

Responsible Property Transfer Law repealed by General Assembly

HEA 1005, enacted by the 2014 Indiana General Assembly, is an omnibus government regulation reduction bill that included, among other things, the repeal of the long-standing Responsible Property Transfer Law (RPTL). As many commercial brokers are already aware, the RPTL requires a transferor of certain types of property to disclose any environmental defect and the presence of any environmental restrictive covenant to all parties involved in a transaction. Corresponding paperwork is also required to be submitted to the Indiana Department of Environmental Management. The original legislation enacting the disclosure requirement was authored by Representative Brian Bosma in 1989 and went into effect in 1990. Bosma was a member of the House Environmental Affairs Committee at the time and is the current Speaker of the House.

RPTL imposes disclosure requirements triggered by the transfer (as defined in IC 13-11-2-234) of the following types of property:

- property that is the site of any underground storage tank (UST) for which notification is required under UST laws;
 - property that is listed on the U.S. Environmental Protection Agency's (EPA) Comprehensive Environmental Response, Compensation and Liability Information System (CERCLIS) list;
 - property subject to reporting under Section 312 of the Federal Emergency Planning and Community Right-to-Know Act (EPCRA). This generally means any facility that has, at any one time, over 10,000 pounds of any Occupation Safety and Health Administration (OSHA) hazardous chemical, or 500 pounds (or any smaller designated amount) of any "extremely hazardous substance."
- IC 13-11-2-174

Speaker Bosma and the House Republican Caucus made repeal of the statute a top priority this session. Governor Mike Pence also made the repeal a top legislative initiative for his administration. Supporters of the bill argued that the effectiveness of the RPTL had run its course over the years and that the level of sophistication of buyers of industrial/commercial property, the greater level of due diligence on behalf of buyers, and the proliferation of Phase I environmental studies of industrial property and other UST requirements made compliance with the law burdensome and duplicative for sellers. Proponents also argued that the requirement offered little or no additional benefit to buyers when it comes to site characterization. The associated paperwork related to the disclosure will no longer be required by IDEM, thus, potentially streamlining the transaction process for certain properties.

IAR supported this change and appreciates the efforts by the Governor and General Assembly to do their part to eliminate unnecessary regulation, while maintaining a high level of environmental protection. The repeal of the Responsible Property Transfer Law takes effect July 1, 2014