

USE OF BOTTOMLANDS FOR PRIVATE HARBORS

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Senate Bill 409 as passed by the Senate

Sponsor: Sen. Tom Casperson

House Committee: Natural Resources

Senate Committee: Natural Resources

Complete to 11-28-17

Analysis available at

<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 409 would amend the Natural Resources and Environmental Protection Act by allowing the Department of Environmental Quality (DEQ), if certain conditions are met, to enter into a lease with an owner of riparian or littoral property regarding use of abutting unpatented lake bottomlands for a private harbor.

Currently, marinas may enter into leases or agreements with the DEQ regarding lands with riparian or littoral proprietors, where the shorelines are not otherwise granted for other use.

SB 409 would allow the DEQ also to enter into a lease with the owner of riparian or littoral property to use the abutting unpatented lake bottomlands and waters over those bottomlands for a private harbor, but only if all of the following conditions are met:

- The owner of the riparian or littoral property occupies the land for single-family residential purposes.
- The private harbor was formed by a breakwater erected on unpatented lake bottomlands and is used exclusively for private, noncommercial recreational watercraft.
- The full term of the lease is 50 years, with two 25-year terms.
- The following consideration:
 - For a lease entered into on or after the effective date of this bill, the landowner would pay a lump-sum at the beginning of the first *and* second 25-year term consisting of 1% of the current state equalized value of the land that the riparian or littoral rights are attached to, or a schedule as agreed by the DEQ.
 - Unless otherwise requested by the lessee and agreed to by the DEQ, for a lease entered into before the effective date of this bill, the DEQ would be required to credit any lease payment made in 2016 against the future payments owed under the terms of a lease entered into after the effective date of this bill, as described above.

DEFINITIONS:

Bottomland means lands in the Great Lakes, including the bays and harbors, lying below and lakeward of the ordinary high-water mark.

Littoral rights means the water rights on the shoreline along lakes.

Riparian rights means the water rights on the shoreline along rivers or ponds.

Unpatented lands means the bottomlands that are not submerged patented lands (which are any bottomlands lying within a specific government grant area, including a private claim patent, federal patent, or state swampland patent).

FISCAL IMPACT:

Senate Bill 409 would likely reduce fee revenue for the DEQ. The department projects that the new application provisions included in the bill would reduce annual fee revenue from \$10,636 down to \$3,052, resulting in a \$7,584 loss. Noncommercial, single-family residential, private harbors are currently subject to this following annual fee schedule:

Less than a half-acre = \$350

Greater than or equal to a half-acre but less than one acre = \$600

Greater than or equal to one acre but less than one and a half acres = \$850

Greater than or equal to one and a half acres = commercial rate

The bill is unlikely to have a fiscal impact on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.