AN ACT
RELATING TO HEALTH AND SAFETY -- INDUSTRIAL PROPERTY REMEDIATION AND REUSE ACT

Introduced By: Senators Felag, DiPalma, DiMario, and McCaffrey

Date Introduced: March 01, 2022

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

SECTION 1. Section 23-19.14-3 of the General Laws in Chapter 23-19.14 entitled "Industrial Property Remediation and Reuse Act" is hereby amended to read as follows:


(a) "40 CFR" means that section or subsection of the code of federal regulations, title 40, protection of environment, chapter 1, environmental protection agency. References to the administrator, appearing therein, shall be interpreted as referring to the director of the department of environmental management.

(b) "Bona fide prospective purchaser" means a person who intends to purchase a contaminated property, who has documented the intent to purchase the property in writing, and who has offered to pay fair market value for the property in the contaminated state. For purposes of this chapter, any former owner, former operator, or other person who is otherwise a responsible party or any person who had more than ten percent (10%) equitable or other legal interest in the site or any of the operations related to the contamination cannot be considered as a bona fide prospective purchaser. Once a purchaser has certified their status as a bona fide prospective purchaser to the department and the department has acknowledged receipt of such certification, a purchaser may maintain that status for up to one year following purchase of the property, unless it is subsequently found that the purchaser did not meet the criteria for a bona fide prospective purchaser as outlined in this section. If the department finds that substantial progress has been made...
in investigating conditions of the site and/or meeting the requirements for a remedial decision letter, such status may be renewed by the department for a specified period of time not to exceed one year for each renewal.

(c) "Hazardous materials" means any material or combination or mixture of materials containing any hazardous substance in an amount and concentration such that when released into the environment, that material can be shown to present a significant potential to cause an acute or chronic adverse effect on human health or the environment. Hazardous material shall also include any material that contains a hazardous waste. Hazardous material does not include petroleum for the purposes of this chapter.

(d) "Hazardous substances" means any substance designated as hazardous pursuant to 40 CFR 300.5, as is or as amended. Hazardous substance shall not include, for the purposes of this chapter, asbestos or radioactive materials. Hazardous substances shall include per- and polyfluoroalkyl substances.

(e) "Hazardous wastes" means any material defined as hazardous waste pursuant to chapter 19.1 of this title, and the regulations promulgated under chapter 19.1 of this title.

(f) "Operator" means the person responsible for the operation of the activities at the site.

(g)(1) "Owner" means the person who owns the site or part of the site.

(2) In the case of a receiver, the superior court supervising the receiver shall have jurisdiction to determine the nature and extent of the receiver's obligations to comply with the provisions of this chapter. Any obligation to comply with the provisions of this chapter shall be binding on a receiver solely in his or her fiduciary capacity.

(h) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, the federal government or any agency or subdivision of the federal government, a state, municipality, commission, political subdivision of a state, or any interstate body.

(i) "Petroleum" means any virgin petroleum product including the following products:

(1) Unused distillate and residual oil, including but not limited to gasoline, aviation fuels, kerosene, diesel, and heating oils.

(2) Unused crankcase oil, lubricants, hydraulic oils, penetrant oils, tramp oils, quench oils, and other industrial oils.

(j)(1) "Release" shall be defined by 40 CFR 300.5 for purposes of this chapter, but shall also exclude any release from a process, activity, or source area allowed under a permit, license, or approval issued after January 1, 1987 by any regulatory process or legal authority or any release of hazardous materials solely derived from common household materials and occurring at the
(2) For purposes of this chapter, release also includes an actual or potential threat of release.

(k) "Remedial or response action" means those actions taken to rectify the effects of a release of hazardous material, and/or petroleum so that it does not cause a substantial danger to present or future public health or welfare, or the environment.

(l) "Remediation" means the act of implementing, operating, and maintaining, a remedy, remedial action or response action.

(m) "Responsible party" has the meaning attributed to it by the provisions of § 23-19.14-6 or 23-19.14-6.1.

(n) "Site" means all contiguous land, structures, and other appurtenances and improvements on the land contaminated by the use, storage, release, or disposal of hazardous material including the extent of contamination and all suitable areas in very close proximity to the contamination where it will be necessary to implement or conduct any required investigation or remedial action.

(o) "All appropriate inquiries" means an environmental due diligence process for assessing a property for presence or potential presence of contamination, in accordance with requirements established by the department of environmental management that are not inconsistent with the provisions of 40 CFR 312 establishing federal standards for all appropriate inquiries.

(p) "Letter of Compliance" means a formal, written communication from the department signifying that the remedial action has been satisfactorily completed and the objectives of environmental clean-up, pursuant to § 23-19.14-4 have been met.

(q) "Remedial Decision Letter" means a formal, written communication from the department that approves a site investigation, identifies the preferred remedial alternative and authorizes the development of a remedial action work plan in order to achieve the objectives of environmental clean-up.

(r) "Per- and polyfluoroalkyl substances" means perfluorooctanoic acid (PFOA), perfluorooctane sulfonic acid (PFOS), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), and perfluorooctanoic acid (PFHpA), and perfluorodecanoic acid (PFDA).

SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO HEALTH AND SAFETY -- INDUSTRIAL PROPERTY REMEDIATION AND REUSE ACT

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This act would define and provide that "per- and polyfluoroalkyl substances" (PFAS) be included within the definition of "hazardous substances" for purposes of industrial property remediation and reuse.

This act would take effect upon passage.

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