

STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Senators Casperson, Booher and Nofs

ENROLLED SENATE BILL No. 363

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to protect the people's right to hunt and fish; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 32505 (MCL 324.32505), as added by 1995 PA 59.

The People of the State of Michigan enact:

Sec. 32505. (1) If the department determines that it is in the public interest to grant an applicant a deed or lease to unpatented lands described in section 32502 or enter into an agreement to allow use and improvements in the waters or to enter into any other agreement in regard thereto, the department shall determine the amount of consideration to be paid to this state by the applicant for the conveyance or lease of unpatented lands.

(2) The department may allow, by lease or agreement, the filling in of patented and unpatented submerged lands and allow permanent improvements and structures after finding that the public trust will not be impaired or substantially injured.

(3) The department may issue deeds or may enter into leases of unpatented lands if the lands have been artificially filled in or are proposed to be changed from the condition that exists on October 14, 1955 by filling, sheet piling, shoring, or by any other means, and the lands are used or to be used or occupied in whole or in part for uses other than existing, lawful riparian or littoral purposes. The consideration to be paid to this state for the conveyance or lease of unpatented lands by the applicant shall be not less than the fair, cash market value of the lands determined as of the date of the filing of the application, minus any improvements placed on the lands, but the sale price shall not be less than 30% of the value of the land. In determining the fair, cash market value of the lands applied for, the department may consider the fact that the lands are connected with the riparian or littoral property belonging to the applicant, and the uses, including residential and commercial, being made or which can be made of the lands.

(4) Agreements for the lands or water area described in section 32502 may be granted to or entered into with local units of government for public purposes. The agreements may contain terms and conditions considered by the department to be just and equitable given the public trust involved and may grant permission to fill those lands as necessary.

(5) If unpatented lands have not been filled in or in any way substantially changed from their natural character and the application to acquire or lease those lands is filed for the purpose of flood control, shore erosion control, drainage and sanitation control, or to straighten irregular shore lines, then the consideration to be paid to this state by the applicant shall be the fair, cash value of the land, giving due consideration to the land's being adjacent to and connected with the riparian or littoral property owned by the applicant.

(6) Leases or agreements covering unpatented lands may be granted or entered into with riparian or littoral proprietors for commercial marina purposes or for marinas operated by persons for consideration and containing terms and conditions considered by the department to be just and equitable. The leases may include either filled or unfilled lake bottomlands, or both. Rental shall commence as of the date of use of the unpatented lands for the marina operations. Dockage and other uses by marinas in waters over patented lands on October 14, 1955 shall be considered to be lawful riparian or littoral use.

(7) If a private harbor formed by a breakwater erected on unpatented lake bottomlands is not used by the riparian or littoral owner for commercial purposes and if the riparian or littoral owner's land is used only for residential purposes, the consideration for a lease for the breakwater to occupy the lake bottomlands and for exclusive use of the waters of the harbor shall not exceed \$10.00 annually. The department shall waive the \$10.00 charge if the riparian or littoral owner agrees to allow the harbor to be used by the public as a harbor of refuge during storms.

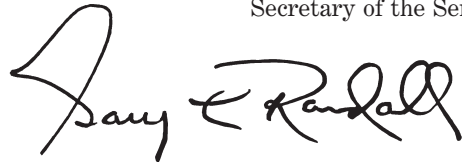
(8) If the department after investigation determines that an applicant to acquire or lease lands has willfully and knowingly filled in or in any way substantially changed the lands with an intent to defraud, or if the applicant has acquired the lands with knowledge of such a fraudulent intent and is not an innocent purchaser, the consideration shall be the fair, cash market value of the land or leasehold. An applicant may request a hearing of a determination made under this subsection. The department shall grant a hearing if requested.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor