Polluted sites also are legal problem

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Because there was no law then that prohibited selling contaminated property or even required the seller to make such contamination known to the buyer, homes, apartments, businesses and even a hospital were built on top of old industrial sites where hazardous chemicals were used.

While it may be the unsuspecting little guy whose health is put in jeopardy, the big boys have been burned, too. Companies and private citizens who bought large tracts of land sometimes got hazardous waste for which they hadn't bargained.

Banks have foreclosed on property to find themselves facing the possibility of huge cleanup costs.

Research of old maps and documents by the Morning Advocate has shown numerous landfills and old industrial sites across the state that now have homes, hospitals and businesses built on them. Others await innocent buyers.

People don't necessarily see the contamination when they decide to buy or move onto what may have been an industrial site in years past, said Elizabeth Megginson, the administrative aide of U.S. Rep. Billy Tauzin.

"Hazardous materials, said Jerry Poje, a toxicologist for the National Wildlife Federation.

"Once you take title to it you're stuck with it" and could be forced to pay for it, the attorney said.

"In light of what I've seen in your articles, perhaps we need to revisit" that law and include some penalties," said Rep. Kip Holden, who authored the bill.

New Jersey recently enacted a law requiring land sellers to certify their land is not contaminated with hazardous materials, said Jerry Poje, a toxicologist for the National Wildlife Federation.

"We may not be able to do much about some of these things that are 50 years old and have changed hands five times, but we certainly can set our society right so we are not creating future hazards for unknowing generations," Poje said.

A number of states have come up with laws covering the sale of contaminated property, which shows there is growing recognition that this is a serious problem, said Glenn Paulson, director of the Center for Hazardous Waste Management at the Illinois Institute of Technology.

When such laws are successful in getting contaminated property legally flagged, the marketplace takes over and generally nobody will buy the property until the owner cleans it up, Paulson said.

The law should go further than that, Unglesby said. Contaminated "land should be condemned," and its sale barred until it is cleaned up.

The average person buying a piece of land doesn't think to look back at what the land might have been used for in the past, the attorney said.

"I would because I'm aware of all of the irresponsibilities" of industry in the past and the problems industry has created "because of helter-skelter dumping," Unglesby said.

People should do research on a tract of land before buying it, he said.

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huge cleanup costs. Many cleanups can cost millions of dollars. If there is any doubt about a piece of land, the potential buyer should have an environmental audit done that includes soil borings and testing for hazardous materials, he suggests. That is now being done in New Orleans, where the Morning Advocate recently wrote about two schools built on old landfill sites. The Orleans Parish school system now does a historical search of any property it plans to buy and then does some "rudimentary testing" to see if further analysis is needed, according to Facility Planning Director Kenneth Ducote.

The central part of the city often was used as a dump in the 1700s, Ducote said. New Jersey, which has faced many contamination problems similar to those in Louisiana, has enacted a clean bill of health law which requires environmental surveys on significant real estate transactions, according to Bruce Piasecki, author of America's Future In Toxic Waste. "New Jersey is the mother of invention when it comes to hazardous waste reform," said Piasecki, who added that New Jersey has done a lot to revitalize a regional economy that had been saddled with problems created by heavy industrialization.

Requiring things like environmental audits in connection with land sales is not unreasonable for other states that have had similar waste problems, he said. "These old contaminated sites have created a situation where anyone purchasing a piece of property has to do some sort of environmental assessment. Otherwise, they can be saddled with liabilities," Megginson said.

The environmental auditing business has grown considerably in the last few years after a few banks, industries and individuals were burned by purchases or seizures of contaminated land, local environmental engineers said. Bruce Capps of Gulf Engineers and Consultants has been asked to do so-called "phase one" site audits, in which they investigate the land or building and its past uses.

"We do a historical search and historical aerial photo research as far back as we can. We do a physical inspection of the site, talk with neighbors and former employees. We try to determine the past usage and look for any contamination there or suspected of being there," Capps said.

Quoting federal law, Capps said the "liability for cleanup of contamination is strict, joint and several," which means "they're going to go after you (the present owner) first. And if you can, you can attempt to recover" costs from past owners or responsible parties. "It's a new thing, it's growing. There have been cases in Louisiana where lenders today are commissioning site audits or requiring the seller or property owner to have a site audit performed," he said. The bank may well take possession of contaminated property if the owner defaults, the land was used as collateral and a site audit had not been done. "In such a case, the liability could be far greater than the value of the property," Capps said.