

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 670

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 30113, 33901, 33902, 33903, 33904, 33908,
33910, 33911, 33916, 33924, 33929, and 33935 (MCL 324.30113,
324.33901, 324.33902, 324.33903, 324.33904, 324.33908, 324.33910,
324.33911, 324.33916, 324.33924, 324.33929, and 324.33935), section
30113 as amended by 2004 PA 325 and sections 33901, 33902, 33903,
33904, 33908, 33910, 33911, 33916, 33924, 33929, and 33935 as added
by 1995 PA 59; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 30113. (1) The land and water management permit fee fund
2 is created within the state treasury.
- 3 (2) The state treasurer may receive money or other assets from
4 any source for deposit into the fund. The state treasurer shall

1 direct the investment of the fund. The state treasurer shall credit
2 to the fund interest and earnings from fund investments. The state
3 treasurer shall annually present to the department an accounting of
4 the amount of money in the fund.

5 (3) Money in the fund at the close of the fiscal year shall
6 remain in the fund and shall not lapse to the general fund.

7 (4) The department shall expend money from the fund, upon
8 appropriation, only to implement this part and the following:

9 (a) Sections 3104, 3107, and 3108.

10 (b) Before October 1, 2004, section 12562 of the public health
11 code, 1978 PA 368, MCL 333.12562, or, on or after October 1, 2004,
12 part 33.

13 (c) Part 303.

14 (d) Part 315.

15 (e) Part 323.

16 (f) Part 325.

17 **(G) PART 339.**

18 **(H)** ~~—(g)—~~ Part 353.

19 **(I)** ~~—(h)—~~ Section 117 of the land division act, 1967 PA 288,
20 MCL 560.117.

21 (5) The department shall annually report to the legislature
22 how money in the fund was expended during the previous fiscal year.

23 Sec. 33901. All of the unpatented overflowed lands, made
24 lands, and ~~lake~~ **LAKE ST. CLAIR** bottomlands belonging to this
25 state or held in trust by ~~it~~ **THIS STATE** as provided in this part
26 shall be held, leased, **DISPOSED OF BY DEED**, and controlled by the
27 department in the manner provided in this part.

1 Sec. 33902. The department shall not deed or convey the lands
 2 described in section 33901 except as provided in sections 33903 to
 3 33911. ~~—, but may lease lands of the character described in section~~
 4 ~~33901 to a person for the purposes and in the manner provided in~~
 5 ~~this part.~~ The department may dedicate unleased lands of the
 6 character described in section 33901 for public hunting, fishing,
 7 and other recreational uses.

8 Sec. 33903. The department, upon application of any person
 9 ~~holding~~ **WHO, ON THE EFFECTIVE DATE OF THE 2006 AMENDATORY ACT THAT**
 10 **AMENDED THIS SECTION, HOLDS** a lease of any portion or portions of
 11 land from this state pursuant to former ~~Act No. 326 of the Public~~
 12 ~~Acts of 1913~~ **1913 PA 326**, or this part, **OR UPON APPLICATION BY**
 13 **THAT PERSON'S HEIRS OR ASSIGNS**, shall execute and deliver to the
 14 applicant **OR HIS OR HER HEIRS OR ASSIGNS** a deed conveying to him or
 15 her all of the right, title, and interest of this state in and to
 16 the lands described in this section, subject to the paramount
 17 rights of navigation, hunting, and fishing that remain in the
 18 general public and in the government as now existing and recognized
 19 by law. The deeds shall contain the ~~same~~ provisions as to
 20 **RESIDENCY AND CLUB** use and occupancy as now set forth in all leases
 21 previously granted under former ~~Act No. 326 of the Public Acts of~~
 22 ~~1913~~ **1913 PA 326**. ~~The lands covered by this section are that~~
 23 ~~portion of the St. Clair Flats, township of Clay, St. Clair county,~~
 24 ~~Michigan, as surveyed under former Act No. 175 of the Public Acts~~
 25 ~~of 1899, which front upon or are a part of the south, middle, and~~
 26 ~~Sni Bora channel sections as follows:~~
 27 ~~—— South channel section, lots 2-601 inclusive, excepting~~

~~therefrom portions described in Act No. 5 of the Public Acts of 1938 and already conveyed to the federal government pursuant to that act.~~

~~Also any interior lands so called, lying between lots 452-601 inclusive, south channel section, and the highway known as M-154, and in addition thereto the lands leased under section 11 of former Act No. 326 of the Public Acts of 1913, and particularly described therein.~~

~~Also middle channel section, lots 29-34 inclusive, lots 39-53 inclusive, lots 82 and 83 lying north of middle channel drive, lots 84-107 inclusive, lots 109 and 111, and lots 163-215 inclusive, also Sni Bora channel section, lots 147-162 inclusive and lots 167-202 inclusive.~~ **AN APPLICATION UNDER THIS SECTION MUST BE FILED AT LEAST 1 YEAR BEFORE THE DATE ON WHICH THE LEASE EXPIRES.**

Sec. 33904. Before the department grants a deed, there shall be presented evidence that the applicant requesting the deed is the lessee of the land, that the land is part of the lands described in section 33903, and that all taxes on the land are paid. ~~Upon presentation of evidence of these facts satisfactory to the department, together with a sum of money to be determined by the department, the applicant shall be given a deed.~~ All property ~~so~~ **deeded UNDER THIS PART** is thereafter subject to the general property tax **ACT, 1893 PA 206, MCL 211.1 TO 211.157, and THE** recording laws **OF THIS STATE.**

Sec. 33908. The consideration ~~as~~ received for the execution and delivery of ~~any of the deeds provided for in~~ **UNDER** this part ~~shall be credited to the general fund of this state.~~ **AND ALL**

1 FEES COLLECTED UNDER THIS PART SHALL BE FORWARDED TO THE STATE
 2 TREASURER AND CREDITED TO THE LAND AND WATER MANAGEMENT PERMIT FEE
 3 FUND CREATED IN SECTION 30113.

4 Sec. 33910. The department, in its discretion, upon
 5 application of ~~any~~ A person holding a lease or deed under this
 6 part to any lands lying contiguous to ~~any~~ A water highway as
 7 surveyed under former ~~Act No. 175 of the Public Acts of 1899 and~~
 8 ~~where~~ 1899 PA 175, IF it is determined that ~~such~~ THE WATER
 9 highway is no longer needed for navigation, ingress, and egress to
 10 surveyed lots, or for any public use, whether dredged or not, may
 11 execute and deliver to the applicant ~~a lease under section 33912,~~
 12 ~~or~~ a deed subject to all the applicable conditions and provisions
 13 of sections 33902 to ~~33909~~ 33908, to all of the right, title, and
 14 interest of the state in and to 1/2 of the surveyed width of that
 15 portion of the water highway as lies contiguous to land held under
 16 lease or deed by the applicant. ~~Where a lease is issued, its term~~
 17 ~~may be made to run concurrent with that of the lease held by the~~
 18 ~~applicant for the contiguous land.~~

19 Sec. 33911. (1) Upon application of a person that holds a
 20 lease from this state of any portion or portions of the real
 21 property described in ~~subsection (2)~~ THIS PART, the department
 22 may execute and deliver to the applicant a deed conveying all of
 23 the right, title, and interest of this state in and to that real
 24 property, subject to the paramount rights of hunting, fishing, and
 25 navigation, which remain in the general public and in the
 26 government as recognized by law. The deeds shall contain the same
 27 provisions as to use and occupancy now set forth in all the leases

1 previously granted under former ~~Act No. 326 of the Public Acts of~~
 2 ~~1913~~ 1913 PA 326 or under this part. **THE DEPARTMENT SHALL NOT**
 3 **GRANT A DEED UNDER THIS PART UNLESS THE LESSEE OF THE SUBJECT**
 4 **PROPERTY AGREES TO CANCEL THE LEASE AND RELINQUISHES ALL RIGHTS**
 5 **UNDER THE LEASE.**

6 ~~—— (2) The real property to which this section applies are that~~
 7 ~~portion of the St. Clair Flats, Township of Clay, St. Clair County,~~
 8 ~~Michigan, as surveyed under former Act No. 175 of the Public Acts~~
 9 ~~of 1899, that front upon or are a part of the North and Sni Bora~~
 10 ~~channel section and middle channel section described as:~~

11 ~~—— (a) Sni Bora Channel, the northeast one half of lot 386.~~

12 ~~—— (b) North Channel, lots 79 and 80.~~

13 ~~—— (c) Sni Bora channel, lot 366.~~

14 ~~—— (d) Lot 470, middle channel section.~~

15 ~~—— (e) Lot 471, middle channel section.~~

16 (2) ~~—(3) Notwithstanding subsections (1) and (2), the~~ **THE**
 17 department shall not grant a deed under this ~~section~~ **PART FOR A**
 18 **LOT THAT CONTAINS A STRUCTURE** unless the structure and the lot
 19 subject to the deed, including seawalls where present, comply with
 20 the applicable township building code and county and state
 21 sanitation codes **AND PART 325**, and the structure is located on a
 22 parcel of land that is adequately protected from erosion.

23 (3) ~~—(4)~~ A deed granted under this ~~section~~ **PART** shall not
 24 include a portion of the original lease that is submerged or lies
 25 below the ~~ordinary high water mark of Lake St. Clair, which is~~
 26 ~~574.5~~ **ELEVATION OF 575.3** International Great Lakes Datum (IGLD
 27 ~~1955~~ 1985). The department **OF ENVIRONMENTAL QUALITY** shall perform

1 a site inspection and set stakes, if necessary, to identify the
2 boundaries of the area of the ~~parcel~~ **LEASED LOT** to be deeded. The
3 applicant ~~may be required to~~ **SHALL** provide a boundary survey,
4 **COMPLETED BY A PROFESSIONAL SURVEYOR**, that delineates the area of
5 the real property to be deeded. **THE STATE SHALL RETAIN PROPRIETARY**
6 **OWNERSHIP IN TRUST OVER THE PORTION OF THE LEASED LOT BELOW THE**
7 **ORDINARY HIGH-WATER MARK OF LAKE ST. CLAIR AT THE TIME OF THE**
8 **CONVEYANCE.**

9 (4) ~~—(5)—~~ A deed shall not be granted under this ~~section~~
10 **PART** at less than the ~~fair market value of the real property in~~
11 ~~accordance with the current department appraisal procedures for the~~
12 ~~eligible parcels~~ **ESTIMATED LAND VALUE OF THE REAL PROPERTY AS**
13 **DETERMINED BY THE TOWNSHIP IN WHICH THE REAL PROPERTY IS LOCATED.**
14 **APPRAISAL PROCEDURES AND PRACTICES MAY INCLUDE UTILIZING**
15 **INDEPENDENT FEE APPRAISAL CONTRACTORS.** The appraisal shall not
16 include improvements such as buildings, seawalls, and docks. **CREDIT**
17 **SHALL NOT BE GRANTED TO THE LESSEE FOR THE YEARS REMAINING ON AN**
18 **UNEXPIRED LEASE WHEN DETERMINING THE SALE VALUE TO THE STATE. THE**
19 **APPLICANT SHALL REMIT THE FULL CONSIDERATION WITHIN 1 YEAR AFTER**
20 **BEING NOTIFIED IN WRITING OF THE SELLING PRICE BY THE DEPARTMENT.**
21 **IF THE APPLICANT DOES NOT REMIT THE FULL CONSIDERATION FOR THE DEED**
22 **WITHIN 1 YEAR, THE DEPARTMENT SHALL CLOSE THE FILE AND A NEW**
23 **APPLICATION MUST BE SUBMITTED.**

24 (5) **IF THE APPLICANT IS NOT SATISFIED WITH THE FAIR MARKET**
25 **VALUE DETERMINED BY THE DEPARTMENT UNDER SUBSECTION (4), THE**
26 **APPLICANT, WITHIN 30 DAYS AFTER RECEIVING THE DETERMINATION, MAY**
27 **SUBMIT A PETITION IN WRITING TO THE CIRCUIT COURT IN THE THIRTY-**

1 FIRST JUDICIAL CIRCUIT, AND THE COURT SHALL APPOINT AN APPRAISER OR
2 APPRAISERS FROM THE DEPARTMENT'S APPROVED LISTING TO CONDUCT AN
3 APPRAISAL OF THE PARCEL. THE DECISION OF THE COURT IS FINAL. THE
4 APPLICANT SHALL PAY ALL COSTS ASSOCIATED WITH THIS ADDITIONAL
5 APPRAISAL.

6 (6) A REQUEST FOR A DEED SHALL BE ON A FORM PROVIDED BY THE
7 DEPARTMENT OF ENVIRONMENTAL QUALITY AND SHALL BE ACCOMPANIED BY AN
8 APPLICATION FEE OF \$500.00.

9 Sec. 33916. ~~All persons who, having been in occupation or~~
10 ~~possession of lands of the character named in section 33901 for 1~~
11 ~~or more years prior to January 1, 1913, fail to make application~~
12 ~~for a lease for the occupation and possession of the lands as~~
13 ~~provided for in this part, within 9 months after August 14, 1913,~~
14 ~~and all persons who fail after the notification provided for in~~
15 ~~section 33915 to make payment of the consideration fixed by the~~
16 ~~department within the time and in the manner specified in this~~
17 ~~part,~~ IF A LEASE UNDER THIS PART EXPIRES AND A DEED IS NOT ISSUED
18 UNDER THIS PART TO THE FORMER LEASE HOLDER, THE FORMER LEASE HOLDER
19 shall be considered ~~trespassers~~ **TO BE A TRESPASSER**, and an action
20 may be brought in the circuit court for the county in which ~~these~~
21 ~~lands are~~ **THAT LAND IS** located, in the name of the people of this
22 state, by the attorney general of this state, to recover possession
23 of ~~the lands~~ **THAT LAND**.

24 Sec. 33924. ~~(1) The words "possession",~~ **AS USED IN THIS**
25 **PART:**

26 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES
27 UNLESS EXPRESSLY INDICATED OTHERWISE.

1 (B) **"POSSESSION"**, "occupancy", and "improvement" ~~as used in~~
 2 ~~this part~~ include dredging or ditching, the throwing up of
 3 embankments, sheetpiling, filling in, the erection of fences, a
 4 boathouse, land made by dredging and filling, or building
 5 structures.

6 (C) ~~(2) As used in this part, "person"~~ **"PERSON"** means an
 7 individual, partnership, corporation, association, or other
 8 nongovernmental legal entity.

9 (D) **"WELL MAINTAINED"** MEANS THAT ANY STRUCTURE ON THE LAND
 10 COMPLIES WITH TOWNSHIP BUILDING CODES AND CURRENT COUNTY AND STATE
 11 SANITATION CODES AND PART 325 AND THAT THE LAND IS ADEQUATELY
 12 PROTECTED FROM EROSION.

13 Sec. 33929. (1) ~~All sales~~ **EACH SALE** or ~~transfers~~ **TRANSFER**
 14 of ~~leases~~ **A LEASE** shall contain a specific statement of the
 15 purpose for which the property leased is to be used by the
 16 purchaser or assignee. ~~—, and no~~ **A** sale or transfer of ~~any~~ **A**
 17 lease for other than club or residence purposes ~~shall be~~ **IS NOT**
 18 valid ~~—~~ unless and until the sale or transfer is approved by the
 19 department **OF ENVIRONMENTAL QUALITY**. ~~The department shall keep a~~
 20 ~~book of record for the purpose of recording all sales or transfers~~
 21 ~~of leases, and no sale or transfer of any lease by any lessee shall~~
 22 ~~be valid unless and until the same is filed for record with the~~
 23 ~~department.~~

24 (2) **BEFORE SELLING OR TRANSFERRING A PROPERTY THAT IS SUBJECT**
 25 **TO A LEASE UNDER THIS PART, THE PARTIES INVOLVED SHALL APPLY TO THE**
 26 **DEPARTMENT OF ENVIRONMENTAL QUALITY FOR APPROVAL OF THE TRANSFER OF**
 27 **THE LEASE TO THE PURCHASER. THE APPLICATION SHALL BE MADE ON A FORM**

1 PROVIDED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND SHALL BE
 2 ACCOMPANIED BY A FEE OF \$250.00. UPON APPROVAL BY THE DEPARTMENT OF
 3 ENVIRONMENTAL QUALITY, AN ASSIGNMENT OF LEASE FORM SHALL BE
 4 RECORDED WITH THE COUNTY REGISTER OF DEEDS.

5 Sec. 33935. ~~The several~~ **EACH** county ~~treasurers~~ **TREASURER**
 6 shall report to the department all descriptions of ~~the lands where~~
 7 ~~the same~~ **PARCELS OF PROPERTY SUBJECT TO THIS PART THAT** have been
 8 returned for nonpayment of taxes, ~~and such~~ **IF THOSE** taxes have
 9 not been paid within 6 months after ~~such return, the~~ **BEING**
 10 **RETURNED FOR NONPAYMENT OF TAXES. THE** report ~~to~~ **SHALL** be made by
 11 ~~such~~ **THE** treasurer within 30 days after the ~~said 6 months shall~~
 12 ~~have~~ **6-MONTH PERIOD HAS** expired. **LAND LEASED OR DEEDED UNDER THIS**
 13 **PART THAT IS RETURNED TO STATE OWNERSHIP THROUGH PURCHASE, GIFT,**
 14 **DEVISE, LEASE EXPIRATION, OR TAX REVERSION SHALL NOT BE RE-LEASED**
 15 **OR SOLD BY THE STATE IF THAT LAND IS NOT WELL MAINTAINED.**

16 Enacting section 1. Sections 33905, 33909, 33913, 33914,
 17 33915, 33917, 33918, 33919, 33920, 33922, 33923, 33925, 33930,
 18 33931, 33932, 33936, 33937, 33938, and 33939 of the natural
 19 resources and environmental protection act, 1994 PA 451, MCL
 20 324.33905, 324.33909, 324.33913, 324.33914, 324.33915, 324.33917,
 21 324.33918, 324.33919, 324.33920, 324.33922, 324.33923, 324.33925,
 22 324.33930, 324.33931, 324.33932, 324.33936, 324.33937, 324.33938,
 23 and 324.33939, are repealed.