115B.03 RESPONSIBLE PERSON.

Subdivision 1. **General rule.** For the purposes of sections 115B.01 to 115B.20, and except as provided in subdivisions 2 and 3, a person is responsible for a release or threatened release of a hazardous substance, or a pollutant or contaminant, from a facility if the person:

(1) owned or operated the facility:

(i) when the hazardous substance, or pollutant or contaminant, was placed or came to be located in or on the facility;

(ii) when the hazardous substance, or pollutant or contaminant, was located in or on the facility but before the release; or

(iii) during the time of the release or threatened release;

(2) owned or possessed the hazardous substance, or pollutant or contaminant, and arranged, by contract, agreement or otherwise, for the disposal, treatment or transport for disposal or treatment of the hazardous substance, or pollutant or contaminant; or

(3) knew or reasonably should have known that waste the person accepted for transport to a disposal or treatment facility contained a hazardous substance, or pollutant or contaminant, and either selected the facility to which it was transported or disposed of it in a manner contrary to law.

Subd. 2. **Employees and employers.** When a person who is responsible for a release or threatened release as provided in subdivision 1 is an employee who is acting in the scope of employment:

(1) The employee is subject to liability under section 115B.04 or 115B.05 only if the employee's conduct with respect to the hazardous substance was negligent under circumstances in which the employee knew that the substance was hazardous and that the conduct, if negligent, could result in serious harm.

(2) The person's employer shall be considered a person responsible for the release or threatened release and is subject to liability under section 115B.04 or 115B.05 regardless of the degree of care exercised by the employee.

Subd. 3. **Owner of real property.** (a) An owner of real property is not a person responsible for the release or threatened release of a hazardous substance from a facility in or on the property unless that person:

(1) was engaged in the business of generating, transporting, storing, treating, or disposing of a hazardous substance at the facility or disposing of waste at the facility, or knowingly permitted others to engage in such a business at the facility;

(2) knowingly permitted any person to make regular use of the facility for disposal of waste;

(3) knowingly permitted any person to use the facility for disposal of a hazardous substance;

(4) knew or reasonably should have known that a hazardous substance was located in or on the facility at the time right, title, or interest in the property was first acquired by the person and engaged in conduct associating that person with the release; or

(5) took action which significantly contributed to the release after that person knew or reasonably should have known that a hazardous substance was located in or on the facility.

(b) For the purpose of paragraph (a), clause (4), a written warranty, representation, or undertaking, which is set forth in an instrument conveying any right, title or interest in the real property and which is executed by the person conveying the right, title or interest, or which is set forth in any memorandum of any such instrument executed for the purpose of recording, is admissible as evidence of whether the person acquiring any right, title, or interest in the real property knew or reasonably should have known that a hazardous substance was located in or on the facility.

(c) Any liability which accrues to an owner of real property under sections 115B.01 to 115B.15 does not accrue to any other person who is not an owner of the real property merely because the other person holds some right, title, or interest in the real property.

(d) An owner of real property on which a public utility easement is located is not a responsible person with respect to any release caused by any act or omission of the public utility which holds the easement in carrying out the specific use for which the easement was granted.

Subd. 4. **Tax-forfeited land.** (a) The state, an agency of the state, or a political subdivision that may be considered an owner of tax-forfeited real property is not a person responsible for a release or threatened release from a facility in or on the property under subdivision 3, paragraph (a), clause (4).

(b) The state, an agency of the state, or a political subdivision is not an operator of a facility in or on tax-forfeited land solely as a result of actions taken to manage, sell, or transfer the land in accordance with chapter 282 and other laws applicable to tax-forfeited land.

(c) Nothing in this subdivision relieves the state, a state agency, or a political subdivision from liability for causing or significantly contributing to the release of a hazardous substance from a facility in or on the land.

Subd. 5. **Eminent domain.** (a) The state, an agency of the state, or a political subdivision is not a responsible person under this section solely as a result of the acquisition of property, or as a result of providing funds for the acquisition of such property either through loan or grant, if the property was acquired by the state, an agency of the state, or a political subdivision:

(1) through exercise of the power of eminent domain;

(2) through negotiated purchase in lieu of, or after filing a petition for the taking of the property through eminent domain;

(3) after adopting a redevelopment or development plan under sections 469.001 to 469.133 describing the property and stating its intended use and the necessity of its taking;

(4) after adopting a layout plan for highway development under sections 161.15 to 161.241 describing the property and stating its intended use and the necessity of its taking; or

(5) through the use of a loan to purchase right-of-way in the seven-county metropolitan area under section 473.167.

(b) A person who acquires property from the state, an agency of the state, or a political subdivision, is not a responsible person under this section solely as a result of the acquisition of property if the property was acquired by the state, agency, or political subdivision through exercise of the power of eminent domain or by negotiated purchase after filing a petition for the taking of the property through eminent domain, after adopting a redevelopment or development plan under sections 469.001 to 469.133 describing the property and stating its intended use and the necessity of its taking, or after adopting a layout plan for highway

development under sections 161.15 to 161.241 describing the property and stating its intended use and the necessity of its taking.

Subd. 6. **Mortgages.** (a) A mortgagee is not a responsible person under this section solely because the mortgagee becomes an owner of real property through foreclosure of the mortgage or by receipt of the deed to the mortgaged property in lieu of foreclosure.

(b) A mortgagee of real property where a facility is located or a holder of a security interest in facility assets or inventory is not an operator of the facility for the purpose of this section solely because the mortgagee or holder has a capacity to influence the operation of the facility to protect its security interest in the real property or assets.

Subd. 7. **Contract for deed vendors.** A contract for deed vendor who is otherwise not a responsible party for a release or a threatened release of a hazardous substance from a facility is not a responsible person under this section solely as a result of a termination of the contract for deed under section 559.21.

Subd. 8. **Trustees.** A trustee who is not otherwise a responsible party for a release or threatened release of a hazardous substance from a facility is not a responsible person under this section solely because the facility is among the trust assets or solely because the trustee has the capacity to direct the operation of the facility.

Subd. 9. **Personal representatives of estates.** A personal representative, guardian, or conservator of an estate who is not otherwise a responsible party for a release or threatened release of a hazardous substance from a facility is not a responsible person under this section solely because the facility is among the assets of the estate or solely because the personal representative, guardian, or conservator has the capacity to direct the operation of the facility.

Subd. 10. **Contractor.** (a) For the purposes of this subdivision, "contractor" means a person who is not otherwise responsible for a release or threatened release of a hazardous substance, or a pollutant or contaminant, and who, under contract with another person:

(1) performs response actions, including investigative, removal, or remedial actions to address the release or threatened release pursuant to a plan approved by the commissioner; or

(2) performs development actions at the site of the release or threatened release, such as site preparation, engineering, construction, and similar actions with respect to which the commissioner approves a contingency plan or other conditions which the commissioner deems necessary to protect public health or welfare or the environment.

(b) A contractor is not a responsible person for a release or threatened release solely as the result of performing response actions to address that release or threatened release if the contractor performs the response actions in accordance with a plan approved by the commissioner.

(c) A contractor who performs development actions, such as site preparation, engineering, construction, or similar actions, at the site of a release or threatened release is not responsible for the release or threatened release solely as a result of performing the development actions if the contractor complies with a contingency plan or other conditions approved by the commissioner. The contractor must obtain approval from the commissioner for the contingency plan or other conditions:

(1) for a site with a known release or threatened release, before the contractor commences the development actions; or

(2) for a site with a release or threatened release discovered during the contractor's performance of the development actions, before the contractor performs further development actions at the site after discovery of the release or threatened release.

(d) This subdivision shall not apply to a contractor who causes or contributes to a release or threatened release by an act or omission that is negligent, grossly negligent, or that constitutes intentional misconduct.

History: *1983 c 121 s 3; 1986 c 444; 1990 c 586 s 2; 1991 c 223 s 1-3; 1991 c 347 art 2 s 1,2; 1995 c 168 s 1,2; 1996 c 359 s 1; 1997 c 200 art 2 s 1; 1998 c 341 s 1; 2013 c 125 art 1 s 107*