

Proposed Definitions Associated with Enforcement Provisions

Section XXXXX Definitions

- (x) "Affiliate", used as a noun, means 1 or more of the following:
 - (i) A person who directly or indirectly owns, controls, or holds with power to vote 20% or more of the outstanding voting securities of the debtor, other than a person who holds the securities in either of the following circumstances:
 - (A) As a fiduciary or agent without sole discretionary power to vote the securities.
 - (B) Solely to secure a debt, if the person has not exercised the power to vote.
 - (ii) A corporation 20% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, 20% or more of the outstanding voting securities of the debtor, other than a person who holds the securities in either of the following circumstances:
 - (A) As a fiduciary or agent without sole power to vote the securities.
 - (B) Solely to secure a debt, if the person has not in fact exercised the power to vote.
 - (iii) A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor.
 - (iv) A person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.
- (x) "Activity and use limitations" means restriction or obligations created under this part with respect to real property.
- (x) "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured, and includes response activities, and response activity costs.
- (x) "Common elements" means portions of the Condominium Project other than the condominium units (Condominium Act, 1978 PA 59, as amended).
- (x) "Common interest community" means a condominium, cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums or for maintenance or improvement of other real property described in a recorded covenant that creates the common interest community.
- (x) "Condominium project" means a plan or project consisting of not less than 2 condominium units established in conformance with the Condominium Act (Condominium Act, 1978 PA 59, as amended).
- (x) "Condominium unit" means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it

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is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use (Condominium Act, 1978 PA 59, as amended).

- (x) "Consent order" means a voluntary administrative or judicial settlement.
- (x) "Co-owner" means a person, firm, corporation, partnership, association, trust, or other legal entity or any combination of those entities, who owns a condominium unit within the condominium project (Condominium Act, 1978 PA 59, as amended).
- (x) "Enforcement costs" means court expenses, lawful attorney fees of the attorney general, other lawful expenses of an executive department, and reasonable attorney fees of private attorneys that are incurred in relation to enforcement under this part or rules promulgated under this part, or both.
- (x) "Environmental covenant" means a servitude that imposes activity and use limitations upon property that is a Facility.
- (x) "Debtor" means a person who is liable for a claim pursuant to the Uniform Fraudulent Transfer Act, 1998 PA 434, as amended.
- (x) "Holder" means the grantee of an environmental covenant as specified in section xxxxx.
- (x) "Insider" includes all of the following:
 - (i) If the debtor is an individual, all of the following:
 - (A) A relative of the debtor or of a general partner of the debtor.
 - (B) A partnership in which the debtor is a general partner.
 - (C) A general partner in a partnership described in sub-subparagraph (B).
 - (D) A corporation of which the debtor is a director, officer, or person in control.
 - (ii) If the debtor is a corporation, all of the following:
 - (A) A director of the debtor.
 - (B) An officer of the debtor.
 - (C) A person in control of the debtor.
 - (D) A partnership in which the debtor is a general partner.
 - (E) A general partner in a partnership described in sub-subparagraph (D).
 - (F) A relative of a general partner, director, officer, or person in control of the debtor.
 - (iii) If the debtor is a partnership, all of the following:
 - (A) A general partner in the debtor.
 - (B) A relative of a general partner in, a general partner of, or a person in control of the debtor.
 - (C) Another partnership in which the debtor is a general partner.
 - (D) A general partner in a partnership described in sub-subparagraph (C).
 - (E) A person in control of the debtor.
 - (iv) An affiliate, or an insider of an affiliate as if the affiliate were the debtor.
 - (v) A managing agent of the debtor.
- (x) "Limited common elements" means a portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners (Condominium Act, Public Act 59 of 1978, as amended).

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- (x) "Person who is liable" means a person as described as being subject to liability under section xxxxx (Causation, arranger or transporter), section xxxxx (Failure to conduct inquiry) or who otherwise has obligations under this part. The phrase "a person who is liable" does not presume that liability has been adjudicated.
- (x) "Record" means, when used as a noun, information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (x) "Response activity" means any of the following activities when taken to protect the public health, safety, or welfare, or the environment:
 - (i.) Evaluation of a hazardous substance released or threatened to be released into the environment.
 - (ii.) Actions to prevent, minimize, or mitigate a threatened release.
 - (iii.) Actions to prevent, minimize, or mitigate injury to the public health, safety or welfare, or to the environment prior to implementation of a remedial action, including but not limited to, measures to limit access, replace water supplies, and temporarily relocate people as determined to be necessary by the department.
 - (iv.) Cleanup, removal, containment, isolation, destruction or treatment of a hazardous substance released or threatened to be released into the environment.
 - (v.) Monitoring, including monitoring natural attenuation, of environmental contamination.
 - (vi.) Operation and maintenance of response activities.
 - (vii.) Demolition.
 - (viii.) Actions to identify persons who are liable.
 - (ix.) Other actions to protect the public health, safety, or welfare, or the environment or the natural resources.

Response activity also includes health assessments or health effect studies carried out under the supervision, or with the approval of, the department of public health and enforcement actions related to any response activity.
- (x) "Response activity costs" or "costs of response activity" means all costs incurred related to a response activity, including enforcement costs.