

105TH CONGRESS  
2D SESSION

# H. R. 4227

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 concerning liability for the sale of certain facilities for residential use.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1998

Mr. MENENDEZ introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 concerning liability for the sale of certain facilities for residential use.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Displaced  
5 Residents Act”.

1 **SEC. 2. LIABILITY FOR SALE OF CERTAIN FACILITIES FOR**  
2 **RESIDENTIAL USE.**

3 Section 107 the Comprehensive Environmental Re-  
4 sponse, Compensation, and Liability Act of 1980 (42  
5 U.S.C. 9607) is amended by adding at the end the follow-  
6 ing:

7 “(o) LIABILITY FOR SALE OF CERTAIN FACILITIES  
8 FOR RESIDENTIAL USE.—

9 “(1) IN GENERAL.—Without regard to the de-  
10 fenses provided for in paragraphs (2) through (4) of  
11 subsection (b), a person shall be liable for 3 times  
12 the amount of response costs or damages for which  
13 the person otherwise would be liable under sub-  
14 section (a) but for this subsection if—

15 “(A) at the time of disposal of a des-  
16 ignated hazardous substance, the person owned  
17 or operated any vessel or facility at which the  
18 designated hazardous substance was disposed  
19 of;

20 “(B) the vessel or facility is or has been  
21 subject to a removal action by the President or  
22 an equivalent action by a State; and

23 “(C) prior to the performance of the re-  
24 moval action, the person sold, leased, conveyed,  
25 or otherwise disposed of the facility or vessel  
26 under circumstances in which the future resi-

1           dential use of the vessel or facility was reason-  
2           ably foreseeable or anticipated.

3           “(2) RECOVERIES UNDER SUBSECTION (a).—  
4       Amounts recovered under paragraph (1) shall be in  
5       addition to any amounts recovered under subsection  
6       (a).

7           “(3) LIMITATIONS ON LIABILITY.—A person  
8       shall not be liable under this subsection if the per-  
9       son—

10           “(A)(i) purchased, leased, or otherwise ac-  
11       quired the vessel or facility primarily for use as  
12       a personal residence, (ii) did not cause or con-  
13       tribute to the release or threatened release of  
14       designated hazardous substances at the vessel  
15       or facility, and (iii) took due care with respect  
16       to designated hazardous substances found at  
17       the vessel or facility; or

18           “(B)(i) purchased, leased, or otherwise ac-  
19       quired the vessel or facility primarily for devel-  
20       opment for personal residential use, (ii) did not  
21       cause or contribute to the release or threatened  
22       release of designated hazardous substances at  
23       the vessel or facility, (iii) took due care with re-  
24       spect to designated hazardous substances found  
25       at the vessel or facility, and (iv) is an unaffili-

1           ated business or entity with fewer than 25 em-  
2           ployees and less than \$2,000,000 in gross an-  
3           nual revenues.

4           “(4) RECOVERY OF RESPONSE COSTS OR DAM-  
5           AGES.—Response costs or damages under paragraph  
6           (1) shall be recoverable by the Administrator or any  
7           person who resides or has previously resided in the  
8           vessel or facility following the sale, lease, convey-  
9           ance, or other disposal of the vessel or facility de-  
10          scribed in paragraph (1)(C).

11          “(5) USE OF FUNDS.—If the Administrator or  
12          any other person recovers an amount under para-  
13          graph (1), the amount shall be equitably allocated  
14          among and made available to all persons who reside  
15          or have previously resided in the vessel or facility  
16          following the sale, lease, conveyance, or other dis-  
17          posal of the vessel or facility described in paragraph  
18          (1)(C).

19          “(6) SHIFTING OF FEES.—Any person who  
20          commences an action for liability under this sub-  
21          section against a person who is not liable by oper-  
22          ation of paragraph (3) shall be liable to such nonlia-  
23          ble person for all reasonable costs of defending the  
24          action, including all reasonable attorneys’ fees and  
25          expert witness fees.

1           “(7) DESIGNATED HAZARDOUS SUBSTANCE DE-  
2       FINED.—In this subsection, the term ‘designated  
3       hazardous substance’ means mercury, poly-  
4       chlorinated biphenyls, tetrachloroethylenes, and any  
5       other hazardous substance that the Administrator  
6       may designate pursuant to this subsection.”.

○