
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 961 (Ávila Farías) - Hazardous materials: California Land Reuse and Revitalization Act of 2004

Version: February 20, 2025

Urgency: No

Hearing Date: August 18, 2025

Policy Vote: E.Q. 8 - 0, JUD. 13 - 0

Mandate: No

Consultant: Ashley Ames

Bill Summary: This bill would extend the sunset date for the California Land Reuse and Revitalization Act (CLRRA) from January 1, 2027, to January 1, 2037, and provide that a person who qualifies for immunity under the CLRRA before January 1, 2037, shall continue to have that immunity on and after that date if the person continues to be in compliance with the requirements of the former CLRRA.

Fiscal Impact:

- Because this bill would extend the sunset on and authorize continued operation of the CLRRA, this analysis attributes the future costs of administering the program to the bill. The ongoing annual costs to the Department of Toxic Substances Control (DTSC) and the State Water Resources Control Board (State Water Board) are unknown but would be likely in excess of \$150,000 annually (special funds).

Background:

Cleaning up contaminated sites. Properties that are contaminated, or thought to be contaminated, and are underutilized due to perceived remediation cost and liability concerns are known as brownfields. Many of these properties are in the urban core, near transit, and often in underserved communities with housing and economic development needs. Cleaning up brownfield properties not only eliminates the threat to residents and neighborhoods from hazardous substances, it frees abandoned or underutilized land for productive reuse. Redevelopment of brownfields also takes development pressures off previously undeveloped property, thereby preserving open space and agricultural land.

Brownfields remain a continuing problem in California and nationwide, as abandoned, idled, or under-used sites formerly utilized for industrial or commercial purposes result in perceived or actual contamination that deters redevelopment of the site. As cleanup costs can be expensive, especially when uncovering unexpected hazardous materials during the cleaning of the site, many of the sites remain vacant for many years.

Providing immunity to innocent landowners. Traditionally, federal and state law provided that both current and previous owners of a property are potentially liable for the cost of cleanup of hazardous materials released on the property. In 2002, federal law was modified to grant conditional immunity to innocent and prospective purchasers and to innocent contiguous property owners for previously occurring contamination for which the innocent or prospective purchaser had no responsibility.

In 2004, California enacted AB 389 (Montanez, Chapter 705, Statutes of 2004), which created the Act, providing qualified immunity to innocent landowners, bona fide purchasers, and contiguous property owners who did not cause or contribute to a release of contaminants. Under the Act, in order to take advantage of the provided immunity, qualifying individuals must enter into an agreement with an oversight agency that would require the individual to undertake various tasks relating to cleanup of the hazardous materials on the property. The Act then provides liability protections to bona fide purchasers, innocent landowners, contiguous property owners, prospective purchasers, and bona fide ground tenants. This is intended to promote the cleanup and redevelopment of blighted contaminated properties. The Act establishes a process for eligible property owners to obtain statutory immunity, conduct a site assessment, and implement a response action, if necessary, to ensure that the property is ready for reuse. The original sunset date for the enacting legislation, AB 389, was in 2010.

Subsequent changes to the Act. Since enactment of the Act, there have been a few additions to the protections provided by the Act, as well as extending the protections of the program several times. SB 989 (Senate Environmental Quality, Chapter 510, Statutes of 2006) made the immunity protections available to a bona fide ground tenant. SB 143 (Cedillo, Chapter 167, Statutes of 2009) authorized a prospective purchaser who is in contract to acquire a site and who qualifies as a bona fide purchaser to enter into an agreement that provides the qualified bona fide prospective purchaser with immunity upon site acquisition. Additionally, SB 143 extended the sunset for the program from January 1, 2010 until January 1, 2017. Lastly, SB 820 (Hertzberg, Chapter 166, Statutes of 2016), extended the Act until January 1, 2027.

Without a legislative sunset extension, the Act will expire on January 1, 2027.

Proposed Law: This bill would:

1. Extend, from January 1, 2027, to January 1, 2037, the sunset on the Act.
2. Extend, from January 1, 2027, to January 1, 2037, the sunset on the qualification for immunity under the Act.

Related Legislation:

SB 820 (Hertzberg, Chapter 166, Statutes of 2016) extended the sunset date for the Act from January 1, 2017, to January 1, 2027, and makes corresponding changes to provide continued immunity after the repeal of the Act.

SB 143 (Cedillo, Chapter 167, Statutes of 2009) extended the sunset date of the Act from January 1, 2010, to January 1, 2017, and extends the provisions for continued immunity after the Act is repealed. Authorized a prospective purchaser who is in contract to acquire a site and who qualifies as a bona fide purchaser to receive immunity under specified conditions.

SB 989 (Senate Environmental Quality, Chapter 510, Statutes of 2006) added to the Act qualified immunity for bona fide ground tenants under specified conditions.

AB 389 (Montanez, Chapter 705, Statutes of 2004) enacted the Act, which provides qualified immunity to innocent landowners, bona fide purchasers, and contiguous property owners who did not cause or contribute to a release of contaminants. Sunset the Act on January 1, 2010.

Staff Comments: Under CLRRRA, an entity that enters into an agreement with DTSC reimburses the department for its cleanup oversight costs via a fee-for-service agreement and pays for the cleanup of the land, including any local or state fees related to the generation of hazardous waste. Currently, there are 60 active and 30 closed CLRRRA projects under DTSC's purview. CLRRRA sites represent a small fraction of the department's brownfield cleanup sites, and CLRRRA agreements are only one type of voluntary agreement that DTSC offers. Statewide, DTSC typically has more than 1,000 active cleanup projects and currently has approximately 600 sites under various voluntary agreements. Approximately 50 staff positions are assigned to these programs. DTSC notes that while it bills approximately \$20 million annually via standard voluntary cleanups, it does not know, at this time, the portion attributed to CLRRRA agreements.

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