



# HOUSE BILL No. 5138

November 30, 1999, Introduced by Reps. Shackleton, Gilbert, Richardville, Tabor, Julian, Gosselin, LaSata, Toy and Kukuk and referred to the Committee on Conservation and Outdoor Recreation.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 32504, 32505, 32506, and 32513 (MCL 324.32504, 324.32505, 324.32506, and 324.32513), sections 32504, 32505, and 32506 as added by 1995 PA 59 and section 32513 as amended by 1999 PA 106.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

HOUSE BILL No. 5138

1       Sec. 32504. (1) ~~Application~~ AN APPLICATION for a deed or  
2 lease to unpatented lands or FOR AN agreement for use of water  
3 areas over patented lands shall be MADE on ~~forms~~ A FORM pro-  
4 vided by the department. ~~An~~ THE application shall include a  
5 surveyed description of the lands or water area applied for,  
6 together with a surveyed description of the riparian or littoral  
7 property lying adjacent and contiguous to the lands or water  
8 area, certified to by a ~~registered land~~ PROFESSIONAL surveyor

1 AS DEFINED IN SECTION 2001 OF THE OCCUPATIONAL CODE, 1980 PA 299,  
2 MCL 339.2001. The description shall show the location of the  
3 water's edge at the time it was prepared and other information  
4 that is required by the department. The applicant shall be a  
5 riparian or littoral owner or owners of property touching or sit-  
6 uated opposite the unpatented land or water area over patented  
7 lands applied for or an occupant of that land. The application  
8 shall include the names and mailing addresses of all persons in  
9 possession or occupancy or having an interest in the adjacent or  
10 contiguous riparian or littoral property or having riparian or  
11 littoral rights or interests in the lands or water areas applied  
12 for, and the application shall be accompanied by the written con-  
13 sent of all persons having an interest in the lands or water  
14 areas applied for in the application.

15 (2) Before an application SUBMITTED UNDER SUBSECTION (1) is  
16 acted upon by the department, the applicant shall secure approval  
17 of or permission for his or her proposed use of ~~such~~ THE lands  
18 or water area from any federal agency as provided by law, the  
19 department with the advice of the Michigan waterways commission,  
20 and the legislative body of the local unit or units of government  
21 within which ~~such~~ THE land or water area is or will be includ-  
22 ed, or to which it is contiguous or adjacent. A deed, lease, or  
23 agreement shall not be issued or entered into by the department  
24 without such approvals or permission. The department may also  
25 require the applicant to furnish an abstract of title and owner-  
26 ship, and a 20-year tax history on the riparian or littoral  
27 property ~~that is~~ contiguous or adjacent to the lands or water

1 area applied for, as well as on the lands applied for, if  
2 available.

3       (3) ~~The~~ SUBJECT TO SUBSECTION (4), THE department shall  
4 require the applicant to deposit a fee of not less than \$50.00  
5 for each application filed. The fee shall be deposited with the  
6 state treasurer to the credit of the state's general fund. If a  
7 deed, lease, or other agreement is approved by the department,  
8 the applicant is entitled to credit for the fee against the con-  
9 sideration that is paid for the deed, lease, or other agreement.

10       (4) IF THE APPLICANT IS A NONPROFIT ENTITY THAT IS SEEKING  
11 THE DEED, LEASE, OR AGREEMENT TO PRESERVE OR RESTORE A LIGHT-  
12 HOUSE, THE DEPARTMENT SHALL NOT CHARGE A FEE UNDER SUBSECTION  
13 (3).

14       Sec. 32505. (1) If the department determines that it is in  
15 the public interest to grant an applicant a deed or lease to  
16 ~~such~~ THE lands DESCRIBED IN THE APPLICATION or enter into an  
17 agreement to permit use and improvements in the waters OVER THOSE  
18 LANDS or to enter into any other agreement in regard ~~thereto~~ TO  
19 THOSE LANDS OR WATERS, the department shall, SUBJECT TO SUBSEC-  
20 TION (8), determine the amount of consideration to be paid to the  
21 state by the applicant for the conveyance or lease of unpatented  
22 lands.

23       (2) The department may permit, by lease or agreement, the  
24 filling in of patented and unpatented submerged lands and permit  
25 permanent improvements and structures after finding that the  
26 public trust will not be impaired or substantially injured.

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

19           (4) Agreements for the lands or water area described in sec-  
20 tion 32502 may be granted to or entered into with local units of  
21 government for public purposes and containing those terms and  
22 conditions that may be considered just and equitable in view of  
23 the public trust involved and may include the granting of permis-  
24 sion to make such fills as may be necessary.

25           (5) ~~If~~ SUBJECT TO SUBSECTION (8), IF the unpatented lands  
26 applied for have not been filled in or in any way substantially  
27 changed from their natural character at the time the application

1 is filed with the department, and the application is filed for  
2 the purpose of flood control, shore erosion control, drainage and  
3 sanitation control, or to straighten irregular shore lines, then  
4 the consideration to be paid to the state by the applicant shall  
5 be the fair, cash value of such land, giving due consideration to  
6 its being adjacent to and connected with the riparian or littoral  
7 property owned by the applicant.

8       (6) Leases or agreements covering unpatented lands may be  
9 granted or entered into with riparian or littoral proprietors for  
10 commercial marina purposes or for marinas operated by persons for  
11 consideration and containing terms and conditions that are con-  
12 sidered by the department to be just and equitable. The leases  
13 may include either filled or unfilled lake bottomlands, or both.  
14 Rental shall commence as of the date of use of the unpatented  
15 lands for the marina operations. Dockage and other uses by mari-  
16 nas in waters over patented lands on October 14, 1955 shall be  
17 considered to be lawful riparian use.

18       (7) If the department after investigation determines that an  
19 applicant has willfully and knowingly filled in or in any way  
20 substantially changed the lands applied for with an intent to  
21 defraud, or if the applicant has acquired such lands with knowl-  
22 edge of such a fraudulent intent and is not an innocent purchas-  
23 er, the sale price shall be the fair, cash market value of the  
24 land. An applicant may request a hearing of a determination made  
25 under this subsection. The department shall grant a hearing if  
26 requested.

1 (8) EXCEPT AS PROVIDED IN SUBSECTION (7), IF AN APPLICANT  
2 UNDER THIS SECTION IS A NONPROFIT ENTITY THAT IS SEEKING THE  
3 LEASE, DEED, OR AGREEMENT TO PRESERVE OR RESTORE A LIGHTHOUSE,  
4 THE DEPARTMENT SHALL NOT REQUIRE CONSIDERATION TO BE PAID UNDER  
5 THIS SECTION.

6 Sec. 32506. (1) The fair, cash market value of lands  
7 approved for sale under this part shall be determined by the  
8 department. ~~Consideration~~ SUBJECT TO SUBSECTION (2),  
9 CONSIDERATION paid to the state shall not be less than \$50.00.  
10 If the applicant is not satisfied with the value determined by  
11 the department, within 30 days after the receipt of the determi-  
12 nation he or she may submit a petition in writing to the circuit  
13 court of the county in which the lands are located, and the court  
14 shall appoint an appraiser or appraisers as the court shall  
15 determine for an appraisal of the lands. The decision of the  
16 court is final.

17 (2) IF THE APPLICANT IS A NONPROFIT ENTITY THAT IS SEEKING  
18 THE LANDS TO PRESERVE OR RESTORE A LIGHTHOUSE, THE DEPARTMENT  
19 SHALL NOT REQUIRE MONETARY CONSIDERATION TO BE PAID UNDER THIS  
20 SECTION.

21 Sec. 32513. (1) Before any work or connection specified in  
22 section 32512 is undertaken, a person shall file an application  
23 with the department of environmental quality setting forth the  
24 following:

25 (a) The name and address of the applicant.

26 (b) The legal description of the lands included in the  
27 project.

1 (c) A summary statement of the purpose of the project.

2 (d) A map or diagram showing the proposal on an adequate  
3 scale with contours and cross-section profiles of the waterway to  
4 be constructed.

5 (e) Other information required by the department of environ-  
6 mental quality.

7 (2) Except as provided in subsections (3), ~~and~~ (4), AND  
8 (5), an application for a permit under this section shall be  
9 accompanied by a fee according to the following schedule:

10 (a) Until October 1, 2003:

11 (i) For activities included in the minor project category as  
12 described in rules promulgated under this part, \$50.00.

13 (ii) For construction or expansion of a marina, a fee of:

14 (A) \$50.00 for an expansion of 1-10 slips to an existing  
15 permitted marina.

16 (B) \$100.00 for a new marina with 1-10 proposed marina  
17 slips.

18 (C) \$250.00 for an expansion of 11-50 slips to an existing  
19 permitted marina, plus \$10.00 for each slip over 50.

20 (D) \$500.00 for a new marina with 11-50 proposed marina  
21 slips, plus \$10.00 for each slip over 50.

22 (E) \$1,500.00 if an existing permitted marina proposes main-  
23 tenance dredging of 10,000 cubic yards or more or the addition of  
24 seawalls, bulkheads, or revetments of 500 feet or more.

25 (iii) For major projects other than a project described in  
26 subparagraph (ii)(E), involving any of the following, a fee of  
27 \$2,000.00:



- 1 (A) Dredging of 10,000 cubic yards or more.
- 2 (B) Filling of 10,000 cubic yards or more.
- 3 (C) Seawalls, bulkheads, or revetment of 500 feet or more.
- 4 (D) Filling or draining of 1 acre or more of coastal  
5 wetland.
- 6 (E) New dredging or upland boat basin excavation in areas of  
7 suspected contamination.
- 8 (F) New breakwater or channel jetty.
- 9 (G) Shore protection, such as groins and underwater stabi-  
10 lizers, that extend 150 feet or more on Great Lakes bottomlands.
- 11 (H) New commercial dock or wharf of 300 feet or more in  
12 length.
- 13 (iv) For all other projects not listed in subparagraphs (i)  
14 through (iii), \$500.00.
- 15 (b) Beginning October 1, 2003, a fee of \$50.00 for any  
16 project listed in subdivision (a).
- 17 (3) IF THE APPLICANT FOR A PERMIT UNDER THIS PART IS A NON-  
18 PROFIT ENTITY THAT IS SEEKING THE PERMIT FOR A PROJECT TO PRE-  
19 SERVE OR RESTORE A LIGHTHOUSE, THE APPLICANT IS NOT SUBJECT TO A  
20 PERMIT FEE UNDER THIS SECTION.
- 21 (4) ~~(3)~~ A project that requires review and approval under  
22 this part and 1 or more of the following is subject to only the  
23 single highest permit fee required under this part or the  
24 following:
- 25 (a) Part 301.
- 26 (b) Part 303.

1 (c) Part 323.

2 (d) Section 3104.

3 (e) Section 117 of the land division act, 1967 PA 288, MCL  
4 560.117.

5 (5) ~~(4)~~ If work has been done in violation of a permit  
6 requirement under this part and restoration is not ordered by the  
7 department of environmental quality, the department of environ-  
8 mental quality may accept an application for a permit if the  
9 application is accompanied by a fee equal to 2 times the permit  
10 fee required under this section.

11 (6) ~~(5)~~ The department of environmental quality shall for-  
12 ward all fees collected under this section to the state treasurer  
13 for deposit into the land and water management permit fee fund  
14 created in section 30113.