

SENATE BILL No. 409

May 30, 2017, Introduced by Senator CASPERSON and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 32505 and 32511 (MCL 324.32505 and 324.32511),
as added by 1995 PA 59.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 32505. (1) If the department determines that it is in the
2 public interest to grant an applicant a deed or lease to ~~such~~ lands
3 or enter into an agreement to ~~permit~~ **ALLOW** use and improvements in
4 the waters or to enter into any other agreement in regard thereto,
5 the department shall determine the amount of consideration to be
6 paid to ~~the~~ **THIS** state by the applicant for the conveyance or lease
7 of unpatented lands.

8 (2) The department may ~~permit~~, **ALLOW**, by lease or agreement,

1 the filling in of patented and unpatented submerged lands and
2 ~~permit~~**ALLOW** permanent improvements and structures after finding
3 that the public trust will not be impaired or substantially
4 injured.

5 (3) The department may issue deeds or may enter into leases **OF**
6 **UNPATENTED LANDS** if the ~~unpatented lands applied for~~**LANDS** have
7 been artificially filled in or are proposed to be changed from the
8 condition that exists on October 14, 1955 by filling, sheet piling,
9 shoring, or by any other means, and ~~such~~**THE** lands are used or to
10 be used or occupied in whole or in part for uses other than
11 existing, lawful riparian or littoral purposes. The consideration
12 to be paid to ~~the~~**THIS** state for the conveyance or lease of
13 unpatented lands by the applicant shall be not less than the fair,
14 cash market value of the lands determined as of the date of the
15 filing of the application, minus any improvements placed on the
16 lands, but the sale price shall not be less than 30% of the value
17 of the land. In determining the fair, cash market value of the
18 lands applied for, the department may ~~give due consideration to~~
19 **CONSIDER** the fact that the lands are connected with the riparian or
20 littoral property belonging to the applicant, and ~~to~~ the uses,
21 including residential and commercial, being made or which can be
22 made of the lands.

23 (4) Agreements for the lands or water area described in
24 section 32502 may be granted to or entered into with local units of
25 government for public purposes. ~~and containing those~~**THE AGREEMENTS**
26 **MAY CONTAIN** terms and conditions ~~that may be~~ considered just and
27 equitable ~~in view of~~**GIVEN** the public trust involved and may

1 ~~include the granting of GRANT permission to make such fills as may~~
2 ~~be~~ **FILL THOSE LANDS AS** necessary.

3 (5) If ~~the~~ unpatented lands ~~applied for~~ have not been filled
4 in or in any way substantially changed from their natural character
5 ~~at the time the application is filed with the department,~~ and the
6 application **TO ACQUIRE OR LEASE THOSE LANDS** is filed for the
7 purpose of flood control, shore erosion control, drainage and
8 sanitation control, or to straighten irregular shore lines, then
9 the consideration to be paid to ~~the~~ **THIS** state by the applicant
10 shall be the fair, cash value of ~~such~~ **THE** land, giving due
11 consideration to its being adjacent to and connected with the
12 riparian or littoral property owned by the applicant.

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

23 (7) **THE DEPARTMENT MAY ENTER INTO A LEASE WITH THE OWNER OF**
24 **RIPARIAN OR LITTORAL PROPERTY, OCCUPIED ONLY FOR SINGLE-FAMILY**
25 **RESIDENTIAL PURPOSES, TO USE THE ABUTTING UNPATENTED LAKE**
26 **BOTTOMLANDS AND WATERS OVER THOSE BOTTOMLANDS FOR A PRIVATE HARBOR**
27 **IF ALL OF THE FOLLOWING CONDITIONS ARE MET:**

Senate Bill No. 409 as amended January 18, 2018

(A) THE PRIVATE HARBOR WAS FORMED BY A BREAKWATER ERECTED ON UNPATENTED LAKE BOTTOMLANDS.

(B) THE PRIVATE HARBOR IS USED EXCLUSIVELY FOR PRIVATE, NONCOMMERCIAL RECREATIONAL WATERCRAFT.

(C) THE FULL TERM OF THE LEASE IS 50 YEARS CONSISTING OF TWO 25-YEAR TERMS.

(D) THE CONSIDERATION FOR THE LEASE IS AS FOLLOWS:

(i) FOR A LEASE ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS SECTION, A LUMP-SUM PAYMENT AT THE BEGINNING OF THE FIRST 25-YEAR TERM OF THE AGREEMENT OF [0.5%] OF [TWICE] THE CURRENT STATE EQUALIZED VALUE OF THE LESSEE'S UPLAND RIPARIAN OR LITTORAL PROPERTY OR PAYMENT OF THE LUMP SUM PURSUANT TO A SCHEDULE AS AGREED BY THE DEPARTMENT, AND A LUMP-SUM PAYMENT AT THE BEGINNING OF THE SECOND 25-YEAR TERM OF THE AGREEMENT OF [0.5%] OF [TWICE] THE CURRENT STATE EQUALIZED VALUE OF THE LESSEE'S UPLAND RIPARIAN OR LITTORAL PROPERTY OR PAYMENT OF THE LUMP SUM PURSUANT TO A SCHEDULE AS AGREED BY THE DEPARTMENT.

(ii) UNLESS OTHERWISE REQUESTED BY THE LESSEE AND AGREED TO BY THE DEPARTMENT, FOR A LEASE ENTERED INTO PRIOR TO THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT AMENDED THIS SECTION, THE DEPARTMENT SHALL CREDIT ANY LEASE PAYMENT MADE IN 2016 AGAINST THE FUTURE PAYMENTS OWED UNDER THE TERMS OF SUBPARAGRAPH (i).

(8) ~~(7)~~—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 applied for with an intent to defraud, or if the applicant has acquired such THE lands with knowledge of such a fraudulent intent and is not an

1 innocent purchaser, the ~~sale price~~ **CONSIDERATION** shall be the fair,
2 cash market value of the land **OR LEASEHOLD**. An applicant may
3 request a hearing of a determination made under this subsection.
4 The department shall grant a hearing if requested.

5 Sec. 32511. A riparian owner may apply to the department for a
6 certificate suitable for recording indicating the location of his
7 or her lakeward boundary or indicating that the land involved has
8 accreted to his or her property as a result of natural accretions
9 or placement of a lawful, permanent structure. The application
10 ~~shall~~ **MUST** be accompanied by a fee of \$200.00 and proof of upland
11 ownership.

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