

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 653

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 refund to
4 each permittee who paid the fee a proportional amount of the fees
5 collected in excess of \$2,000,000.00.

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.