



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-4332/1  
ZDW:amn

## 2021 BILL

1 AN ACT *to create* 292.11 (9) (g) of the statutes; **relating to:** the responsibility of  
2 a property owner for discharge of a hazardous substance by another.

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### *Analysis by the Legislative Reference Bureau*

This bill exempts a property owner that is not a corporate entity from responsibility relating to the discharge of a hazardous substance on or originating from the owner's property if all of the following apply: 1) the owner acquired the property prior to September 1, 1992; 2) the owner demonstrates that the discharge was caused by another person without the owner's knowledge; and 3) the property was not listed in the database of contaminated properties maintained by the Department of Natural Resources when the owner acquired the property.

The bill also exempts a county that takes a tax deed on property contaminated by a hazardous substance, or any person who subsequently acquires the property from the county and meets certain requirements, from responsibility relating to the discharge of the hazardous substance.

Under current law, a person who possesses or controls a hazardous substance that is discharged or who causes the discharge of a hazardous substance is required to take the actions necessary to restore the environment and minimize the harmful effects from the discharge. In *State v. Mauthe*, 123 Wis. 2d 288, 366 N.W.2d 871, the Wisconsin Supreme Court held that the owner of property containing contaminated soil from which a hazardous substance was being discharged was in possession and

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control of the soil and the hazardous substance, and was therefore liable for required remedial action.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 292.11 (9) (g) of the statutes is created to read:

292.11 **(9)** (g) 1. A county that acquires property under ch. 75 or, subject to subd. 2. b. and c., any person receiving from a county property that was acquired under ch. 75 is exempt from the requirements of this section with respect to discharges of a hazardous substance on or originating from the property if the county or person demonstrates the discharge was caused by another person.

2. A property owner that is not a corporate entity is exempt from the requirements of this section with respect to discharges of a hazardous substance on or originating from the property if all of the following apply:

a. The property owner acquired the property prior to September 1, 1992.

b. The property owner demonstrates that the discharge was caused by another person and that the property owner did not know and had no reason to know of the discharge when the owner acquired the property.

c. The property was not listed in the database maintained by the department under s. 292.12 (3) when the property owner acquired the property.

3. Nothing in this paragraph shall limit the authority of the department under this section to take actions in response to the discharge of a hazardous substance.

(END)