



Reprinted  
January 31, 2006

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## SENATE BILL No. 146

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DIGEST OF SB 146 (Updated January 30, 2006 5:15 pm - DI 52)

**Citations Affected:** IC 13-25; noncode.

**Synopsis:** Property transfer disclosure form. Repeals the statute that prescribes the form of the disclosure document for transfers under the responsible property transfer law. Directs the department of environmental management to prescribe a form for that purpose. Specifies the type of information that must be elicited in the form.

**Effective:** Upon passage; July 1, 2006.

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January 9, 2006, read first time and referred to Committee on Energy and Environmental Affairs.

January 24, 2006, amended, reported favorably — Do Pass.

January 30, 2006, read second time, amended, ordered engrossed.

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Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

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## SENATE BILL No. 146

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A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 13-25-3-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as  
3 provided in subsections (b) and (c), a transferor of property shall  
4 deliver a disclosure document to each of the other parties to a transfer  
5 of property at least thirty (30) days before the transfer. The disclosure  
6 document must be in the form ~~set forth in section 7~~ **prescribed by the**  
7 **department under section 7.5** of this chapter and must include the  
8 information elicited by that form. However, the signature of the  
9 transferee is not required on the disclosure document delivered to a  
10 party involved in the transfer of property as a lender.

11 (b) If all of the other parties to a transfer of property waive the thirty  
12 (30) day deadline set forth in subsection (a) in written waivers that  
13 indicate that the parties are aware of the purpose and intent of the  
14 disclosure document, the transferor is not required to deliver the  
15 disclosure document to the other parties thirty (30) days before the  
16 transfer of the property. However, the transferor shall deliver a  
17 disclosure document that meets the requirements set forth in subsection

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1 (a) to each of the other parties to the transfer of property on or before  
2 the date on which the transfer of property is to become final.

3 (c) If a party involved in a transfer of property as a lender is not  
4 identified to the transferor at least thirty (30) days before the transfer,  
5 the thirty (30) day deadline set forth in subsection (a) does not apply to  
6 the delivery of a disclosure document by the transferor to that lender.  
7 However, if a lender is identified to a transferor less than thirty (30)  
8 days before the transfer, the transferor shall deliver a disclosure  
9 document to the lender immediately after the lender is identified to the  
10 transferor.

11 SECTION 2. IC 13-25-3-7.5 IS ADDED TO THE INDIANA CODE  
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2006]: **Sec. 7.5. The department shall prescribe the form of a  
14 disclosure document to be completed and delivered by a transferor  
15 of property under this chapter. The form must elicit at least the  
16 following information:**

17 (1) **Property identification, including address, legal  
18 description, and property characteristics.**

19 (2) **The nature of the transfer, including identities of the  
20 transferor and transferee.**

21 (3) **Environmental information, including:**

22 (A) **regulatory information during the transferor’s  
23 ownership; and**

24 (B) **site information under other ownership or operation.**

25 (4) **Certification by the transferor that the information  
26 submitted on the disclosure document is true and accurate to  
27 the best of the transferor’s knowledge and belief.**

28 (5) **Certification by the transferee that the disclosure  
29 document was delivered with all elements completed.**

30 SECTION 3. IC 13-25-3-8 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 8. (a) Not more than  
32 thirty (30) days after the effective date of a transfer of property that  
33 requires the preparation of a disclosure document under this chapter:**

34 (1) **the transferor or transferee shall record the disclosure  
35 document in the office of the county recorder of the county in  
36 which the property is located; and**

37 (2) **the transferor shall file a copy of the disclosure document with  
38 the department.**

39 (b) **If a site plan must be attached to the disclosure document under  
40 section 7 of this chapter, the site plan shall be recorded and filed under  
41 subsection (a) along with the disclosure document to which the site  
42 plan must be attached.**

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1           ~~(c)~~ **(b)** The transferor and transferee are jointly responsible for  
2 recording a disclosure document in the county recorder's office under  
3 this section. However, the recording of a disclosure document by one  
4 (1) person referred to in this subsection discharges the responsibility of  
5 the other person.

6           ~~(d)~~ **(c)** A disclosure document recorded in the county recorder's  
7 office or filed with the department:

- 8           (1) is a public record under IC 5-14-3; and
- 9           (2) must be available for inspection and copying during normal  
10 business hours.

11           SECTION 4. IC 13-25-3-12 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) Except as  
13 provided in subsection (b), a person who:

- 14           (1) is responsible for filing a disclosure document in the office of  
15 the county recorder under ~~section 8(a)(1)~~ and ~~8(c)~~ **section 8(a)(1)**  
16 **and 8(b)** of this chapter; and
- 17           (2) fails to record the disclosure document;  
18 commits a Class A infraction.

19           (b) The failure of a transferee to record a disclosure document  
20 within the period allowed under section 8(a) of this chapter is not an  
21 infraction under this section if the disclosure document:

- 22           (1) was not delivered to the transferee within the time allowed  
23 under section 2 of this chapter; or
- 24           (2) contains one (1) or more false statements about substantive  
25 matters.

26           SECTION 5. IC 13-25-3-7 IS REPEALED [EFFECTIVE JULY 1,  
27 2006].

28           SECTION 6. [EFFECTIVE UPON PASSAGE] **(a) Before July 1,**  
29 **2006, the department of environmental management shall**  
30 **prescribe the form required under IC 13-25-3-7.5, as added by this**  
31 **act.**

32           **(b) This SECTION expires July 1, 2006.**

33           SECTION 7. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Madam President: The Senate Committee on Energy and Environmental Affairs, to which was referred Senate Bill No. 146, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 1, delete "(a)".

Page 1, line 8, strike "inquiry" and insert "**inquiries**".

Page 1, line 9, strike "property".

Page 1, line 9, after "as" insert "**facility**".

Page 1, line 10, delete "for exemption".

Page 1, line 11, delete "from liability".

Page 1, line 16, strike "property" and insert "**facility**".

Page 1, line 17, delete "for an exemption from" and insert "**to avoid**".

Page 2, line 1, delete "42 U.S.C. 9601(35)(B) and 42 U.S.C. 9607(b)(3)" and insert "**the federal Comprehensive Environmental Response, Compensation and Liability Act**".

Page 9, delete lines 7 through 11, begin a new paragraph and insert:  
**"V. FURTHER ACTION UPON COMPLETION OF THE FORM**

**A. The transferor must comply with the delivery requirements of IC 13-25-3-2 and the filing and recording requirements of IC 13-25-3-8.**

**B. The transferee must comply with the recording requirements of IC 13-25-3-8.**

and when so amended that said bill do pass.

(Reference is to SB 146 as introduced.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 146 be amended to read as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

(Reference is to SB 146 as printed January 25, 2006.)

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