

HCS HB 975 -- DAMAGES FOR CERTAIN CIVIL ACTIONS

SPONSOR: Richardson

COMMITTEE ACTION: Voted "Do Pass" by the Committee on General Laws by a vote of 10 to 5.

This substitute specifies that in all civil actions involving claims arising from the ownership, maintenance, management, or control of underground hard rock mining or hard rock milling sites that ceased operations prior to January 1, 1975, or arising from chat or tailings generated at those sites, brought against a person or entity alleged to have owned, maintained, managed, or controlled the sites, chat, or tailings at any time, the person or entity must be exempt from punitive or exemplary damages to all claims related in any way to the ownership, maintenance, management, or control of the sites, chat, or tailings, as long as the person or entity or its employee, agent, owner, parent, subsidiary, or any related company has made or is making a good faith effort to remediate the sites.

Any evidence may be introduced to demonstrate a good faith effort to remediate; however, substantial compliance with an order or permit issued by or negotiated with the state or the United States concerning remediation or closure must be deemed to be a good faith effort to remediate. The exemption from punitive damages does not apply if the trier of fact finds that the injury that is the subject of the civil action is attended by circumstances of fraud, malice, or willful and wanton conduct.

When a good faith effort to remediate a site has not been made or the injury is found to be attended by circumstances of fraud, malice, or willful and wanton conduct, the total of any awards of punitive or exemplary damages must not exceed \$500,000 in the aggregate to all defendants in the civil action. One-half of any award for punitive or exemplary damages must be paid into the Missouri Lead Abatement Loan Fund. Nothing in these provisions can be construed as precluding any party from pursuing compensatory damages, including claims for natural resource damages.

PROPONENTS: Supporters say that the bill provides a limitation on punitive damage awards in certain types of cases, specifically mining operations.

Testifying for the bill were Representative Richardson; and Matthew Wohl, Doe Run Company.

OPPONENTS: Those who oppose the bill say that it is unnecessary because the state already has a cap on punitive damages that

applies to any claim.

Testifying against the bill was Missouri Association of Trial Attorneys.