



**House
Legislative
Analysis
Section**

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LEASE OF RR PROPERTY

House Bill 4134
Sponsor: Rep. Dick Allen
Committee: Transportation

Complete to 2-11-91

A SUMMARY OF HOUSE BILL 4134 INTRODUCED 2-7-91

The bill would amend Public Act 303 of 1921, which regulates both leases and sales of railroad property, to give a leaseholder first chance to lease adjacent railroad property offered for use. The bill would remove a provision from the act that exempts railroads certified as common carriers; thus, a common carrier railroad would be subject to the act, including the provisions of Public Act 85 of 1984 (which amended the act to give a leaseholder first chance to *buy* railroad land which is for sale). The bill would apply to real property that contained leasehold improvements, was adjacent to a right of way, was not necessary for the operation of rail services over that right of way, and that was not for sale. When a railroad, its trustee, or its successor in interest wished to offer for lease such property, it would first have to make a written offer to the leaseholder (or person holding leasehold improvements) on adjacent property to lease the property at fair market value. The offer would have to include the legal description of the property, the property rights to be leased, and the leasehold's financial terms and length of duration. If the leaseholder also owned leasehold improvements on the adjacent right of way, that portion of the right of way also would have to be included in the offer, as long as it was not needed for the operation of rail services. The leaseholder would have 60 days to respond.

If the parties disagreed on the terms of the lease, either party could ask the state tax commission to resolve the dispute; a commission decision would be binding. However, before they asked the commission to intervene the parties could submit their dispute to an independent appraiser, selected by the commission, who would decide a fair market lease value and other terms for the lease within 60 days after he or she was selected. An appraiser's decision on a lease that was not appealed to the commission within 30 days would be binding for that lease and any that followed from the date of the written offer until 18 months after the appraiser's decision. This would also apply to a decision or order made by the commission. The circuit court would have jurisdiction to enforce the appraiser's decision.

If, instead, the commission was asked to intervene, it would use three appraisals to determine fair market lease value: two appraisals conducted by appraisers selected separately by each party, and a third conducted by an appraiser appointed by the commission. The costs of appraisals would be paid by the parties in dispute.

MCL 469.356