

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 363

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 32505 (MCL 324.32505), as added by 1995 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32505. (1) If the department determines that it is in the
2 public interest to grant an applicant a deed or lease to ~~such~~
3 **UNPATENTED** lands **DESCRIBED IN SECTION 32502** or enter into an
4 agreement to ~~permit~~**ALLOW** use and improvements in the waters or to
5 enter into any other agreement in regard thereto, the department
6 shall determine the amount of consideration to be paid to ~~the~~**THIS**
7 state by the applicant for the conveyance or lease of unpatented
8 lands.

9 (2) The department may ~~permit~~**ALLOW**, by lease or agreement,

1 the filling in of patented and unpatented submerged lands and
2 ~~permit~~**ALLOW** permanent improvements and structures after finding
3 that the public trust will not be impaired or substantially
4 injured.

5 (3) The department may issue deeds or may enter into leases **OF**
6 **UNPATENTED LANDS** if the ~~unpatented lands applied for~~**LANDS** have
7 been artificially filled in or are proposed to be changed from the
8 condition that exists on October 14, 1955 by filling, sheet piling,
9 shoring, or by any other means, and ~~such~~**THE** lands are used or to
10 be used or occupied in whole or in part for uses other than
11 existing, lawful riparian or littoral purposes. The consideration
12 to be paid to ~~the~~**THIS** state for the conveyance or lease of
13 unpatented lands by the applicant shall be not less than the fair,
14 cash market value of the lands determined as of the date of the
15 filing of the application, minus any improvements placed on the
16 lands, but the sale price shall not be less than 30% of the value
17 of the land. In determining the fair, cash market value of the
18 lands applied for, the department may ~~give due consideration to~~
19 **CONSIDER** the fact that the lands are connected with the riparian or
20 littoral property belonging to the applicant, and ~~to~~**the** uses,
21 including residential and commercial, being made or which can be
22 made of the lands.

23 (4) Agreements for the lands or water area described in
24 section 32502 may be granted to or entered into with local units of
25 government for public purposes. ~~and containing those~~**THE AGREEMENTS**
26 **MAY CONTAIN** terms and conditions ~~that may be considered~~**BY THE**
27 **DEPARTMENT TO BE** just and equitable ~~in view of~~**GIVEN** the public

1 trust involved and may ~~include the granting of~~ **GRANT** permission to
2 ~~make such fills as may be~~ **FILL THOSE LANDS AS** necessary.

3 (5) If ~~the~~ unpatented lands ~~applied for~~ have not been filled
4 in or in any way substantially changed from their natural character
5 ~~at the time the application is filed with the department,~~ and the
6 application **TO ACQUIRE OR LEASE THOSE LANDS** is filed for the
7 purpose of flood control, shore erosion control, drainage and
8 sanitation control, or to straighten irregular shore lines, then
9 the consideration to be paid to ~~the~~ **THIS** state by the applicant
10 shall be the fair, cash value of ~~such~~ **THE** land, giving due
11 consideration to ~~its~~ **THE LAND'S** being adjacent to and connected
12 with the riparian or littoral property owned by the applicant.

13 (6) Leases or agreements covering unpatented lands may be
14 granted or entered into with riparian or littoral proprietors for
15 commercial marina purposes or for marinas operated by persons for
16 consideration and containing terms and conditions ~~that are~~
17 considered by the department to be just and equitable. The leases
18 may include either filled or unfilled lake bottomlands, or both.
19 Rental shall commence as of the date of use of the unpatented lands
20 for the marina operations. Dockage and other uses by marinas in
21 waters over patented lands on October 14, 1955 shall be considered
22 to be lawful riparian **OR LITTORAL** use.

23 (7) **IF A PRIVATE HARBOR FORMED BY A BREAKWATER ERECTED ON**
24 **UNPATENTED LAKE BOTTOMLANDS IS NOT USED BY THE RIPARIAN OR LITTORAL**
25 **OWNER FOR COMMERCIAL PURPOSES AND IF THE RIPARIAN OR LITTORAL**
26 **OWNER'S LAND IS USED ONLY FOR RESIDENTIAL PURPOSES, THE**
27 **CONSIDERATION FOR A LEASE FOR THE BREAKWATER TO OCCUPY THE LAKE**

1 BOTTOMLANDS AND FOR EXCLUSIVE USE OF THE WATERS OF THE HARBOR SHALL
2 NOT EXCEED \$10.00 ANNUALLY. THE DEPARTMENT SHALL WAIVE THE \$10.00
3 CHARGE IF THE RIPARIAN OR LITTORAL OWNER AGREES TO ALLOW THE HARBOR
4 TO BE USED BY THE PUBLIC AS A HARBOR OF REFUGE DURING STORMS.

5 (8) ~~(7)~~—If the department after investigation determines that
6 an applicant **TO ACQUIRE OR LEASE LANDS** has willfully and knowingly
7 filled in or in any way substantially changed the lands ~~applied for~~
8 with an intent to defraud, or if the applicant has acquired ~~such~~
9 **THE** lands with knowledge of such a fraudulent intent and is not an
10 innocent purchaser, the ~~sale price~~ **CONSIDERATION** shall be the fair,
11 cash market value of the land **OR LEASEHOLD**. An applicant may
12 request a hearing of a determination made under this subsection.
13 The department shall grant a hearing if requested.

14 Enacting section 1. This amendatory act takes effect 90 days
15 after the date it is enacted into law.