," P. L. 1976, c. 141, to require the filing of all liens imposed to recover expenditures made from the "New Jersey Spill Compensation Fund." Specifically, the bill provides that liens shall be filed with the Clerk of the Superior Court and with the clerk or register of deeds and mortgages of the county wherein the affected property is located. The recording of the liens will give public notice of the State's first priority claim and superior interest in the affected property.