

HOUSE BILL No. 6615

November 14, 2006, Introduced by Rep. Kolb and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding chapter 80A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 80A.

LAND USE COURT

SEC. 8051. AS USED IN THIS CHAPTER, "LAND USE DISPUTE" MEANS
AN ACTION ON DISPUTE THAT IS PRIMARILY CONCERNED WITH LAND USE OR
ZONING ISSUES.

SEC. 8053. (1) THE LAND USE COURT IS CREATED AND IS A COURT OF
RECORD.

(2) THE LAND USE COURT SHALL BE LOCATED IN 1 OR MORE COUNTIES
AS DETERMINED BY THE SUPREME COURT.

(3) THE LAND USE COURT SHALL MAINTAIN ITS STAFF AND SUPPORT
SERVICES AT THE SEAT OF GOVERNMENT.

1 (4) THE LAND USE COURT SHALL BE FUNDED FROM ANNUAL
2 APPROPRIATIONS TO THE SUPREME COURT.

3 SEC. 8055. (1) THE SUPREME COURT SHALL ASSIGN TO THE LAND USE
4 COURT PERSONS WHO HAVE BEEN ELECTED TO AND SERVED AS JUDGES IN THIS
5 STATE AND WHO HAVE REQUESTED TO BE CONSIDERED FOR THAT ASSIGNMENT.
6 IN MAKING ASSIGNMENTS TO THE LAND USE COURT, THE SUPREME COURT
7 SHALL CONSIDER A PERSON'S EXPERIENCE IN PRESIDING OVER ACTIONS
8 INVOLVING LAND USE IN THIS STATE. THE SUPREME COURT SHALL ENDEAVOR
9 TO REFLECT THE ETHNIC AND RACIAL DIVERSITY OF THE STATE POPULATION
10 AND THE STATEWIDE JUDICIAL BENCH WHEN MAKING THE ASSIGNMENTS UNDER
11 THIS SUBSECTION.

12 (2) THE TOTAL NUMBER OF JUDGES ASSIGNED TO THE LAND USE COURT
13 SHALL REASONABLY REFLECT THE CASELOAD OF THE LAND USE COURT.

14 (3) THE DURATION OF A JUDGE'S ASSIGNMENT TO THE LAND USE COURT
15 SHALL BE AT LEAST 3 YEARS.

16 (4) THE COUNTY CLERK OF THE COUNTY IN WHICH THE LAND USE COURT
17 SITS SHALL BE THE CLERK FOR THE LAND USE COURT. THE LAND USE COURT
18 CLERK SHALL DEPUTIZE STAFF DESIGNATED BY THE SUPREME COURT TO
19 RECEIVE ALL PLEADINGS FILED IN THE LAND USE COURT.

20 (5) THE MICHIGAN JUDICIAL INSTITUTE SHALL PROVIDE APPROPRIATE
21 TRAINING FOR JUDGES WHO ARE ASSIGNED AS JUDGES OF THE LAND USE
22 COURT.

23 SEC. 8057. (1) THE LAND USE COURT HAS CONCURRENT JURISDICTION
24 OVER LAND USE DISPUTES IN WHICH THE AMOUNT IN CONTROVERSY EXCEEDS
25 \$25,000.00.

26 (2) AN ACTION THAT INVOLVES A LAND USE DISPUTE MAY BE
27 MAINTAINED IN THE LAND USE COURT ALTHOUGH IT ALSO INVOLVES CLAIMS

1 THAT ARE NOT LAND USE DISPUTES.

2 SEC. 8059. (1) AN ACTION MAY BE FILED IN THE LAND USE COURT BY
3 FILING A COMPLAINT WITH THE CLERK OF THE LAND USE COURT.

4 (2) PRACTICE AND PROCEDURE IN THE LAND USE COURT, THE FORM AND
5 MANNER OF PLEADINGS, AND THE MANNER OF SERVICE OF PROCESS SHALL BE
6 IN ACCORDANCE WITH SPECIAL RULES FOR THE LAND USE COURT ADOPTED BY
7 THE SUPREME COURT.

8 SEC. 8061. BEFORE A CIVIL ACTION IS FILED IN THE LAND USE
9 COURT, THE PARTY BRINGING THE ACTION SHALL PAY A FILING FEE IN THE
10 AMOUNT OF \$200.00. EACH MONTH THE CLERK OF THE LAND USE COURT SHALL
11 DEPOSIT WITH THE STATE TREASURER ALL FEES COLLECTED, SECURING AND
12 FILING A RECEIPT FOR ALL THE FEES DEPOSITED.

13 SEC. 8063. (1) A DEFENDANT IN AN ACTION COMMENCED IN THE LAND
14 USE COURT, A PLAINTIFF AGAINST WHOM A COUNTERCLAIM IS FILED IN THAT
15 ACTION, OR ANY PARTY ADDED BY MOTION OF THE ORIGINAL PARTIES AS A
16 PLAINTIFF, DEFENDANT, OR THIRD-PARTY DEFENDANT, MAY CAUSE THE
17 ENTIRE CASE TO BE TRANSFERRED TO THE CIRCUIT COURT IN A COUNTY IN
18 WHICH VENUE IS PROPER BY FILING A NOTICE OF TRANSFER WITH THE CLERK
19 OF THE LAND USE COURT WITHIN 28 DAYS AFTER THE DATE ON WHICH THE
20 PARTY WAS SERVED WITH THE PLEADING THAT GIVES IT THE RIGHT TO
21 TRANSFER.

22 (2) WITHIN 14 DAYS AFTER THE FILING OF AN ANSWER TO A
23 COMPLAINT OR A MOTION BY A DEFENDANT FOR SUMMARY DISPOSITION,
24 WHICHEVER IS EARLIER, THE JUDGE TO WHOM THE CASE HAS BEEN ASSIGNED
25 SHALL MAKE A DETERMINATION, BASED SOLELY UPON THE COMPLAINT AND
26 ANSWER OR THE MOTION, WHETHER THE CASE IS PRIMARILY A LAND USE
27 DISPUTE. IF THE JUDGE DETERMINES THAT IT IS NOT, THE COURT SHALL

1 NOTIFY THE PLAINTIFF OF THAT DECISION, AND THE PLAINTIFF HAS 14
2 DAYS AFTER SERVICE OF THE COURT'S NOTIFICATION TO TRANSFER THE CASE
3 TO THE CIRCUIT COURT IN A COUNTY IN WHICH VENUE IS PROPER. IF THE
4 PLAINTIFF DOES NOT TRANSFER THE CASE TO THE CIRCUIT COURT, THE
5 JUDGE OF THE LAND USE COURT SHALL DO SO. SUBJECT TO SUBSECTION (3),
6 IF THE JUDGE DETERMINES THAT IT IS PRIMARILY A LAND USE DISPUTE,
7 THE CASE SHALL PROCEED IN THE LAND USE COURT.

8 (3) IF, AT THE TIME OF OR AFTER THE FILING OF THE DEFENDANT'S
9 ANSWER OR MOTION FOR SUMMARY DISPOSITION, PARTIES OR CLAIMS ARE
10 ADDED OR DELETED, THE JUDGE TO WHOM THE CASE IS ASSIGNED, NOT LATER
11 THAN 14 DAYS AFTER THE ANSWER OR MOTION IS FILED, SHALL AGAIN MAKE
12 A DETERMINATION, BASED SOLELY UPON THE PLEADINGS AS THEY THEN
13 EXIST, WHETHER THE CASE IS THEN PRIMARILY A LAND USE DISPUTE. IF
14 THE JUDGE DETERMINES THAT IT IS NOT, THE COURT SHALL NOTIFY THE
15 PLAINTIFF OF THAT DECISION, AND THE PLAINTIFF HAS 14 DAYS AFTER
16 SERVICE OF THE COURT'S NOTIFICATION TO TRANSFER THE CASE TO THE
17 CIRCUIT COURT IN A COUNTY IN WHICH VENUE IS PROPER. IF THE
18 PLAINTIFF DOES NOT TRANSFER THE CASE TO THE CIRCUIT COURT, THE
19 JUDGE OF THE LAND USE COURT SHALL DO SO. IF THE JUDGE DETERMINES
20 THAT IT IS PRIMARILY A LAND USE DISPUTE, THE CASE SHALL PROCEED IN
21 THE LAND USE COURT. HOWEVER, IF PARTIES OR CLAIMS ARE LATER ADDED
22 OR DELETED, THE PROCEDURES IN THIS SUBSECTION APPLY AGAIN.

23 (4) ANY DETERMINATION BY A JUDGE OF THE LAND USE COURT MADE
24 UNDER SUBSECTIONS (2) AND (3) IS FINAL AND MAY NOT BE REVIEWED OR
25 ALTERED BY THE CIRCUIT COURT TO WHICH A CASE IS TRANSFERRED.

26 (5) IF A DEFENDANT IN AN ACTION COMMENCED IN THE LAND USE
27 COURT, A PLAINTIFF AGAINST WHOM A COUNTERCLAIM IS FILED IN SUCH AN

1 ACTION, OR ANY PARTY ADDED BY MOTION OF THE ORIGINAL PARTIES AS A
2 PLAINTIFF, DEFENDANT, OR THIRD-PARTY DEFENDANT TRANSFERS THE ACTION
3 TO THE CIRCUIT COURT AS PROVIDED IN SUBSECTION (1), OR THE JUDGE
4 DETERMINES UNDER SUBSECTION (2) OR (3) THAT THE CASE IS NOT
5 PRIMARILY A LAND USE DISPUTE AND THE CASE IS TRANSFERRED TO THE
6 CIRCUIT COURT, THE CLERK OF THE LAND USE COURT SHALL FORWARD TO THE
7 CIRCUIT COURT, AS A FILING FEE, A PORTION OF THE FILING FEE PAID AT
8 THE COMMENCEMENT OF THE ACTION IN THE LAND USE COURT THAT IS EQUAL
9 TO THE FILING FEE OTHERWISE REQUIRED IN THE CIRCUIT COURT.

10 SEC. 8065. UNLESS A PARTY REMOVES AN ACTION FILED IN THE LAND
11 USE COURT TO THE CIRCUIT COURT PURSUANT TO SECTION 8063, ALL
12 PARTIES TO AN ACTION IN THE LAND USE COURT SHALL BE CONSIDERED TO
13 HAVE WAIVED THE RIGHT TO TRIAL BY JURY.

14 SEC. 8067. THE LAND USE COURT HAS THE SAME POWER TO SUBPOENA
15 WITNESSES AND REQUIRE THE PRODUCTION OF BOOKS, PAPERS, RECORDS,
16 DOCUMENTS, ELECTRONIC DOCUMENTS, AND ANY OTHER EVIDENCE AND TO
17 PUNISH FOR CONTEMPT AS THE CIRCUIT COURT HAS. THE JUDGE AND CLERK
18 OF THE LAND USE COURT MAY ADMINISTER OATHS AND AFFIRMATIONS AND
19 TAKE ACKNOWLEDGMENTS OF INSTRUMENTS BY ELECTRONIC MEANS. AN OATH OR
20 AFFIRMATION TAKEN FROM A PERSON LOCATED OUTSIDE OF THIS STATE AND
21 PURSUANT TO THE LAWS OF THE JURISDICTION IN WHICH THE PERSON IS
22 LOCATED SHALL BE CONSIDERED TO BE AN OATH OR AFFIRMATION AUTHORIZED
23 BY THE LAWS OF THIS STATE.

24 SEC. 8069. AN ACTION IN THE LAND USE COURT SHALL BE HEARD BY
25 THE JUDGE WITHOUT A JURY. THE COURT MAY GRANT A NEW TRIAL UPON THE
26 SAME TERMS AND UNDER THE SAME CONDITIONS AND FOR THE SAME REASONS
27 AS PREVAIL IN THE CASE OF THE CIRCUIT COURT OF THIS STATE, IN A

1 CASE HEARD BY A JUDGE WITHOUT A JURY.

2 SEC. 8071. (1) AN APPEAL FROM THE LAND USE COURT SHALL BE TO
3 THE COURT OF APPEALS, AS PRESCRIBED BY SUPREME COURT RULES.

4 (2) THE CLERK OF THE LAND USE COURT SHALL IMMEDIATELY FURNISH
5 THE PARTIES TO EVERY ACTION WITH NOTICE OF ENTRY OF ANY FINAL ORDER
6 OR JUDGMENT. THE TIME WITHIN WHICH AN APPEAL AS OF RIGHT MAY BE
7 TAKEN SHALL BE GOVERNED BY SUPREME COURT RULES.

8 SEC. 8073. THE SUPREME COURT SHALL PROVIDE BY RULE FOR AN
9 ALTERNATIVE DISPUTE RESOLUTION FOR MATTERS BEFORE THE LAND USE
10 COURT.

11 SEC. 8075. NOT LATER THAN OCTOBER 1, 2009, THE STATE COURT
12 ADMINISTRATOR SHALL SUBMIT A WRITTEN REPORT TO THE LEGISLATURE ON
13 THE OPERATION OF THE LAND USE COURT. THE REPORT SHALL INCLUDE THE
14 STATE COURT ADMINISTRATOR'S RECOMMENDATIONS, IF ANY, FOR EXPANDING
15 THE JURISDICTION OF THE LAND USE COURT OVER OTHER MATTERS.

16 SEC. 8077. (1) A LEGISLATIVE OVERSIGHT COMMITTEE ON THE LAND
17 USE COURT IS CREATED. THE COMMITTEE SHALL CONSIST OF 3 MEMBERS OF
18 THE HOUSE OF REPRESENTATIVES APPOINTED BY THE SPEAKER OF THE HOUSE
19 OF REPRESENTATIVES, 1 OF WHOM SHALL NOT BE A MEMBER OF THE MAJORITY
20 PARTY, AND 3 MEMBERS OF THE SENATE APPOINTED BY THE MAJORITY LEADER
21 OF THE SENATE, 1 OF WHOM SHALL NOT BE A MEMBER OF THE MAJORITY
22 PARTY. MEMBERS SHALL BE APPOINTED OR REMOVED IN THE SAME MANNER AS
23 MEMBERS OF STANDING COMMITTEES ARE APPOINTED OR REMOVED IN EACH
24 HOUSE. VACANCIES SHALL BE FILLED IN THE SAME MANNER AS ORIGINAL
25 APPOINTMENTS. MEMBERS OF THE COMMITTEE MAY BE REIMBURSED FOR
26 EXPENSES INCURRED IN THE ADMINISTRATION OF THEIR DUTIES.

27 (2) ANNUALLY THE COMMITTEE SHALL ELECT FROM ITS MEMBERSHIP A

1 CHAIRPERSON AND ALTERNATE CHAIRPERSON, WHO SHALL BE FROM DIFFERENT
2 HOUSES, WITH THE FIRST CHAIRPERSON BEING FROM THE HOUSE OF
3 REPRESENTATIVES. THE POSITION OF CHAIRPERSON SHALL ALTERNATE
4 BETWEEN THE SENATE AND THE HOUSE OF REPRESENTATIVES.

5 (3) THE BUSINESS THAT THE COMMITTEE PERFORMS SHALL BE
6 CONDUCTED AT A PUBLIC MEETING OF THE COMMITTEE HELD IN COMPLIANCE
7 WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.
8 PUBLIC NOTICE OF THE TIME, DATE, AND PLACE OF THE MEETING SHALL BE
9 GIVEN IN THE MANNER REQUIRED BY THAT ACT.

10 (4) SPECIAL MEETINGS OF THE COMMITTEE SHALL BE HELD ON CALL OF
11 THE CHAIRPERSON OR A MAJORITY OF THE COMMITTEE. THE COMMITTEE SHALL
12 PRESCRIBE RULES FOR ITS OWN PROCEDURE. A MAJORITY OF THE COMMITTEE
13 CONSTITUTES A QUORUM. ANY RECOMMENDATION OF THE COMMITTEE REQUIRES
14 THE CONCURRENCE OF A MAJORITY OF ITS MEMBERSHIP. AS USED IN THIS
15 SUBSECTION, "MAJORITY" MEANS AT LEAST 2 OF THE 3 MEMBERS APPOINTED
16 BY THE SPEAKER OF THE HOUSE AND AT LEAST 2 OF THE 3 MEMBERS
17 APPOINTED BY THE MAJORITY LEADER OF THE SENATE.

18 (5) THE COMMITTEE SHALL DO ALL OF THE FOLLOWING FOR THE PERIOD
19 BEGINNING JANUARY 1, 2007 AND ENDING DECEMBER 31, 2008:

20 (A) MONITOR THE DEVELOPMENT OF THE LAND USE COURT.

21 (B) CONSIDER AND RESPOND TO COURT RULES PROPOSED OR ADOPTED BY
22 THE SUPREME COURT.

23 (C) IN COOPERATION WITH THE STATE COURT ADMINISTRATIVE OFFICE,
24 DETERMINE IF FURTHER LEGISLATION IS NEEDED TO FACILITATE THE
25 IMPLEMENTATION OF THE LAND USE COURT OR TO EXPAND THE JURISDICTION
26 OF THE LAND USE COURT.

27 (6) THE COMMITTEE SHALL REPORT, IN WRITING, TO THE

1 CHAIRPERSONS OF THE STANDING COMMITTEES OF THE SENATE AND THE HOUSE
2 OF REPRESENTATIVES HAVING JURISDICTION OVER LEGISLATION PERTAINING
3 TO THE JUDICIARY, ON THE TOPICS LISTED IN SUBSECTION (5) (A) TO (C) ,
4 AND MAY ACCOMPANY THE REPORT WITH PROPOSED BILLS TO IMPLEMENT ITS
5 RECOMMENDATIONS.