

HOUSE SUBSTITUTE FOR

SENATE BILL NO. 653

(As amended, April 22, 2004)

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending section 20129a (MCL 324.20129a), as amended by 1999  
PA 30, and by adding section 3122a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3122a. In any state fiscal year, if the department  
2 collects more than \$2,000,000.00 under section 3122 in annual  
3 groundwater discharge permit fees, the department shall <<credit in the  
4 next fiscal year each permittee who paid a groundwater discharge permit  
5 fee a proportional amount of the fees collected in excess of  
\$2,000,000.00. However, if a permit is no longer required by the  
permittee in the next fiscal year, the department shall do the following:  
    (a) If the credited amount is \$50.00 or more, the department shall  
provide a refund to the permittee for the credited amount.  
    (b) If the credited amount is less than \$50.00, the department shall  
provide a credit to the permittee for an annual groundwater discharge  
permit fee that may be required in a subsequent year. >>

6       Sec. 20129a. (1) A person may petition the department  
7 within 6 months after completion of a baseline environmental  
8 assessment for a determination that that person meets the  
9 requirements for an exemption from liability under  
10 section 20126(1)(c) and, in conjunction with that exemption, a

1 determination that the proposed use of the facility satisfies the  
2 person's obligations under section 20107a. This request may be  
3 made by a prospective purchaser or transferee prior to actual  
4 transfer of ownership or other interest to that person or by a  
5 lender prior to foreclosure. The request shall be submitted on a  
6 form provided by the department along with the fee provided in  
7 subsection (4). The person petitioning the department under this  
8 subsection shall attach the baseline environmental assessment, a  
9 detailed description of the proposed use of the facility, a plan  
10 for any response activities that are necessary to assure that the  
11 proposed use of the facility satisfies the requirements of  
12 section 20107a if a determination regarding compliance with that  
13 section is requested, and the qualifications of the environmental  
14 professionals who have made the recommendations.

15 (2) Within 15 business days after receipt of a petition  
16 under subsection (1), the department shall issue a written  
17 determination to the person submitting the petition that does  
18 either of the following:

19 (a) Affirms that the criteria for obtaining the exemption  
20 have been met and affirms that the proposed use of the facility  
21 would satisfy the person's obligations under section 20107a  
22 provided that the person complies with the plan for the proposed  
23 use of the facility submitted under subsection (1).

24 (b) Provides that the criteria for obtaining the exemption  
25 have not been met, or that the proposed use of the facility does  
26 not satisfy the person's obligation under section 20107a, the  
27 specific reasons for the denial, and how the applicant could meet

1 the criteria and satisfy the person's obligations under  
2 section 20107a, if possible.

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

6 (4) Until June 5, ~~2003~~ 2005, a petition submitted under  
7 subsection (1) shall be accompanied by a fee of \$750.00. The  
8 department shall deposit all fees collected under this section  
9 into the fund. The department shall annually submit a report to  
10 the legislature that details all of the following:

11 (a) The number of petitions received pursuant to this  
12 section.

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

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

17 (d) The approximate amount of department staff time  
18 necessary to issue a written determination under this section.

19 (5) A person who is provided an affirmative determination  
20 under this section is not liable for a claim for response  
21 activity costs, fines or penalties, natural resources damages, or  
22 equitable relief under part 17, part 31, or common law resulting  
23 from the contamination identified in the petition or from  
24 contamination existing on the property on the date in which  
25 ownership or control of the property was transferred to the  
26 person. The liability protection afforded in this subsection  
27 does not extend to a violation of any permit issued under state

1 law. This subsection does not alter a person's liability for a  
2 violation of section 20107a for a use or activity of property  
3 that is inconsistent with the determination.