

**SUBSTITUTE FOR
HOUSE BILL NO. 4774**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 20129a (MCL 324.20129a), as amended by 2004 PA
114.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 request shall be submitted on a form provided by the department
2 along with the fee provided in subsection (4). The person
3 petitioning the department under this subsection shall attach ~~the~~

4 **TO THE PETITION ALL OF THE FOLLOWING:**

5 (a) The baseline environmental assessment. ~~—a~~

6 (B) A detailed description of the proposed use of the
7 facility. ~~—a~~

8 (C) A plan for any response activities that are necessary to
9 assure that the proposed use of the facility satisfies the
10 requirements of section 20107a if a determination regarding
11 compliance with that section is requested. ~~—and the~~

12 (D) **THE** qualifications of the environmental professionals who
13 have made the recommendations.

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

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

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

1 20107a, if possible.

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

5 (4) Until June 5, ~~2005~~ 2007, a petition submitted under
6 subsection (1) shall be accompanied by a fee of \$750.00. The
7 department shall deposit all fees collected under this section into
8 the fund. The department shall annually submit a report to the
9 legislature that details all of the following:

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

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

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

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

17 (5) A person who is provided an affirmative determination
18 under this section is not liable for a claim for response activity
19 costs, fines or penalties, natural resources damages, or equitable
20 relief under part 17, part 31, or common law resulting from the
21 contamination identified in the petition or from contamination
22 existing on the property on the date in which ownership or control
23 of the property was transferred to the person. The liability
24 protection afforded in this subsection does not extend to a
25 violation of any permit issued under state law. This subsection
26 does not alter a person's liability for a violation of section
27 20107a for a use or activity of property that is inconsistent with

1 the determination.