

# SENATE BILL No. 670

June 30, 2005, Introduced by Senators McMANUS and GILBERT and referred to the Committee on Appropriations.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

6       Sec. 33902. The department shall not deed or convey the lands

described in section 33901 except as provided in sections 33903 to 33911. ~~—, but may lease lands of the character described in section 33901 to a person for the purposes and in the manner provided in this part.~~ The department may dedicate unleased lands of the character described in section 33901 for public hunting, fishing, and other recreational uses.

Sec. 33903. The department, upon application of any person ~~holding~~ **WHO, ON THE EFFECTIVE DATE OF THE 2005 AMENDATORY ACT THAT AMENDED THIS SECTION, HOLDS** a lease of any portion or portions of land from this state pursuant to former ~~Act No. 326 of the Public Acts of 1913~~ **1913 PA 326**, or this part, **OR UPON APPLICATION BY THAT PERSON'S HEIRS OR ASSIGNS**, shall execute and deliver to the applicant **OR HIS OR HER HEIRS OR ASSIGNS** a deed conveying to him or her all of the right, title, and interest of this state in and to the lands described in this section, subject to the paramount rights of navigation, hunting, and fishing that remain in the general public and in the government as now existing and recognized by law. The deeds shall contain the same provisions as to use and occupancy as now set forth in all leases previously granted under former ~~Act No. 326 of the Public Acts of 1913~~ **1913 PA 326**. ~~The lands covered by this section are that portion of the St. Clair Flats, township of Clay, St. Clair county, Michigan, as surveyed under former Act No. 175 of the Public Acts of 1899, which front upon or are a part of the south, middle, and Sni Bora channel sections as follows:~~

~~—— 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 FEES COLLECTED UNDER THIS PART SHALL BE FORWARDED TO THE STATE**

1   TREASURER AND CREDITED TO THE LAND AND WATER MANAGEMENT PERMIT FEE  
 2   FUND CREATED IN SECTION 30113 TO COVER THE ADMINISTRATIVE COSTS  
 3   ASSOCIATED WITH LEASE RENEWALS, LEASE EXTENSIONS, APPRAISALS, AND  
 4   OTHER COSTS DIRECTLY RELATED TO PROCESSING ST. CLAIR FLATS LEASES  
 5   AND DEED REQUESTS. THE DEPARTMENT MAY CHARGE AGAINST THIS ACCOUNT  
 6   FOR THAT PURPOSE.

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

22       Sec. 33911. (1) Upon application of a person that holds a  
 23   lease from this state of any portion or portions of the real  
 24   property described in ~~subsection (2)~~ **THIS PART**, the department  
 25   may execute and deliver to the applicant a deed conveying all of  
 26   the right, title, and interest of this state in and to that real  
 27   property, subject to the paramount rights of hunting, fishing, and

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1 navigation, which remain in the general public and in the  
2 government as recognized by law. The deeds shall contain the same  
3 provisions as to use and occupancy now set forth in all the leases  
4 previously granted under former ~~Act No. 326 of the Public Acts of~~

5 ~~1913~~ 1913 PA 326 or under this part. <<THE DEPARTMENT SHALL NOT GRANT A  
DEED UNDER THIS PART UNLESS THE LESSEE OF THE SUBJECT PROPERTY AGREES TO  
CANCEL THE LEASE AND RELINQUISHES ALL RIGHTS 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 the structure is located on a parcel of land  
22 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~~  
**ELEVATION OF**>>

26 ~~574.5~~ 575.3 International Great Lakes Datum (IGLD ~~1955~~ 1985).

27 The department **OF ENVIRONMENTAL QUALITY** shall perform a site

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

8 (4) ~~—(5)—~~ A deed shall not be granted under this ~~section~~  
 9 **PART** at less than the fair market value of the real property in  
 10 accordance with the current department appraisal procedures for the  
 11 eligible parcels. **APPRAISAL PROCEDURES AND PRACTICES MAY INCLUDE**  
 12 **UTILIZING INDEPENDENT FEE APPRAISAL CONTRACTORS.** The appraisal  
 13 shall not include improvements such as buildings, seawalls, and  
 14 docks. **CREDIT SHALL NOT BE GRANTED TO THE LESSEE FOR THE YEARS**  
 15 **REMAINING ON AN UNEXPIRED LEASE WHEN DETERMINING THE SALE VALUE TO**  
 16 **THE STATE.**

17 (5) A REQUEST FOR A DEED SHALL BE ON A FORM PROVIDED BY THE  
 18 DEPARTMENT OF ENVIRONMENTAL QUALITY AND SHALL BE ACCOMPANIED BY AN  
 19 APPLICATION FEE OF \$500.00.

20 Sec. 33916. ~~All persons who, having been in occupation or~~  
 21 ~~possession of lands of the character named in section 33901 for 1~~  
 22 ~~or more years prior to January 1, 1913, fail to make application~~  
 23 ~~for a lease for the occupation and possession of the lands as~~  
 24 ~~provided for in this part, within 9 months after August 14, 1913,~~  
 25 ~~and all persons who fail after the notification provided for in~~  
 26 ~~section 33915 to make payment of the consideration fixed by the~~  
 27 ~~department within the time and in the manner specified in this~~

1 ~~part,~~ IF A LEASE UNDER THIS PART EXPIRES AND A DEED IS NOT ISSUED  
 2 UNDER THIS PART TO THE FORMER LEASE HOLDER, THE FORMER LEASE HOLDER  
 3 shall be considered ~~trespassers~~ TO BE A TRESPASSER, and an action  
 4 may be brought in the circuit court for the county in which ~~these~~  
 5 ~~lands are~~ THAT LAND IS located, in the name of the people of this  
 6 state, by the attorney general of this state, to recover possession  
 7 of ~~the lands~~ THAT LAND.

8 Sec. 33924. ~~(1) The words "possession",~~ AS USED IN THIS  
 9 PART:

10 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF NATURAL RESOURCES  
 11 UNLESS EXPRESSLY INDICATED OTHERWISE.

12 (B) "POSSESSION", "occupancy", and "improvement" ~~as used in~~  
 13 ~~this part~~ include dredging or ditching, the throwing up of  
 14 embankments, sheetpiling, filling in, the erection of fences, a  
 15 boathouse, land made by dredging and filling, or building  
 16 structures.

17 (C) ~~(2) As used in this part, "person"~~ "PERSON" means an  
 18 individual, partnership, corporation, association, or other  
 19 nongovernmental legal entity.

20 (D) "WELL MAINTAINED" MEANS THAT ANY STRUCTURE ON THE LAND  
 21 COMPLIES WITH TOWNSHIP BUILDING CODES AND CURRENT COUNTY AND STATE  
 22 HEALTH CODES AND THAT THE LAND IS ADEQUATELY PROTECTED FROM  
 23 EROSION.

24 Sec. 33929. (1) ~~All sales~~ EACH SALE or ~~transfers~~ TRANSFER  
 25 of ~~leases~~ A LEASE shall contain a specific statement of the  
 26 purpose for which the property leased is to be used by the  
 27 purchaser or assignee. ~~, and no~~ A sale or transfer of ~~any~~ A

1 lease for other than club or residence purposes ~~shall be~~ **IS NOT**  
 2 valid ~~—~~ unless and until the sale or transfer is approved by the  
 3 department **OF ENVIRONMENTAL QUALITY**. ~~The department shall keep a~~  
 4 ~~book of record for the purpose of recording all sales or transfers~~  
 5 ~~of leases, and no sale or transfer of any lease by any lessee shall~~  
 6 ~~be valid unless and until the same is filed for record with the~~  
 7 ~~department.~~

8 (2) **BEFORE SELLING OR TRANSFERRING A PROPERTY THAT IS SUBJECT**  
 9 **TO A LEASE UNDER THIS PART, THE PARTIES INVOLVED SHALL APPLY TO THE**  
 10 **DEPARTMENT OF ENVIRONMENTAL QUALITY FOR APPROVAL OF THE TRANSFER OF**  
 11 **THE LEASE TO THE PURCHASER. THE APPLICATION SHALL BE MADE ON A FORM**  
 12 **PROVIDED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY AND SHALL BE**  
 13 **ACCOMPANIED BY A FEE OF \$250.00. UPON APPROVAL BY THE DEPARTMENT OF**  
 14 **ENVIRONMENTAL QUALITY, AN ASSIGNMENT OF LEASE FORM SHALL BE**  
 15 **RECORDED WITH THE COUNTY REGISTER OF DEEDS.**

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

27 Enacting section 1. Sections 33905, 33909, 33913, 33914,



1 33915, 33917, 33918, 33919, 33920, 33922, 33923, 33925, 33930,  
2 33931, 33932, 33936, 33937, 33938, and 33939 of the natural  
3 resources and environmental protection act, 1994 PA 451, MCL  
4 324.33905, 324.33909, 324.33913, 324.33914, 324.33915, 324.33917,  
5 324.33918, 324.33919, 324.33920, 324.33922, 324.33923, 324.33925,  
6 324.33930, 324.33931, 324.33932, 324.33936, 324.33937, 324.33938,  
7 and 324.33939, are repealed.