

SENATE BILL NO. 420

March 10, 1999, Introduced by Senators SIKKEMA and GAST and referred to the Committee on Natural Resources and Environmental Affairs.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 20129a (MCL 324.20129a), as amended by 1997 PA 61.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20129a. (1) A person may petition the department
2 within 6 months after completion of a baseline environmental
3 assessment for a determination that that person meets the
4 requirements for an exemption from liability under
5 section 20126(1)(c) and, in conjunction with that exemption, a
6 determination that the proposed use of the facility satisfies the
7 person's obligations under section 20107a. This request may be
8 made by a prospective purchaser or transferee prior to actual
9 transfer of ownership or other interest to that person or by a
10 lender prior to foreclosure. The request shall be submitted on a

1 form provided by the department along with the fee provided in
2 subsection (4). The person petitioning the department under this
3 subsection shall attach the baseline environmental assessment, a
4 detailed description of the proposed use of the facility, a plan
5 for any response activities that are necessary to assure that the
6 proposed use of the facility satisfies the requirements of sec-
7 tion 20107a if a determination regarding compliance with that
8 section is requested, and the qualifications of the environmental
9 professionals who have made the recommendations.

10 (2) Within 15 business days after receipt of a petition
11 under subsection (1), the department shall issue a written deter-
12 mination to the person submitting the petition ~~which~~ THAT does
13 either of the following:

14 (a) Affirms that the criteria for obtaining the exemption
15 have been met and affirms that the proposed use of the facility
16 would satisfy the person's obligations under section 20107a pro-
17 vided that the person complies with the plan for the proposed use
18 of the facility submitted under subsection (1).

19 (b) Provides that the criteria for obtaining the exemption
20 have not been met, or that the proposed use of the facility does
21 not satisfy the person's obligation under section 20107a, the
22 specific reasons for the denial, and how the applicant could meet
23 the criteria and satisfy the person's obligations under
24 section 20107a, if possible.

25 (3) A determination by the department under this section may
26 be conditioned on completion of response activities described in
27 the petition.

1 (4) Until June 5, ~~1999~~ 2001, a petition submitted under
2 subsection (1) shall be accompanied by a fee of \$750.00. The
3 department shall deposit all fees collected under this section
4 into the fund. The department shall annually submit a report to
5 the legislature that details all of the following:

6 (a) The number of petitions received pursuant to this
7 section.

8 (b) The average length of time which the department has
9 taken to issue written determinations pursuant to this section.

10 (c) The number of times in which written determinations were
11 not issued within the required time period.

12 (d) The approximate amount of department staff time neces-
13 sary to issue a written determination under this section.

14 (5) A person who is provided an affirmative determination
15 under this section is not liable for a claim for response activ-
16 ity costs, fines or penalties, natural resources damages, or
17 equitable relief under part 17, part 31, or common law resulting
18 from the contamination identified in the petition or from contam-
19 ination existing on the property on the date in which ownership
20 or control of the property was transferred to the person. The
21 liability protection afforded in this subsection does not extend
22 to a violation of any permit issued under state law. This sub-
23 section does not alter a person's liability for a violation of
24 section 20107a for a use or activity of property that is incon-
25 sistent with the determination.