

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2025-2026 Regular Session

AB 961 (Ávila Farías)
Version: February 20, 2025
Hearing Date: July 8, 2025
Fiscal: Yes
Urgency: No
AM

SUBJECT

Hazardous materials: California Land Reuse and Revitalization Act of 2004

DIGEST

Existing law, the California Land Reuse and Revitalization Act of 2004 (CLRRA), provides an innocent landowner, a bona fide purchaser, or a contiguous property owner, with a qualified immunity from liability for pollution conditions caused by a release or threatened release of a hazardous material, as specified. Under existing law, the CLRRA will be repealed on January 1, 2027. This bill extends the sunset date of the CLRA until January 1, 2037.

EXECUTIVE SUMMARY

Brownfield cleanup and redevelopment is a problem in California and across the United States. The U.S. Environmental Protection Agency (EPA) estimates that there are more than 450,000 brownfields in the U.S., approximately 90,000 of which are in California.¹ The EPA describes a brownfield as “a property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”² However, some reports indicate the number in California could be much higher.³ Historically, the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and various state laws, including the Carpenter-Presley-Tanner Hazardous Substance Account Act, rendered current and previous owners of contaminated property jointly and severally liable for the cost of cleaning up hazardous materials released on a site. In 2002, Congress amended CERCLA to grant immunity to innocent and prospective purchasers, and innocent contiguous property owners, for previously occurring

¹ County of Los Angeles, *About Brownfields*, available at <http://publichealth.lacounty.gov/EH/safety/brownfields.htm#:~:text=Appearances%2C%20however%2C%20can%20be%20deceiving,home%20to%20almost%2090%2C000%20them> (as of June 23, 2025).

² U.S. Env. Prot. Agency, *Brownfield Overview and Definition*, available at https://19january2017snapshot.epa.gov/brownfields/brownfield-overview-and-definition_.html (as of June 23, 2025).

³ Eli Moore, et. al, *Greater Social Equity in Brownfields Cleanup and Reuse*, (Apr. 2025) at p.1, available at https://belonging.berkeley.edu/sites/default/files/2025-04/BrownfieldsCleanup_April2025.pdf.

contamination for which the innocent or prospective purchaser had no responsibility, subject to certain conditions. California followed suit in 2004, and enacted the CLRRRA, which provides innocent landowners, bona fide purchasers, and contiguous property owners, who did not cause or contribute to a release of hazardous waste, with qualified immunity from liability under certain state laws. To take advantage of this immunity, qualifying individuals must enter into an agreement with an oversight agency that requires the individual to undertake various tasks relating to cleanup of hazardous materials on the property. The CLRRRA has a sunset date of January 1, 2027. This bill seeks to extend that sunset date until January 1, 2037, and make conforming changes. The bill is author sponsored. The bill is supported by several environmental organizations, housing advocates, and organizations representing business, and Lieutenant Governor Eleni Kounalakis. The Committee received no timely opposition to the bill. This bill passed the Senate Environmental Quality Committee on a vote of 8 to 0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Establishes the CLRRRA, which provides that innocent landowners, bona fide purchasers, and contiguous property owners who did not cause or contribute to a release at the site qualify for immunities from:
 - a) claims for response costs or other damages associated with a release or threatened release of a hazardous material from the site; or
 - b) agency action to require the individual to take a response action, other than the response action required in an approved CLRRRA response plan, except under certain conditions. (Health & Saf. Code §§ 25395.60 et seq.; § 25395.81)
- 2) Requires a bona fide purchaser, innocent landowner, or contiguous property owner who seeks to qualify for the above immunity to enter into an agreement with an agency, and requires that agreement to include the performance of a site assessment, and, if the agency determines that a response plan is necessary, to prepare and implement the response plan. (Health & Saf. Code § 25395.92.)
- 3) Requires individuals seeking to qualify as bona fide purchasers, innocent landowners, or contiguous property owners to:
 - a) make all appropriate inquiries into the previous ownership and uses of the site;
 - b) exercise appropriate care with respect to the release or threatened release of hazardous materials at the site;
 - c) provide full cooperation, assistance, and access to a person authorized to conduct response actions or natural resource restoration at the site;
 - d) comply with land use controls established or relied on in connection with an approved response action at the site;

- e) not impede the effectiveness or integrity of any aspect of any remedy employed at the site in connection with a response action;
 - f) comply with all requests for information or administrative subpoenas by an agency with jurisdiction; and
 - g) provide all notices and satisfy reporting requirements under state and federal law with respect to the hazardous materials at the site. (Health & Saf. Code § 25395.80.)
- 4) Provides that if there are unrecovered costs incurred by an agency at a site for which an owner of the site is not liable as an innocent landowner, bona fide purchaser, or contiguous property owner, an agency shall have a lien on the site, or may, by agreement with the owner, obtain from the owner a lien on other property or other assurance of payment for the unrecovered response costs, subject to certain conditions. (Health & Saf. Code § 25395.83.)
- 5) Authorizes an innocent landowner, bona fide purchaser, contiguous landowner, or bona fide ground tenant, to seek contribution from any person who is responsible for a discharge or release of hazardous materials for which the innocent landowner, bona fide purchaser, contiguous landowner, or bona fide ground tenant incurs agency oversight costs for the review of a response plan or oversight of the implementation of a response plan. (Health & Saf. Code § 25395.85.)
- 6) States that CLRRRA will not provide immunity from, among other things:
- a) liability for bodily injury or wrongful death;
 - b) criminal acts;
 - c) permit violations; or
 - d) new releases of hazardous materials that are caused or contributed to by an innocent landowner, bona fide purchaser, or contiguous property owner. (Health & Saf. Code § 25395.86.)
- 7) Repeals the CLRRRA on January 1, 2027. Existing law, operative January 1, 2027, provides that any individual who qualifies for immunity as of December 31, 2026, retains their immunity, provided that they remain in compliance with the requirements of the CLRRRA. (Health & Saf. Code §§ 25395.109 & 25395.110.)

This bill:

- 1) Extends the above sunset date of CLRRRA to January 1, 2037.
- 2) Extends the operative date of the provision that provides for continuing qualified immunity to January 1, 2037, and makes conforming changes.

COMMENTS

1. Stated need for the bill

The author writes:

AB 961 extends the sunset date of the California Land Reuse and Revitalization Act (CLRRA) from January 1, 2027, to January 1, 2037. CLRRA has been a critical tool since 2005 for transforming contaminated and underutilized properties – often in disadvantaged communities – into spaces that can support housing, commercial activity, and community development.

By providing limited liability protections to innocent landowners, prospective purchasers, and adjacent property owners, CLRRA makes it possible to clean up and reuse properties that would otherwise remain vacant and blighted. These protections encourage private investment and streamline the process of environmental remediation by allowing agreements with the Department of Toxic Substances Control or Regional Water Boards.

Without this extension, communities would lose a proven pathway to revitalization. AB 961 ensures California maintains this important tool for supporting infill development, environmental justice, and sustainable land use in areas that need it most.

2. Brownfields and CLRRA

Brownfields are typically abandoned, idled, or underutilized sites, formerly used for industrial or commercial purposes, where perceived or actual contamination deters redevelopment. Costs associated with brownfield site cleanup can be prohibitively expensive for parties who purchase these properties, particularly when unexpected hazardous materials are encountered during site remediation. Consequently, many of these sites remain vacant for years. These properties include former industrial sites, school sites, military bases, small businesses and landfills. Their idle or underused status contributes to both urban blight and urban sprawl.

According to the California Department of Toxic Substances Control (DTSC), “cleaning brownfield properties frees previously unavailable land for productive reuse, while taking development pressures off undeveloped open land, thereby improving and protecting the environment. Cleaning up brownfield properties not only eliminates the threat to residents and neighborhoods from hazardous substances, it frees this 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.”⁴ The large number of brownfield sites and the unavailability of sufficient public resources to remediate these sites mean that California’s brownfields will not be restored to productive use without significant participation by the private sector.

CLRRRA provides eligible innocent landowners, bona fide purchasers, and contiguous property owners with immunity from liability for hazardous materials response costs and other damages, if certain qualifying criteria are met. To receive that immunity, CLRRRA participants must, among other things, enter into an agreement with an oversight agency that includes “the performance of a site assessment, and, if the agency determines that a response plan is necessary [to prevent or eliminate an unreasonable risk], the preparation and implementation of a response plan.” (Health & Saf. Code §§ 25395.92(a) & 25395.96.) In exchange for qualified immunity, these required actions—generating a site assessment plan, implementing and reporting on the plan, and undertaking response actions—result in at least a partial cleanup of the property, resulting in the redevelopment and reuse of otherwise idle brownfield sites.

A recent report from U.C. Berkeley analyzed a grant program launched by DTSC, the Equitable Community Revitalization Grant program, which sought to provide grants to clean up brownfields in California by distributing grants to “highly impacted environmental justice communities” to “prioritize projects that advance equitable development.”⁵ The report noted that the program has distributed over \$129 million through 90 grants and that early data shows several key successes of the program, including:

- 99 percent of program funded projects were led by public agencies or nonprofits, compared to just 44 percent for comparable non-program projects;
- 62 percent of projects were located in environmental justice communities, compared to 50 percent of non-program projects;
- 61 percent of funded projects were in neighborhoods that rank in the top 25 percent for poverty levels in the state, compared to only 26 percent of non-program projects; and
- affordable housing projects were found in 51 percent of program projects, compared to only 18 percent in non-program projects.⁶

When CLRRRA was enacted in 2004, it contained a five-year sunset provision to allow the Legislature to review the program and determine whether it has been an effective tool for revitalizing polluted sites. SB 143 (Cedillo, Ch. 167, Stats. 2009) extended that sunset provision a further seven years and added a post-repeal provision that allowed program participants to retain their immunity if they continue to comply with all program requirements, including any response plans entered into with an oversight

⁴ Dept. of Toxic Substances Control, *Brownfields*, available at <https://dtsc.ca.gov/brownfields/> (as of June 23, 2020).

⁵ Eli Moore, et. al, *Greater Social Equity in Brownfields Cleanup and Reuse*, (Apr. 2025) at p.1, available at https://belonging.berkeley.edu/sites/default/files/2025-04/BrownfieldsCleanup_April2025.pdf.

⁶ *Id.* at 2-3.

agency. (See Health & Saf. Code § 25395.110.) In 2016, the CLRRRA sunset date was extended to January 1, 2027 by SB 820 (Hertzberg, Ch. 166, Stats. 2016). SB 820 also and made corresponding changes to provide continued immunity after the repeal of the CLRRRA. This bill seeks to extend the sunset date of the CLRRRA to January 1, 2037, and makes corresponding changes to provide continued immunity after the repeal of the CLRRRA.

3. Statements in support

The California Council for Environmental & Economic Balance writes in support, stating:

The CLRRRA has served as a critical tool for supporting the redevelopment of previously contaminated properties whereby prospective purchasers, owners or adjacent property owners can enter an agreement with the Department of Toxic Substances Control (DTSC) or the regional water boards to evaluate and remediate the contamination located on the site. The agreement, upon approval, provides participating entities with limited immunity from further liability for the contamination. Importantly, this limited immunity can then be passed on to future owners, users and lenders, which greatly enhances the opportunities for redevelopment or reuse of the affected property, as well as the overall value.

SUPPORT

Lieutenant Governor Eleni Kounalakis
Abundant Housing LA
Bay Area Council
California Building Industry Association
California Council for Environmental & Economic Balance
California Yimby
Circulate San Diego
Inner City Law Center
Spur
The Two Hundred

OPPOSITION

None received

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

SB 820 (Hertzberg, Ch. 166, Stats. 2016) extended the sunset date of the CLLRA to January 1, 2027, and made corresponding changes to provide continued immunity after the repeal of the CLLRA.

SB 143 (Cedillo, Ch. 167, Stats. 2009) extended the sunset date for the California Land Reuse and Revitalization Act of 2004 (CLRRA) from January 1, 2010, to January 1, 2017, and made corresponding changes to a provision that provides for continued immunity after the repeal of the Act. This bill also authorized a prospective purchaser who qualifies as a bona fide purchaser to enter into a contract to acquire a site, but prohibited the prospective purchaser from receiving immunity under the act until the prospective purchaser acquired the site.

SB 989 (Committee on Environmental Quality, Ch. 510, Stats. 2006) created a program for bona fide ground tenants, as defined, to purchase contaminated property subject to certain immunities from suit for damages related to prior contamination of the property, similar to the program made available to bona fide purchasers under CLRRA.

AB 2144 (Montanez, Ch. 562, Stats. 2006), among other things, revised the public participation procedures required in a response plan, under the CLRRA, for agencies with oversight over the clean-up of certain brownfield sites.

AB 389 (Montanez, Ch. 705, Stats. 2004), created the California Land Reuse and Revitalization Act of 2004 (CLRRA).

SB 493 (Cedillo, 2004) would have enacted the California Land Reuse and Revitalization Act. This bill died in the Assembly Appropriations Committee.

PRIOR VOTES

Senate Environmental Quality Committee (Ayes 8, Noes 0)

Assembly Floor (Ayes 79, Noes 0)

Assembly Appropriations Committee (Ayes 14, Noes 0)

Assembly Environmental Safety and Toxic Materials Committee (Ayes 7, Noes 0)
