

SENATE BILL No. 1056

September 11, 2014, Introduced by Senator NOFS and referred to the Committee on Local Government and Elections.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 2120a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2120A. (1) THIS SECTION APPLIES AND SECTIONS 2120 AND
2 2121 DO NOT APPLY TO THE RECEIPT OF THE FOLLOWING LANDS BY PATENT
3 OR OTHERWISE FROM THE UNITED STATES OR TO THE CONVEYANCE OF THOSE
4 LANDS BY THE DEPARTMENT AS PROVIDED IN THIS SECTION:
5 PROPERTY LOCATED IN CLARENCE TOWNSHIP, CALHOUN COUNTY, TOWNSHIP 1
6 SOUTH, RANGE 4 WEST, MICHIGAN MERIDIAN:
7 (A) GOVERNMENT LOTS 1 TO 10 IN SECTION 23.
8 (B) GOVERNMENT LOTS 1 TO 3 IN SECTION 24.
9 (C) GOVERNMENT LOT 1 IN SECTION 25.

1 (D) GOVERNMENT LOTS 1 TO 7 AND 10 TO 13 IN SECTION 26.

2 (E) GOVERNMENT LOTS 1 TO 4 IN SECTION 27.

3 (F) GOVERNMENT LOT 1 IN SECTION 35.

4 (2) THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

5 (A) UNDER STATUTES OF THE UNITED STATES ENACTED IN 1850 AND
6 SUBSEQUENTLY, THE GOVERNOR OF THIS STATE HAS HAD THE POWER TO
7 REQUEST THE CONVEYANCE OF SWAMPLANDS FROM THE UNITED STATES TO THIS
8 STATE.

9 (B) SOME CONVEYANCES DESCRIBED IN SUBDIVISION (A) HAVE BEEN
10 REQUESTED AND MADE TO THIS STATE IN THE PAST.

11 (C) HOWEVER, ALTHOUGH THE PROPERTY DESCRIBED IN SUBSECTION (1)
12 HAS BEEN ELIGIBLE FOR A REQUEST AND CONVEYANCE AS DESCRIBED IN
13 SUBDIVISION (A), NO SUCH REQUEST AND CONVEYANCE HAS EVER BEEN MADE.

14 (D) A NUMBER OF CITIZENS OF THIS STATE ARE OCCUPANTS AND DE
15 FACTO OWNERS UNDER COLOR OF TITLE OF PORTIONS OF THE PROPERTY
16 DESCRIBED IN SUBSECTION (1). THESE INDIVIDUALS HAVE MADE
17 IMPROVEMENTS TO, MAINTAINED, AND PAID TAXES ON THOSE PORTIONS OF
18 THE PROPERTY HELD UNDER COLOR OF TITLE.

19 (E) IT IS THE INTENT OF THE LEGISLATURE, THROUGH THIS SECTION,
20 TO OBTAIN TITLE FROM THE UNITED STATES TO THE PROPERTY DESCRIBED IN
21 SUBSECTION (1) AND TO CONVEY THE PROPERTY TO THE APPROPRIATE
22 CITIZENS.

23 (3) IF THE GOVERNOR APPLIES TO THE BUREAU OF LAND MANAGEMENT
24 OF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES, OR TO ANY
25 OTHER OFFICIAL OR AGENCY OF THE UNITED STATES THAT THE GOVERNOR
26 DETERMINES IS APPROPRIATE, FOR THE CONVEYANCE OF THE LANDS
27 DESCRIBED IN SUBSECTION (1) TO THIS STATE, BY PATENT OR OTHERWISE,

1 UNDER AN 1850 ACT OF CONGRESS, CHAPTER 84, 9 STAT. 519, UNDER 43
2 USC 981 TO 986, OR UNDER ANY OTHER APPLICABLE LAW, AND IF THE LANDS
3 ARE CONVEYED TO THIS STATE, THE DEPARTMENT SHALL USE ITS BEST
4 EFFORTS TO DETERMINE THE IDENTITY OF THE CURRENT DE FACTO OWNERS OF
5 THE LANDS. IN MAKING THE DETERMINATION REQUIRED BY THIS SUBSECTION,
6 THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF THE ATTORNEY
7 GENERAL.

8 (4) THE DEPARTMENT MAY REQUIRE A PERSON CLAIMING TO BE A DE
9 FACTO OWNER OF ANY OF THE LANDS TO REIMBURSE THE DEPARTMENT, IN
10 ADVANCE OF THE CONVEYANCE OF THE PROPERTY IF THE DEPARTMENT
11 DETERMINES NECESSARY, FOR ANY EXPENSE INCURRED BY THE DEPARTMENT OR
12 THE DEPARTMENT OF THE ATTORNEY GENERAL IN MAKING THE DETERMINATION
13 UNDER SUBSECTION (3) AND IN CONVEYING THE PROPERTY UNDER SUBSECTION
14 (6).

15 (5) THE DEPARTMENT IS NOT REQUIRED TO TAKE ANY STEPS TO MAKE A
16 DETERMINATION UNDER SUBSECTION (3) OTHER THAN THE STEPS THAT THE
17 DEPARTMENT, IN ITS DISCRETION, DETERMINES ARE REASONABLY NECESSARY.
18 IF THE DEPARTMENT IS UNABLE TO DETERMINE A DE FACTO OWNER FOR A
19 PORTION OF THE LAND OR IS UNABLE TO DETERMINE WHICH OF 1 OR MORE
20 POTENTIAL DE FACTO OWNERS HAS THE MOST LEGITIMATE CLAIM TO A
21 PORTION OF THE LAND, THE DEPARTMENT IS NOT REQUIRED TO BRING OR
22 ACTIVELY PARTICIPATE IN A QUIET TITLE ACTION OR ANY OTHER LEGAL
23 ACTION WITH RESPECT TO THE PROPERTY. IF THE DEPARTMENT DETERMINES
24 THAT THERE IS NO DE FACTO OWNER FOR A PORTION OF THE PROPERTY, THE
25 DEPARTMENT, IN ITS SOLE DISCRETION, MAY CONVEY THE PORTION TO AN
26 ADJACENT DE FACTO OWNER.

27 (6) AFTER MAKING A DETERMINATION UNDER SUBSECTION (3), THE

1 DEPARTMENT SHALL CONVEY A PORTION OR PORTIONS OF THE PROPERTY
2 DESCRIBED IN SUBSECTION (1) TO A DE FACTO OWNER AS DETERMINED UNDER
3 SUBSECTIONS (3) AND (5).

4 (7) THE LEGAL DESCRIPTION IN SUBSECTION (1) IS APPROXIMATE FOR
5 PURPOSES OF THIS SECTION. IF THE DEPARTMENT DETERMINES THAT THERE
6 IS A DISCREPANCY BETWEEN THE LEGAL DESCRIPTION IN SUBSECTION (1)
7 AND THE LEGAL DESCRIPTION OF PROPERTY RECEIVED BY THIS STATE UNDER
8 THIS SECTION, THE DEPARTMENT, AS DIRECTED BY THE DEPARTMENT OF
9 ATTORNEY GENERAL, MAY ADJUST THE DESCRIPTION ACCORDINGLY IN ANY
10 DEEDS PREPARED UNDER THIS SECTION.

11 (8) THE DEPARTMENT IS NOT RESPONSIBLE FOR RECORDING A DEED
12 PREPARED UNDER THIS SECTION OR ANY COSTS OR FEES FOR OR ASSOCIATED
13 WITH THE RECORDING.

14 (9) ANY INTERESTS OR RIGHTS IN LAND CONVEYED UNDER SUBSECTION
15 (6) CREATED BEFORE THE CONVEYANCE UNDER SUBSECTION (6) HAVE THE
16 SAME LEGAL EFFECT AS IF THE CONVEYANCE UNDER SUBSECTION (6)
17 PRECEDED THE CREATION OF THE INTEREST, INCLUDING, BUT NOT LIMITED
18 TO, ANY OF THE FOLLOWING:

19 (A) A STREET OR HIGHWAY RIGHT OF WAY.

20 (B) A UTILITY, DRAIN, OR OTHER EASEMENT.

21 (C) A MORTGAGE.

22 (D) A LEASEHOLD.

23 (E) MINERAL RIGHTS.

24 (F) A CONSTRUCTION LIEN.

25 (G) AN INTEREST RESULTING FROM AN ATTACHMENT, EXECUTION, OR
26 OTHER JUDICIAL PROCESS.

27 (10) THE DEPARTMENT SHALL MAKE A CONVEYANCE UNDER SUBSECTION

1 (6) BY QUITCLAIM DEED, APPROVED BY THE DEPARTMENT OF ATTORNEY
2 GENERAL.

3 (11) AS USED IN THIS SECTION, "DE FACTO OWNER" MEANS A PERSON
4 THAT COULD REASONABLY BE CONSIDERED THE OWNER OF THE LAND DESPITE
5 NOT HAVING GOOD LEGAL TITLE, AS INDICATED BY 1 OR MORE OF THE
6 FOLLOWING:

7 (A) A PURPORTED CHAIN OF TITLE THAT WOULD SHOW MARKETABLE
8 TITLE IN THE PERSON IF A VALID GOVERNMENTAL PATENT OR OTHER
9 CONVEYANCE HAD BEEN GIVEN TO THE APPROPRIATE PREDECESSOR IN THE
10 CHAIN OF TITLE.

11 (B) PAYMENT OF PROPERTY TAXES ON THE LAND BY THE PERSON.

12 (C) POSSESSION OF AND IMPROVEMENT TO OR MAINTENANCE OF THE
13 LAND BY THE PERSON.

14 (D) ANY OTHER SIMILAR FACTOR THAT THE DEPARTMENT IN ITS
15 DISCRETION DETERMINES SHOULD BE CONSIDERED.