



HOUSE BILL No. 4718

May 6, 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 and referred to the Committee on Conservation, Environment and Great Lakes.

A bill to amend Act No. 307 of the Public Acts of 1982,
entitled as amended
"The environmental response act,"
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:

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

5 SEC. 14C. (1) THE STATE OR A LOCAL UNIT OF GOVERNMENT THAT
6 IS EXEMPT FROM THE DEFINITION OF OWNER UNDER SECTION 3(U)(ii) AND
7 THE DEFINITION OF OPERATOR UNDER SECTION 3(T)(ii) FOR A SPECIFIC
8 FACILITY MAY TRANSFER ITS EXEMPT STATUS FOR THAT FACILITY TO A
9 SUBSEQUENT PURCHASER OF THE FACILITY OR A PERSON WHO OBTAINS

1 CONTROL OF THE FACILITY THROUGH A LEASE OR OTHER INSTRUMENT, IF
2 ALL OF THE FOLLOWING EXIST:

3 (A) THE PERSON TO WHOM THE FACILITY IS TO BE TRANSFERRED IS
4 NOT A PERSON WHO MAY BE LIABLE UNDER SECTION 12 FOR RESPONSE
5 ACTIVITY COSTS AT THE FACILITY.

6 (B) THE STATE OR LOCAL UNIT OF GOVERNMENT CONDUCTS OR CAUSES
7 TO BE CONDUCTED AN ENVIRONMENTAL ASSESSMENT OF THE PROPERTY THAT
8 INCLUDES ALL OF THE FOLLOWING:

9 (i) AN ON-SITE EVALUATION OF THE NATURE AND EXTENT OF THE
10 RELEASE OR THREAT OF RELEASE AND AN INSPECTION OF ALL PERMANENT
11 STRUCTURES ON THE PROPERTY FOR THE PRESENCE OF A HAZARDOUS
12 SUBSTANCE.

13 (ii) AN ESTIMATE OF TOTAL RESPONSE ACTIVITY COSTS AT THE
14 FACILITY NECESSARY TO IMPLEMENT REMEDIAL ACTION UNDER THIS ACT
15 AND THE RULES PROMULGATED UNDER THIS ACT.

16 (iii) ADEQUATE INFORMATION TO ESTABLISH USE RESTRICTIONS FOR
17 THE FACILITY THAT ASSURE PROTECTION OF HUMAN HEALTH.

18 (C) THE STATE OR LOCAL UNIT OF GOVERNMENT ESTABLISHES THAT
19 THE PURCHASER OR PERSON TO WHOM THE FACILITY MAY BE TRANSFERRED
20 PROPOSES TO DEVELOP THE FACILITY PURSUANT TO AN ECONOMIC DEVELOP-
21 MENT PLAN APPROVED BY THE GOVERNING BODY OF THE LOCAL UNIT OF
22 GOVERNMENT IN WHICH THE FACILITY IS LOCATED.

23 (D) THE STATE OR LOCAL UNIT OF GOVERNMENT DOCUMENTS THAT
24 SUFFICIENT FUNDS WILL BE GENERATED FROM THE SALE OF THE FACILITY
25 OR FROM OTHER IDENTIFIED SOURCES TO PAY FOR RESPONSE ACTIVITY AT
26 THE FACILITY THAT IS CONSISTENT WITH THE PROPOSED USE OF THE
27 FACILITY AND AT A MINIMUM, ASSURES PROTECTION OF HUMAN HEALTH.

1 IF THESE REVENUES ARE NOT SUFFICIENT TO PAY FOR COMPLETE REMEDIAL
2 ACTION AS PROVIDED IN THIS ACT AND THE RULES PROMULGATED UNDER
3 THIS ACT, THE STATE OR LOCAL UNIT OF GOVERNMENT SHALL RECORD DEED
4 RESTRICTIONS ON FUTURE USES OF THE FACILITY OR ASSURE THAT OTHER
5 INSTITUTIONAL CONTROLS ARE IMPLEMENTED TO ASSURE THE PROTECTION
6 OF HUMAN HEALTH.

7 (E) THE DEPARTMENT APPROVES THE TRANSFER PURSUANT TO
8 SUBSECTION (2).

9 (2) IF A STATE AGENCY OR A LOCAL UNIT OF GOVERNMENT DECIDES
10 TO TRANSFER AN EXEMPTION FROM LIABILITY PURSUANT TO THIS SECTION,
11 THE STATE AGENCY OR LOCAL UNIT OF GOVERNMENT SHALL SUBMIT A WRIT-
12 TEN PROPOSAL FOR TRANSFER TO THE DEPARTMENT DOCUMENTING COMPLI-
13 ANCE WITH THIS SECTION. UPON SUBMITTAL OF A PROPOSAL FOR TRANS-
14 FER, THE STATE AGENCY OR LOCAL UNIT OF GOVERNMENT SHALL AT A MIN-
15 IMUM PUBLISH NOTICE OF THE PROPOSAL FOR TRANSFER, THE PROPOSED
16 USE OF THE FACILITY, AND THE OPPORTUNITY FOR A PUBLIC MEETING, IN
17 A NEWSPAPER OF GENERAL CIRCULATION IN THE AREA IN WHICH THE
18 FACILITY IS LOCATED. UPON WRITTEN REQUEST, THE DEPARTMENT SHALL
19 HOLD A PUBLIC MEETING REGARDING THE PROPOSAL FOR TRANSFER. IF A
20 PUBLIC MEETING IS REQUESTED, THE STATE AGENCY OR LOCAL UNIT OF
21 GOVERNMENT PROPOSING THE TRANSFER SHALL PROVIDE A LOCATION FOR
22 HOLDING THE PUBLIC MEETING AND SHALL PROVIDE NOTICE OF THE TIME,
23 DATE, AND PLACE OF THE PUBLIC MEETING. WITHIN 45 DAYS FOLLOWING
24 PUBLICATION OF THE NOTICE OR THE HOLDING OF A PUBLIC MEETING, IF
25 REQUIRED, THE DEPARTMENT SHALL DETERMINE WHETHER THE PROPOSED
26 TRANSFER IS CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION, AND

1 SHALL NOTIFY IN WRITING THE STATE AGENCY OR LOCAL UNIT OF
2 GOVERNMENT PROPOSING THE TRANSFER OF ITS DETERMINATION.

3 (3) FOLLOWING THE TRANSFER OF AN EXEMPTION FROM LIABILITY
4 UNDER THIS SECTION, THE EXEMPTION FROM LIABILITY MAY BE TRANS-
5 FERRED TO A SUBSEQUENT PURCHASER IF ALL OF THE FOLLOWING CONDI-
6 TIONS ARE MET:

7 (A) THE INITIAL TRANSFEREE COMPLIES WITH SECTION 10C.

8 (B) THE RESPONSE ACTIVITIES THAT WERE PROPOSED FOR THE
9 FACILITY AT THE TIME OF THE ORIGINAL TRANSFER OF THE EXEMPTION
10 FROM LIABILITY HAVE BEEN COMPLETED.

11 (C) ANY DEED RESTRICTIONS ON FUTURE USES OF THE FACILITY ARE
12 RECORDED.

13 (4) THE TRANSFER OF AN EXEMPTION UNDER THIS SECTION DOES NOT
14 PROTECT A TRANSFEREE FROM LIABILITY FOR A SUBSEQUENT RELEASE.