

Act No. 65
Public Acts of 2000
Approved by the Governor
March 29, 2000
Filed with the Secretary of State
March 30, 2000
EFFECTIVE DATE: April 1, 2000

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Rep. Switalski

ENROLLED HOUSE BILL No. 5495

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 20101b and 80312 (MCL 324.20101b and 324.80312), section 20101b as added by 1995 PA 71 and section 80312 as added by 1995 PA 58.

The People of the State of Michigan enact:

Sec. 20101b. (1) A lender or other person who has not participated in the management of a property as described in section 20101a before assuming ownership or control of the property as a fiduciary, as defined by section 1104 of the estates and protected individuals code, 1998 PA 386, MCL 700.1104, or in a representative capacity for a disabled person under section 5501 of the estates and protected individuals code, 1998 PA 386, MCL 700.5501, and that is acting or has acted in a capacity permitted by the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102, is not personally liable as an owner or operator of the property under this part. This subsection does not do either of the following:

(a) Relieve the fiduciary from personal liability as the result of the fiduciary's assumption of personal liability, or negligence, gross negligence, or reckless, willful, or intentional misconduct.

(b) Prevent a claim against the assets that are part of or all of the estate or trust that contains the facility; another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility that is administered by the lender or other person; or another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility. Such a claim may be asserted against the fiduciary in its representative capacity, whether or not the fiduciary is personally liable.

(2) A lender that has not participated in the management of a property as described in section 20101a before assuming ownership or control of the property in a fiduciary capacity, and under a fiduciary agreement entered into on or before August 1, 1990 owns or controls the property in a fiduciary capacity that is authorized by the banking code of 1969, 1969 PA 319, MCL 487.301 to 487.598, or the national bank act, chapter 106, 13 Stat. 99, is not personally liable as an owner or operator of the property under this part. This subsection does not do either of the following:

(a) Relieve the fiduciary from personal liability as the result of the fiduciary's assumption of personal liability, negligence, gross negligence, or reckless, willful, or intentional misconduct.

(b) Prevent a claim against the assets that are part of or all of the estate or trust that contains the facility; another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility that is

administered by the lender; or another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility. Such a claim may be asserted against the fiduciary in its representative capacity, whether or not the fiduciary is personally liable.

(3) A lender that has not participated in the management of a property as described in section 20101a before assuming ownership or control of the property in a fiduciary capacity, and under a fiduciary agreement entered into after August 1, 1990 owns or controls the property in a fiduciary capacity that is authorized by the banking code of 1969, 1969 PA 319, MCL 487.301 to 487.598, or the national bank act, chapter 106, 13 Stat. 99, that has served only in an administrative, custodial, or financial capacity with respect to the property, and has not exercised sufficient involvement to control the owner's or operator's handling of a hazardous substance, is not personally liable as an owner or operator of the property under this part. This subsection does not do either of the following:

(a) Relieve the fiduciary from personal liability as the result of the fiduciary's assumption of personal liability, negligence, gross negligence, or reckless, willful, or intentional misconduct.

(b) Prevent a claim against the assets that are part of or all of the estate or trust that contains the facility; another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility that is administered by the lender; or another estate or trust of the decedent, grantor, ward, or other person whose estate or trust contains the facility. Such a claim may be asserted against the fiduciary in its representative capacity, whether or not the fiduciary is personally liable.

Sec. 80312. (1) The secretary of state may issue a certificate of title for a watercraft to a person who complies with subsection (2) or (3) if the transfer of ownership of that watercraft is any of the following:

(a) By operation of law including, but not limited to, inheritance, devise, bequest, order in bankruptcy, insolvency, replevin, or execution of sale.

(b) By sale to satisfy a storage or repair charge.

(c) By repossession upon default in performance of the terms of a security agreement.

(d) As provided in subsection (3).

(2) A person applying for a certificate of title under this section shall do all of the following:

(a) Surrender to the secretary of state either a valid certificate of title or the manufacturer's or importer's certificate for the watercraft or, if surrender of a certificate for that watercraft is not possible, present proof satisfactory to the secretary of state of the applicant's ownership of and right of possession to the watercraft.

(b) Pay the fee prescribed in section 80311.

(c) Present to the secretary of state an application for certificate of title.

(3) A person may petition the secretary of state for a certificate or certificates of title for 1 or more registered watercraft that the person does not own, if each of the following circumstances exists:

(a) The record owner of the registered watercraft dies without leaving other property that requires the procurement of letters under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102.

(b) The total value of the deceased owner's interest in all watercraft subject to the petition for a certificate or certificates of title under this section is \$100,000.00 or less.

(c) The person petitioning for a certificate or certificates of title under this section is 1 of the following, in the following order of priority:

(i) The surviving spouse of the watercraft owner.

(ii) A person entitled to the certificate or certificates of title in the order specified in section 2103 of the estates and protected individuals code, 1998 PA 386, MCL 700.2103.

(d) The person who petitions for a certificate of title under this section furnishes the secretary of state with proof satisfactory to the secretary of state of each of the following:

(i) The death of the owner of each watercraft for which a certificate of title is sought.

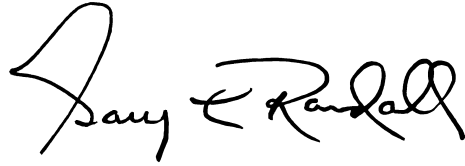
(ii) The petitioner's priority to receive the decedent's interest in each watercraft for which a certificate of title is sought.

(4) A certification by the person, or agent of the person, to whom possession of the watercraft passed, that sets forth the facts entitling that person to possession and ownership of the watercraft, together with a copy of the journal entry, court order, instrument, or other document upon which the claim of possession and ownership is founded, are satisfactory proof of ownership and right of possession. If the applicant cannot produce proof of ownership, the applicant may apply to the secretary of state for a certificate of title and submit evidence that establishes that person's ownership interest in the watercraft. If the secretary of state finds the evidence sufficient, the secretary of state may issue to that person a certificate of title for that watercraft. The office of secretary of state shall examine the records in its possession and, if it determines from that examination that a lien is on the watercraft, and if the applicant fails to provide

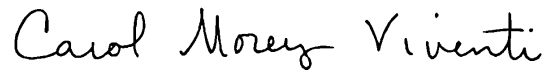
satisfactory evidence of extinction of the lien, the secretary of state shall furnish a certificate of title that contains a statement of the lien.

Enacting section 1. This amendatory act takes effect April 1, 2000.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.