

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4721

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 20129a (MCL 324.20129a), as amended by 2005 PA
42.

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

1 interest to that person or by a lender prior to foreclosure. The
2 request shall be submitted on a form provided by the department
3 along with the fee provided in subsection (4). The person
4 petitioning the department under this subsection shall attach to
5 the petition all of the following:

6 (a) The baseline environmental assessment.

7 (b) A detailed description of the proposed use of the
8 facility.

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

13 (d) The qualifications of the environmental professionals who
14 have made the recommendations.

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

19 (a) Affirms that the criteria for obtaining the exemption have
20 been met and affirms that the proposed use of the facility would
21 satisfy the person's obligations under section 20107a if the person
22 complies with the plan for the proposed use of the facility
23 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 not
26 satisfy the person's obligation under section 20107a, the specific
27 reasons for the denial, and how the applicant could meet the

1 criteria and satisfy the person's obligations under section 20107a,
2 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, 2007~~ **SEPTEMBER 30, 2013**, a petition
7 submitted under subsection (1) shall be accompanied by a fee of
8 \$750.00. The department shall deposit all fees collected under this
9 section into the fund. The department shall annually submit a
10 report to the legislature that details all of the following:

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

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

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

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

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

- 1 20107a for a use or activity of property that is inconsistent with
- 2 the determination.