

Act No. 307
Public Acts of 1993
Approved by the Governor
December 24, 1993
Filed with the Secretary of State
December 28, 1993

STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Reps. Middaugh, Bennane, Freeman, O'Neill, Brown, Shepich, Gnodtke, Dolan, Sikkema, Hood, Wallace, Stallworth, Gire, Varga, DeMars, Points, Pitoniak, Murphy, Saunders, Bryant, Llewellyn, Bodem, Rhead, Hill, Goschka, Nye, Bobier, Wetters and Randall
Rep. Yokich named co-sponsor

ENROLLED HOUSE BILL No. 4718

AN ACT to amend Act No. 307 of the Public Acts of 1982, entitled as amended "An act to provide for the identification, risk assessment, and priority evaluation of environmental contamination at certain sites in this state; to provide for response activity at certain facilities and sites; to prescribe the powers and duties of the governor, certain state agencies and officials, and other persons; to provide for the promulgation of rules; to require record notice regarding the status of certain facilities; to create certain funds and provide for their expenditure; to provide for public participation; to provide for methods of dispute resolution; to authorize grants, loans, and awards; to create certain boards, councils, and offices and to prescribe their powers and duties; to provide for judicial review; and to provide certain remedies and penalties," as amended, being sections 299.601 to 299.618 of the Michigan Compiled Laws, by adding section 14c.

The People of the State of Michigan enact:

Section 1. Act No. 307 of the Public Acts of 1982, as amended, being sections 299.601 to 299.618 of the Michigan Compiled Laws, is amended by adding section 14c to read as follows:

Sec. 14c. (1) The state or a local unit of government that is exempt from the definition of owner under section 3(u)(ii) and the definition of operator under section 3(t)(ii) for a specific facility may transfer its exempt status for that facility to a subsequent purchaser of the facility or a person who obtains control of the facility through a lease or other instrument, if all of the following exist:

(a) At the time of transfer the person to whom the facility is to be transferred is not a person who may be liable under section 12 for a release or threat of release at the facility.

(b) The state or local unit of government conducts or causes to be conducted an environmental assessment of the property that includes all of the following:

(i) An evaluation of the nature and extent of the release or threat of release at the facility and an inspection of all permanent structures on the property for the presence of a hazardous substance.

(ii) An estimate of total response activity costs at the facility necessary to implement remedial action under this act and the rules promulgated under this act.

(iii) Adequate information to establish use restrictions for the facility that assure protection of public health and safety.

(c) The state or local unit of government establishes that the purchaser or person to whom the facility may be transferred proposes to develop the facility pursuant to an economic development plan approved by the governing body of the local unit of government in which the facility is located, and in a manner which is not inconsistent with response activities which would need to be performed at the site to complete a remedial action as provided for in this act.

(d) The state or local unit of government documents that sufficient funds will be generated from the sale of the facility or from other identified sources to pay for response activity at the facility that is consistent with the proposed use of the facility and at a minimum, assures protection of public health and safety. If these revenues are not sufficient to pay for complete remedial action as provided in this act and the rules promulgated under this act, the state or local unit of government shall propose deed restrictions on future uses of the facility and any institutional controls necessary to assure the protection of public health and safety.

(e) The department approves the transfer pursuant to subsection (2).

(2) If a state agency or a local unit of government decides to transfer an exemption from liability pursuant to this section, the state agency or local unit of government shall submit a written proposal for transfer to the department documenting compliance with this section. Upon submittal of a proposal for transfer, the state agency or local unit of government shall at a minimum publish notice of the proposal for transfer, the proposed use of the facility, and the opportunity for a public meeting, in a newspaper of general circulation in the area in which the facility is located. Upon written request, the department shall hold a public meeting regarding the proposal for transfer. If a public meeting is requested, the state agency or local unit of government proposing the transfer shall provide a location for holding the public meeting and shall provide notice of the time, date, and place of the public meeting. Within 45 days following publication of the notice or the holding of a public meeting, if required, the department shall determine whether the proposed transfer is consistent with the requirements of this section, and shall notify in writing the state agency or local unit of government proposing the transfer of its determination and any required actions to restrict future property uses.

(3) Following the transfer of an exemption from liability under this section, the exemption from liability may be transferred to a subsequent purchaser if all of the following conditions are met:

(a) The person transferring the facility complies with section 10c.

(b) The response activities that were proposed for the facility at the time of the original transfer of the exemption from liability have been completed.

(c) Any required deed restrictions on future uses of the facility are recorded with the register of deeds for the county in which the facility is located.

(4) The transfer of an exemption under this section does not protect an owner or operator from liability for either a subsequent release or for activities or uses prohibited by deed restrictions required under this section.

(5) Notwithstanding any other provision of this section, a written proposal for transfer under subsection (2) shall be submitted to the department prior to 3 years after the effective date of this section. A transfer of an exemption from liability is invalid if the proposal for its transfer was not submitted in compliance with this subsection.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.

