

Act No. 188
Public Acts of 2023
Approved by the Governor
November 7, 2023
Filed with the Secretary of State
November 7, 2023
EFFECTIVE DATE: Sine Die
(91st day after final adjournment of the 2023 Regular Session)

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

**Introduced by Reps. Haadsma, Hope, DeBoer, Morgan, Hood, Paiz, Byrnes, Miller, Rogers,
Liberati, Dievendorf, Tyrone Carter, MacDonell, McKinney, Edwards and Hill**

ENROLLED HOUSE BILL No. 4645

AN ACT to amend 1994 PA 451, entitled “An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people’s right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” by amending section 20101b (MCL 324.20101b), as amended by 2000 PA 368.

The People of the State of Michigan enact:

Sec. 20101b. (1) A lender or other person that has not participated in the management of a property as described in section 20101a before assuming ownership or control of the property as a fiduciary, as defined by section 1104 of the estates and protected individuals code, 1998 PA 386, MCL 700.1104, or in a representative capacity for a disabled person under a durable power of attorney as described in section 102 of the uniform power of attorney act and that is acting or has acted in a capacity permitted by the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8206, is not personally liable as an owner or operator of the property under this part. This subsection does not do either of the following:

(a) Relieve the fiduciary from personal liability as the result of the fiduciary’s assumption of personal liability, or negligence, gross negligence, or reckless, willful, or intentional misconduct.

(b) Prevent a claim against the assets that are part of or all of the estate or trust that contains the facility; another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility that is administered by the lender or other person; or another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility. Such a claim may be asserted against the fiduciary in its representative capacity, whether or not the fiduciary is personally liable.

(2) A lender that has not participated in the management of a property as described in section 20101a before assuming ownership or control of the property in a fiduciary capacity and that, under a fiduciary agreement entered into on or before August 1, 1990, owns or controls the property in a fiduciary capacity authorized by the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.15105, or the national bank act, chapter 106, 13 Stat. 99, is not personally liable as an owner or operator of the property under this part. This subsection does not do either of the following:

(a) Relieve the fiduciary from personal liability as the result of the fiduciary’s assumption of personal liability, negligence, gross negligence, or reckless, willful, or intentional misconduct.

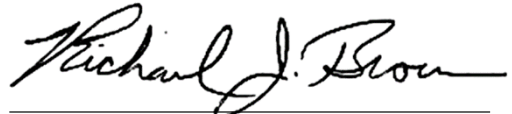
(b) Prevent a claim against the assets that are part of or all of the estate or trust that contains the facility; another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility that is administered by the lender; or another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility. Such a claim may be asserted against the fiduciary in its representative capacity, whether or not the fiduciary is personally liable.

(3) A lender that has not participated in the management of a property as described in section 20101a before assuming ownership or control of the property in a fiduciary capacity, that, under a fiduciary agreement entered into after August 1, 1990, owns or controls the property in a fiduciary capacity authorized by the banking code of 1999, 1999 PA 276, MCL 487.11101 to 487.15105, or the national bank act, chapter 106, 13 Stat. 99, that has served only in an administrative, custodial, or financial capacity with respect to the property, and that has not exercised sufficient involvement to control the owner's or operator's handling of a hazardous substance is not personally liable as an owner or operator of the property under this part. This subsection does not do either of the following:

(a) Relieve the fiduciary from personal liability as the result of the fiduciary's assumption of personal liability, negligence, gross negligence, or reckless, willful, or intentional misconduct.

(b) Prevent a claim against the assets that are part of or all of the estate or trust that contains the facility; another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility that is administered by the lender; or another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility. Such a claim may be asserted against the fiduciary in its representative capacity, whether or not the fiduciary is personally liable.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4644 of the 102nd Legislature is enacted into law.


Clerk of the House of Representatives


Secretary of the Senate

Approved _____

Governor

Compiler's note: House Bill No. 4644, referred to in enacting section 1, was filed with the Secretary of State November 7, 2023 and became 2023 PA 187, Eff. July 1, 2024.