SUBSTITUTE FOR

HOUSE BILL NO. 4727

A bill to amend 1959 PA 259, entitled

"Tall structure act,"

by amending sections 1, 2a, 2d, 6, and 7 (MCL 259.481, 259.482a, 259.482d, 259.486, and 259.487), sections 1, 6, and 7 as amended and sections 2a and 2d as added by 1986 PA 296, and by adding section 2f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. As used in this act:

(a) "Airport" means a structure or an area of land or water that is designed and set aside for the landing and taking off of aircraft, is utilized or to be utilized by and in the interest of the public for the landing and taking off of aircraft, and is licensed by the commission.

(B) "ANEMOMETER" MEANS AN INSTRUMENT FOR MEASURING AND RECORDING THE SPEED OF WIND.

(C) ~~(b)~~ "Approach surface" means an imaginary plane longitudinally centered on a runway's centerline extended, and extending outward and upward from each end of that runway's primary surface, which plane has the specifications described in section 2c.

(D) ~~(c)~~ "Commission" means the Michigan aeronautics commission.

(E) ~~(d)~~ "Conical surface" means an imaginary plane extending outward and upward from the perimeter of a runway's horizontal surface at **1 OF THE FOLLOWING SLOPES, AS APPLICABLE:**

(*i*) IF THE AIRPORT AT WHICH THE RUNWAY IS LOCATED HAS A PUBLISHED INSTRUMENT APPROACH PROCEDURE, AT a slope of 50 to 1.

(*ii*) IF SUBPARAGRAPH (*i*) DOES NOT APPLY, AT A SLOPE OF 20 TO 1.

(F) ~~(e)~~ "FAA" means the ~~federal aviation administration~~ **FEDERAL AVIATION ADMINISTRATION** or a successor agency to the ~~federal aviation administration.~~**FEDERAL AVIATION ADMINISTRATION.**

(G) ~~(f)~~ "Heliport approach surface" means an imaginary plane projecting outward and upward from the perimeter of a heliport primary surface at a slope of 8 to 1.

(H) ~~(g)~~ "Heliport primary surface" means an imaginary plane that is at the elevation established for a heliport coinciding in size and shape with the designated takeoff and landing area of that heliport.

(I) ~~(h) "Horizonal~~ **"HORIZONTAL** surface" means an imaginary horizontal plane 150 feet above the elevation established for an airport, the perimeter of which plane is constructed as described

in section 2e.

(J) "METEOROLOGICAL TOWER" MEANS A STRUCTURE, INCLUDING ALL GUY WIRES AND ACCESSORY FACILITIES, ON WHICH AN ANEMOMETER IS MOUNTED FOR THE PURPOSES OF DOCUMENTING WIND RESOURCES FOR THE OPERATION OF A WIND TURBINE GENERATOR.

(K) ~~(i)~~ "Minimum obstruction clearance altitude" means the lowest FAA published altitude that assures acceptable navigational signal coverage and that is in effect between radio fixes on a low altitude airway, on an off-airway route, or, ~~provided~~ **IF** the altitude meets obstacle clearance requirements for the entire route segment, on a route segment.

(*l*) ~~(j)~~ "Nonprecision approach procedure" means a ~~standard~~ **STRAIGHT-IN** instrument approach in which an electronic glide slope is not provided.

(M) ~~(k)~~ "Permit" means a permit issued by the commission under this act.

(N) ~~(*l*)~~ "Person" means an individual, firm, partnership, corporation, association, or body politic. Person includes a trustee, receiver, assignee, or other similar representative of a person.

(O) ~~(m)~~ "Precision approach procedure" means a standard instrument approach in which an electronic glide slope is provided.

(P) ~~(n)~~ "Primary surface" means an imaginary plane longitudinally centered on a runway**,** which plane has the specifications described in section 2b.

(Q) ~~(o)~~ "Runway" means the portion of an airport designated as ~~the~~ **EITHER OF THE FOLLOWING:**

(*i*) AN area used for the landing or takeoff of aircraft.

(*ii*) AN AREA PROPOSED, AND APPROVED BY THE COMMISSION, TO BE USED FOR THE LANDING OR TAKEOFF OF AIRCRAFT.

(R) ~~(p)~~ "Structure" means an object constructed or installed**,** including, but not limited to, a building, tower, antenna, smokestack, or overhead transmission line.

(S) ~~(q)~~ "Transitional surface" means an imaginary plane perpendicular to a runway centerline and to that centerline extended through the runway's primary surface and approach surface, which plane extends outward and upward from each side of the runway's primary surface and approach surface at a slope of 7 to 1 for the distances described in section 2d.

(T) ~~(r)~~ "Utility runway" means a runway that is constructed for and intended to be used by **PROPELLER-DRIVEN** aircraft with a maximum gross weight of 12,500 pounds or less.

(U) ~~(s)~~ "Visual approach procedure" means an approach in which an aircraft on an instrument flight rules flight plan, operating in visual flight rules conditions under the control of an air traffic control authorization, may proceed to the airport of destination in visual flight rules conditions.

Sec. 2a. **(1) THE COMMISSION SHALL NOT ISSUE A PERMIT ALLOWING CONSTRUCTION, REPLACEMENT, OR AN INCREASE IN HEIGHT OF A STRUCTURE THAT VIOLATES THE REQUIREMENTS OF AN APPLICABLE ZONING ORDINANCE ADOPTED BY A POLITICAL SUBDIVISION UNDER THE AIRPORT ZONING ACT, 1950 (EX SESS) PA 23, MCL 259.431 TO 259.465, UNLESS THE APPLICANT HAS OBTAINED THE APPROVAL OF A VARIANCE FROM THE ORDINANCE AND AN AIRSPACE STUDY HAS BEEN CONDUCTED BY THE COMMISSION RESULTING IN A**

FINDING OF NONINTERFERENCE TO AIR NAVIGATION.

(2) Unless an airspace study has been made by the commission resulting in a finding of noninterference to air navigation, the commission shall not issue a permit allowing construction of any of the following structures, or replacement of or an increase in the height of a structure that creates any of the following structures:

(a) A structure that is over 500 feet above ground elevation at the structure's site and that is within 2 miles of a well-defined natural landmark such as a shoreline or river; a manmade landmark such as a railroad, canal, or road; or a low altitude airway.

(b) A structure of a height that would increase the minimum obstruction clearance altitude, the minimum safe altitude prescribed by the FAA, or the minimum altitude required for a safe instrument approach.

(c) A structure that would encroach into a runway's primary surface.

(d) A structure of a height that would penetrate a runway's approach surface.

(e) A structure of a height that would penetrate a runway's transitional surface.

(f) A structure of a height that would penetrate a runway's horizontal surface.

(g) A structure of a height that would penetrate a runway's conical surface.

(h) A structure that would encroach into a heliport primary surface.

(i) A structure of a height that would penetrate a heliport approach surface.

~~(j) A structure that violates a zoning ordinance adopted by a political subdivision under the airport zoning act, Act No. 23 of the Public Acts of the Extra Session of 1950, being sections 259.431 to 259.465 of the Michigan Compiled Laws, except to the extent permitted by the zoning ordinance.~~

Sec. 2d. (1) Except as provided in subsection (2), a runway's transitional surface extends to the intersection of the transitional surface with the ~~conical~~ **HORIZONTAL** surface.

(2) For a runway that has a precision instrument approach, the transitional surface beginning at the side of a runway's approach surface extends for 5,000 feet measured horizontally from the side of the approach surface.

SEC. 2F. (1) A METEOROLOGICAL TOWER THAT IS 50 FEET IN HEIGHT ABOVE THE GROUND OR HIGHER AND THE APPEARANCE OF WHICH IS NOT OTHERWISE REGULATED BY STATE OR FEDERAL LAW MUST COMPLY WITH ALL OF THE FOLLOWING:

(A) THE TOWER MUST BE PAINTED IN EQUAL, ALTERNATING BANDS OF ORANGE AND WHITE, BEGINNING WITH ORANGE AT THE TOP OF THE TOWER AND ENDING WITH ORANGE AT THE BOTTOM OF THE TOWER.

(B) THE TOWER MUST HAVE 1 OR MORE 7-FOOT SAFETY SLEEVES PLACED AT EACH ANCHOR POINT THAT EXTEND FROM THE ANCHOR POINT ALONG EACH GUY WIRE ATTACHED TO THE ANCHOR POINT.

(C) THE TOWER MUST HAVE AT LEAST 1 ORANGE MARKER BALL ATTACHED TO EACH GUY WIRE AT THE HIGHEST POINT THAT DOES NOT AFFECT THE STABILITY OF THE TOWER AND THE MEASUREMENT OF WIND SPEED.

(2) THE COMMISSION MAY ESTABLISH, MAINTAIN, AND PUBLISH A DATABASE THAT CONTAINS LOCATIONS OF ALL EXISTING METEOROLOGICAL TOWERS.

(3) WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, AN OWNER OF ANY EXISTING METEOROLOGICAL TOWER ERECTED IN THIS STATE SHALL PROVIDE THE COMMISSION WITH ALL OF THE FOLLOWING:

(A) THE GLOBAL POSITIONING SYSTEM COORDINATES OF THE CENTER OF THE METEOROLOGICAL TOWER.

(B) THE ELEVATION OF THE SITE, IN FEET.

(C) THE STRUCTURE'S HEIGHT ABOVE GROUND LEVEL, IN FEET.

(D) THE OWNER'S OR LESSEE'S NAME, ADDRESS, TELEPHONE NUMBER, AND ELECTRONIC MAIL ADDRESS, IF ANY.

(E) THE NAME OF ANY OWNER'S REPRESENTATIVE.

(4) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION, AN OWNER OF AN EXISTING METEOROLOGICAL TOWER ERECTED IN THIS STATE SHALL MARK THE TOWER AS REQUIRED BY SUBSECTION (1).

(5) TEN DAYS OR MORE BEFORE THE ERECTION OF A NEW METEOROLOGICAL TOWER, AN OWNER OF THE TOWER SHALL PROVIDE TO THE COMMISSION THE INFORMATION REQUIRED UNDER SUBSECTION (3) AND CERTIFICATION BY THE OWNER THAT THE TOWER HAS BEEN MARKED IN ACCORDANCE WITH THIS SECTION.

(6) WITHIN 10 DAYS AFTER THE REMOVAL OF A METEOROLOGICAL TOWER, AN OWNER OF THE TOWER SHALL NOTIFY THE COMMISSION OF THE REMOVAL.

Sec. 6. (1) A permit ~~shall~~ **MUST** specify the obstruction markers, markings, lighting, or other visual or aural identification required to be installed on or in the vicinity of

the structure, if any. The identification characteristics required ~~shall~~ **MUST** conform to federal laws and regulations. **NOTWITHSTANDING ANY FEDERAL GUIDELINES, AND ON CONSIDERATION OF THE RELEVANT FACTS, A PERMIT MAY REQUIRE LIGHTING TO BE OPERATIONAL DURING DAYLIGHT HOURS.**

(2) Unless waived by the commission ~~due to~~ **BECAUSE OF** federal permit requirements or other valid reasons, the obstruction lights for a structure more than 800 feet above the ground elevation at the structure's site ~~shall~~ **MUST** be high intensity white obstruction lights **AND MUST BE OPERATIONAL DURING DAYLIGHT HOURS, IN ADDITION TO ANY NIGHTTIME LIGHTING REQUIREMENT**.

(3) If ordered by the commission, the owner of a nonconforming structure that is permanently out of service or partially dismantled, destroyed, deteriorated, or decayed shall demolish or remove ~~that~~ **THE** structure.

(4) Failure to maintain obstruction lights in an operable condition is a violation of this act.

Sec. 7. (1) ~~Upon~~ **ON** receiving an application for a permit, the commission shall investigate as necessary to process the application properly under this act. In an investigation under this section, the commission shall consider the safety and welfare of persons and property in the air and on the ground and that consideration ~~shall~~ **MUST** be paramount to a consideration of economic and technical factors.

(2) If, ~~upon the~~ **ON** investigation, the commission determines that a permit should not be issued or that the height or location should be other than as applied for, the commission shall notify

the applicant in writing of the commission's determination. The notification may be served by delivering it personally to the applicant or by sending it by first-class mail to the applicant at the address specified in the application. The determination is final ~~20~~ **30** days after notification of the determination is served, unless the applicant, within the ~~20-day~~ **30-DAY** period, requests in writing that a hearing be held before the commission with reference to the application. ~~A~~ **THE COMMISSION SHALL MAKE A** hearing under this section ~~shall be~~ open to the public. Any person interested may appear and be heard either in person or by counsel and may present pertinent evidence and testimony.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.