STATE TRANSPORTATION PRESERVATION ACT OF 1976
Act 295 of 1976

AN ACT to improve and maintain transportation services in this state; to provide for the acquisition and use of funds; to provide for the acquisition of certain railroad facilities and certain property; to provide for the disposition and use of facilities and property acquired under this act; to provide for financial assistance to certain private transportation services; to prescribe the powers and duties of certain state departments and agencies; to provide for the transfer of certain funds; to provide for the creation of certain funds; and to provide for appropriations.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1981, Act 129, Imd. Eff. Sept 30, 1981;—Am. 1982, Act 288, Imd. Eff. Oct. 7, 1982;—Am. 1984, Act 210, Imd. Eff. July 9, 1984;—Am. 2001, Act 126, Imd. Eff. Oct. 15, 2001.

The People of the State of Michigan enact:

474.51 Short title; declaration of public purpose.

Sec. 1. (1) This act shall be known and may be cited as the "state transportation preservation act of 1976".

(2) There exists a need to provide authorization for financial assistance for the capital improvement, maintenance, and operation of rail, street railway, intercity bus, and ferry services in this state. To undertake the planning, development, acquisition, and operation of these services is in the best interest of the state and is a valid public purpose.

(3) The preservation of abandoned railroad rights of way for future rail use and their interim use as public trails is declared to be a public purpose.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 2008, Act 488, Imd. Eff. Jan. 12, 2009.

Constitutionality: MCL 474.51 et seq. and MCL 247.660b et seq. are constitutional. In re Advisory Opinion 1976 PA 295 and 1976 PA 297, 401 Mich 686; 259 NW2d 129 (1977).

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474.52 Definitions.

Sec. 2. As used in this act:

(a) "Bureau" means the bureau of passenger transportation in the department.

(b) "Commuter trail" means a trail, lane, path, road, or other right of way on which motorized vehicles are not permitted and which has the primary or substantial purpose and result of providing a means for people to move from 1 location to another.

(c) "Department" means the state transportation department, the principal department of state government created under section 350 of the executive organization act of 1965, 1965 PA 380, MCL 16.450.

(d) "Federal acts" means the regional rail reorganization act of 1973, 45 USC 701 to 797m; the railroad revitalization and regulatory reform act of 1976, Public Law 94-210; the local rail service assistance act of 1978, section 5, Public Law 89-670; the staggers rail act of 1980, Public Law 96-448; and the northeast rail service act of 1981, subtitle E title XI, Public Law 97-35.

(e) "Recreational trail" means a trail, lane, path, road, or other right of way that because of its scenic, wild, or topographical nature, has as its primary purpose recreational use of the trail itself.

(f) "Street railway" means that term as defined under the nonprofit street railway act, 1867 PA 35, MCL 472.1 to 472.31.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984;—Am. 1998, Act 235, Imd. Eff. July 3, 1998;—Am. 2008, Act 488, Imd. Eff. Jan. 12, 2009.

474.53 Repealed. 1998, Act 235, Imd. Eff. July 3, 1998.

Compiler's note: The repealed section pertained to administration of act and promulgation of rules.

474.54 Powers of department generally.

Sec. 4. The department shall exercise those powers necessary to gain qualification on behalf of the state for financial assistance available pursuant to the federal acts and, in so doing, may:

(a) Plan, promote, supervise, and support safe, adequate, and efficient rail services.

(b) Employ sufficient trained and qualified personnel to implement the purposes described in this section.

(c) Maintain adequate programs of investigation, research, promotion, and development in connection with the purposes described in this section, and provide for public participation in these areas.

(d) Comply with the rules and regulations of the secretary of transportation of the United States department of transportation in connection with federal rail assistance programs.

(e) Do those other things necessary to maximize federal assistance for rail services to this state.

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History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984.

474.55 Financial assistance for railroad or street railway; department as agent.

Sec. 5. The department may provide financial assistance in the form of grants, leases, loans, and purchases, or any combination of grants, leases, loans, and purchases, within the limits of the funds appropriated by the legislature or otherwise obtained, for the maintenance of a railroad or a street railway within the state as provided in the federal acts, other relevant federal legislation, 1951 PA 51, MCL 247.651 to 247.675, or other relevant state law. The department may act as the agent for the state, a person, a public or private corporation, a local or regional transportation authority, a local governmental unit, a private carrier, a group of rail users, or a combination of these entities for the maintenance of a railroad or a street railway in this state.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1982, Act 288, Imd. Eff. Oct. 7, 1982;—Am. 1984, Act 210, Imd. Eff. July 9, 1984;—Am. 2008, Act 488, Imd. Eff. Jan. 12, 2009.

474.56 Acquisition of railroad property or other property; condemnation.

Sec. 6. (1) The department, as sole agent for the state, may acquire by purchase or through the procedures set forth in the staggers rail act of 1980, Public Law 96-448, 94 Stat. 1895, and the northeast rail service act of 1981, subtitle E title XI, Public Law 97-35, 95 Stat. 643, a portion or portions of the property of a railroad company, including, but not limited to, the tracks and ties, rights of way, land, buildings, appurtenances, other facilities, rolling stock, and equipment, whether or not necessary for the operation of a railroad, for the preservation of a railroad line, or for commuter trail use. In addition, the department may acquire by purchase or otherwise other property owned by an entity other than a railroad company which is found by the department to be necessary for the present or future operation of a railroad.

(2) The department may acquire through condemnation only those segments of a railroad which has been abandoned. Acquisition through condemnation shall be limited to right of way, track, ties, bridges, and culverts which are necessary for the operation of a railroad. The action shall be undertaken pursuant to Act No. 149 of the Public Acts of 1911, being sections 213.21 to 213.25 of the Michigan Compiled Laws, and Act No. 87 of the Public Acts of 1980, being sections 213.51 to 213.77 of the Michigan Compiled Laws.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984.

474.57 Expired. 1976, Act 295, Eff. Dec. 31, 1976.

Compiler's note: The expired section pertained to sale, transfer, or exchange of rail properties or trackage rights subject to bankruptcy or discontinuance proceedings.

474.58 Notice of abandonment; acquisition of rights of railroad company by state department of transportation or department of natural resources; warranty or quitclaim deed; acquisition of rights in rights of way approved for abandonment.

Sec. 8. (1) A railroad company operating within this state shall notify the department at the time it files with the appropriate governmental agencies for abandonment of a line.

(2) The rights a railroad company may have in all rights of way approved for abandonment within the state shall not be offered for sale without offering the department, on reasonable terms in the first instance, and the department of natural resources, on reasonable terms in the second instance, the right to purchase those rights. The offer shall include a detailed description of the property and appropriate valuation maps and track charts. Additional information or documents may be provided as agreed to by the parties. The department shall reimburse the railroad company for the expense of providing all such additional information or documents. Upon receipt of such an offer, the department shall notify the departments of natural resources, agriculture, and commerce. The purchase or other acquisition may be by warranty or quitclaim deed. The department or the department of natural resources may purchase or acquire those rights a railroad company may have in all rights of way approved for abandonment unless within 60 days of the offer for sale by the railroad company, the department determines that the abandoned route does not have potential for a use described in section 6 or the department of natural resources determines that the abandoned route does not have potential for management as a recreational resource. If the department determines that the abandoned route does not have potential for a use described in section 6 and the department of natural resources determines that the abandoned route does not have potential for management as a recreational resource or the department or the department of natural resources does not make a reasonable offer, in writing, to purchase within 60 days, the railroad company may dispose of the rights it has in those rights of way as it sees fit. If a right of way abandoned before January 1, 1977, is available and the department determines that the right of way has potential for a use described in section 6, the department may purchase by warranty or quitclaim deed the rights a railroad company or others have in the right of way.

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History: 1976, Act 295, Eff. Jan. 1, 1977;—Am. 1984, Act 210, Imd. Eff. July 9, 1984.

474.59 Cooperation and contractual arrangements with other states and dominion of Canada; acquisition of trackage rights and rail property in other states and dominion of Canada.

Sec. 9. The department may cooperate with other states and the dominion of Canada in connection with the purchase of rail property within the state. The department may acquire trackage rights in other states and rail property lying in other states and the Dominion of Canada to carry out the intentions and purposes of this act. In carrying out the authority conferred by this section, the department may enter into general contractual arrangements, including joint purchasing and leasing of rail property with other states and the Dominion of Canada.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984.

474.60 Acquiring, leasing, or securing easement for use of real property owned by railroad; conveyance or lease to public or private entity; preservation of right-of-way for future use as railroad line; disposing of or leasing right-of-way; powers of department; restrictions to assure future rail use.

Sec. 10. (1) In weighing the varied interests of the residents of this state, the department shall consider the individual interest of any person, public or private corporation, local or regional transportation authority, local governmental unit, private carrier, group of rail users, state agency, other public or private entity, including a port authority established under the Hertel-Law-T. Stopczynski port authority act, 1978 PA 639, MCL 120.101 to 120.130, or any combination of these entities, expressing a desire to acquire or lease or secure an easement for the use of a portion or all of the real property owned by a railroad company. The property acquired by the department under this act may be conveyed or leased to an entity or combination of entities listed in this subsection with appropriate reimbursement, as determined by the department.

(2) Upon acquisition of a right-of-way, the department may preserve the right-of-way for future use as a railroad line and, if preserving it for that use, shall not permit any action that would render it unsuitable for future rail use. If the department determines a right-of-way or other property acquired under this act is no longer necessary for railroad transportation purposes, the department may preserve and utilize the right-of-way for other transportation purposes or may dispose of the right-of-way or other property acquired under this act for the purposes described in section 6, or may dispose of or lease the right-of-way or other property for other purposes, as appropriate. The department shall not dispose of or lease a right-of-way without first offering to transfer the right-of-way to the department of natural resources. If the department of natural resources desires to lease or purchase the right-of-way, the department of natural resources must indicate its desire to lease or purchase the right-of-way within 60 days and accept the offered transfer within 1 year after the offer is made. If the department of natural resources does not indicate a desire to lease or purchase the right-of-way within 60 days, the department may dispose of or lease the right-of-way as otherwise provided for in this act. If the department of natural resources does not accept the offered transfer within 1 year after indicating its desire to lease or purchase the right-of-way, the department may dispose of or lease the right-of-way as otherwise provided for in this act. When appropriate, a right-of-way or other property shall be transferred or leased to a public or private entity with appropriate reimbursement, as determined by the department.

(3) In preserving a right-of-way for future rail use, the department may do 1 or more of the following:

(a) Develop the right-of-way for use as a commuter trail where the use is feasible and needed or lease the right-of-way to a county, city, village, or township expressing a desire to develop the right-of-way as a commuter trail. The lease shall be for an indefinite period of time and is cancelable by the department only if the right-of-way is needed for rail usage. The trails, unless leased to a county, city, village, or township, shall remain under the jurisdiction of the department.

(b) Transfer, for appropriate reimbursement, the right-of-way to the department of natural resources for use as a Michigan trailway pursuant to part 721 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.72101 to 324.72116, if the deed includes restrictions on the use of the property that assure that the property remains viable for future rail usage, and includes a clause that requires the department of natural resources to transfer, for appropriate reimbursement, the right-of-way to the department, upon a determination of the director of the department that the right-of-way is needed for use as a railroad line.

(c) Lease the right-of-way to the department of natural resources, or upon approval of the department of natural resources, to a county, city, village, or township for use as a recreational trail. The lease shall be for an indefinite period of time and is cancelable by the department only if the right-of-way is needed for rail usage. A recreational trail shall be reserved for non-motorized forms of recreation or snowmobiling only.

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Snowmobiling shall not be allowed on more than 50% of the mileage of the recreational trails established pursuant to this act.

(d) In cases where a trail serves both a significant commuter and recreation function, authorize the joint development of the trail by the department and the department of natural resources, or the department and any interested county, city, village, or township. Administration of the trail shall be determined jointly by the department and the department of natural resources.

(4) As a term of conveyance, the department may require restrictions on the use of the property that assure that the property remains viable for future rail use and that the rail line is made available by the purchaser for future freight or passenger rail uses and that the property will revert to the department if the purchaser fails to maintain the property so that it remains viable for future rail use.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984;—Am. 1993, Act 28, Imd. Eff. Apr. 21, 1993;—Am. 1998, Act 235, Imd. Eff. July 3, 1998;—Am. 2008, Act 570, Imd. Eff. Jan. 16, 2009;—Am. 2011, Act 29, Imd. Eff. May 17, 2011;—Am. 2012, Act 42, Imd. Eff. Mar. 6, 2012;—Am. 2014, Act 25, Imd. Eff. Mar. 4, 2014.

474.60a Repealed. 2014, Act 25, Imd. Eff. Mar. 4, 2014

Compiler's note: The repealed section pertained to issuance of statement regarding viability of segment.

474.60b Repealed. 2014, Act 25, Imd. Eff. Mar. 4, 2014.

Compiler's note: The repealed section pertained to prequalification requirements.

474.60c Repealed. 2014, Act 25, Imd. Eff. Mar. 4, 2014.

Compiler's note: The repealed section pertained to appeal of committee's decision not to prequalify prospective bidder.

474.60d Repealed. 2014, Act 25, Imd. Eff. Mar. 4, 2014.

Compiler's note: The repealed section pertained to appeal of panel's decision to state transportation commission.

474.60e Repealed. 2014, Act 25, Imd. Eff. Mar. 4, 2014.

Compiler's note: The repealed section pertained to divestiture of segment.

474.60f Repealed. 2014, Act 25, Imd. Eff. Mar. 4, 2014.

Compiler's note: The repealed section pertained to scoring mechanism for selecting bidders.

474.60g Repealed. 2014, Act 25, Imd. Eff. Mar. 4, 2014.

Compiler's note: The repealed section pertained to selection of replacement operator for segment on emergency basis.

474.61 Federal funds; public or private grants, gifts, donations, or appropriations.

Sec. 11. The department may utilize federal funds, or other public or private grants, gifts, donations, or appropriations in carrying out the purposes of this act.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984.

474.62 Federal loan, guarantee of loan, or federal programs.

Sec. 12. The department may apply for an acquisition and modernization loan, or a guarantee of a loan, pursuant to the federal acts or other federal programs within the limit of funds appropriated for this purpose.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984.

474.63 Repealed. 1981, Act 129, Eff. Oct. 1, 1981.

Compiler's note: The repealed section pertained to the administration of a delinquent railroad tax fund and to the transferring of balances to the general fund.

474.64 Acquisition of intercity bus and ferry equipment and facilities.

Sec. 14. The department may purchase intercity bus equipment and related station and servicing facilities, as well as ferry equipment, dock, port, and water equipment servicing facilities. The department may acquire equipment and facilities to be utilized by intercity bus and ferry operations, under terms and conditions determined by the department.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984.

474.65 Modernization, rehabilitation, rebuilding, and relocation of rail property; maintenance and improvements.

Sec. 15. The department may spend sums appropriated and other available funds for the construction, modernization, rehabilitation, rebuilding, and relocation of rail property and may perform or contract for

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maintenance or improvements on rail property owned by the state, a person, a public or private corporation, a local or regional transportation authority, a local governmental unit, a private carrier, a group of rail users, or a combination of these entities, including, but not limited to, a street railway, as is necessary in the public interest as determined by the department.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984;—Am. 2008, Act 488, Imd. Eff. Jan. 12, 2009.

474.65a Rail infrastructure loan fund.

Sec. 15a. (1) The rail infrastructure loan fund is created to implement the rail infrastructure loan program in the state transportation department. Subject to the maximum established by this section, the legislature shall appropriate an amount not to exceed $3,000,000.00 each year to the rail infrastructure loan fund until the maximum in subsection (5) is met. Interest earned and repayments received and any penalties assessed and received for failure to repay loans on time shall be credited to the fund. The rail infrastructure loan fund is a self-sustaining revolving loan fund to finance construction and improvements that are designed for improvements to freight railroad infrastructure for the purposes of preserving, rebuilding, rehabilitating, or constructing facilities or improvements on railroad operating property or property adjacent to railroad operating property, in this state. Construction is limited to those facilities or improvements required to continue rail service on a particular line or to improve the efficiency and safety of existing rail service. If the department determines that the public interest requires, a loan may be made to eligible applicants provided by subsection (2) to acquire rail property for the purpose of preserving freight rail service or improving the efficiency of existing freight rail service. An eligible applicant described in subsection (2) may apply for a loan from the fund for the purposes described in this section or for use as nonfederal match for any federal rail infrastructure loan program.

(2) The fund shall provide noninterest bearing loans for the purposes described in this section. The department shall evaluate loan applications according to the relative merit of the project in conjunction with program goals and make recommendations to the state transportation commission regarding each loan application. The state transportation commission shall approve or deny the loans and establish loan disbursement and payment schedules based on the needs of the work in progress. A loan shall fund not more than 90% of the rail portion of project costs, and the loan repayment period shall not exceed 10 years. A county, city, township, village, economic development corporation, and railroad and current or potential users of freight railroad services are eligible applicants.

(3) Except as otherwise provided in this subsection, at the end of each fiscal year, unexpended funds shall remain in the rail infrastructure loan fund and shall be available for the purposes of the program in the succeeding fiscal year. For the fiscal year ending September 30, 2010, $5,700,000.00 in unobligated fund balance shall be deposited in the comprehensive transportation fund. Amounts in the fund may be combined by the state treasurer with other amounts in the state treasury for purposes of cash management. The earnings from the investment of the fund shall accrue to the fund. The fund shall be accounted for separately from other funds of the state. The fund may receive gifts or grants for the purposes of the fund. Any penalties assessed and received for failure to repay a loan on time and money that is received by this state as repayment for rail infrastructure loans made pursuant to this program shall remain within the rail infrastructure loan fund and shall only be used for the purposes of rail infrastructure loans as provided in this section.

(4) By December 31 each year, the department shall report to the house and senate appropriations subcommittees on transportation and the house and senate fiscal agencies the following information, as appropriate, regarding this section and on a separate report the rail freight fund under section 17:

(a) The beginning fund balance of each fund, revenues received, expenditures and encumbrances incurred, and the ending fund balance for each fund for the preceding fiscal year.

(b) The projects funded during the preceding fiscal year.

(c) The status of projects funded in the preceding fiscal years including the degree to which the projects funded have achieved the objectives of this act.

(d) Status of all outstanding loans.

(e) Any other information considered necessary by the department.

(5) The state's total contribution to the rail infrastructure loan fund shall not exceed $15,000,000.00 exclusive of interest and any penalties assessed, received, and credited to the fund.

History: Add. 2002, Act 747, Imd. Eff. Dec. 30, 2002;—Am. 2010, Act 161, Imd. Eff. Sept. 17, 2010.

474.66 Contracts for rail, street railway, intercity bus, or ferry service.

Sec. 16. The department may contract with a person, firm, or public or private corporation to provide rail, street railway, intercity bus, or ferry service deemed by the department to be in the best interest of this state.

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History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984;—Am. 2008, Act 488, Imd. Eff. Jan. 12, 2009.

474.67 Financial assistance for facilities of rail freight and marine freight transportation; deposit of funds to be held as separate fund; rail freight fund; administration.

Sec. 17. (1) The department may provide financial assistance, within the limits and conditions of the funds appropriated by the legislature, or otherwise obtained, for grants, leases, loans, and purchases, or any combination of grants, leases, loans, and purchases, for the establishment, continuation, and improvement of production, operation, maintenance, and support facilities of rail freight and marine freight transportation.

(2) The following funds shall be deposited in the state treasury and shall be held as a separate fund to be known as the rail freight fund which shall be administered by the department within the limits and conditions of funds appropriated by the legislature for the purposes of subsection (1):

(a) The funds repaid under a contract entered into pursuant to subsection (1).

(b) Revenue received from the sale, lease, or other disposition of property acquired under this act.

(c) Railroad operating subsidies refunded to the state pursuant to a contract.

(d) Revenue received from the sale or lease of a tug barge or related facilities constructed or acquired with comprehensive transportation fund money or comprehensive transportation fund bond proceeds.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1982, Act 288, Imd. Eff. Oct. 7, 1982;—Am. 1984, Act 210, Imd. Eff. July 9, 1984;—Am. 1990, Act 68, Imd. Eff. Apr. 27, 1990;—Am. 1993, Act 16, Imd. Eff. Apr. 14, 1993;—Am. 1998, Act 235, Imd. Eff. July 3, 1998.

474.67a Soo Locks fund.

Sec. 17a. (1) The Soo locks fund is created as a separate restricted account within the comprehensive transportation fund and shall be administered by the department for the purposes of fulfilling the state's portion of the nonfederal cost share for construction of a new marine lock facility at Sault Ste. Marie, Michigan, as authorized under section 17(1).

(2) The following funds may be deposited into the Soo locks fund:

(a) Comprehensive transportation fund revenues or comprehensive transportation fund bond proceeds.

(b) Other revenues that are appropriated for the purpose of subsection (1).

(3) For each fiscal year, beginning with the fiscal year ending September 30, 2001 and ending with the fiscal year ending September 30, 2050, there is appropriated from the fund an amount necessary to fulfill the terms and conditions of the state's agreement with the Great Lakes commission, acting in its capacity as the principal fiduciary agent for the nonfederal cost share, for the construction of a new marine lock facility at Sault Ste. Marie, Michigan.

(4) Principal and interest earnings in the fund shall not lapse and shall remain in the fund at the close of the fiscal year and shall carry forward for use for the purposes described in subsection (1), except for the fiscal year ending September 30, 2007 when $5,270,000.00 shall lapse to the comprehensive transportation fund.

(5) The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(6) Any unexpended balances remaining in the fund upon fulfillment of the state's obligation as described in this section shall lapse to the funds from which originally appropriated.

History: Add. 2001, Act 126, Imd. Eff. Oct. 15, 2001;—Am. 2007, Act 68, Imd. Eff. Sept. 28, 2007.

474.68 Termination of rail freight services; contracts for substitute services and relocation assistance.

Sec. 18. When rail freight services are terminated, the department may contract for substitute services and relocation assistance within this state, to serve affected shippers and communities, if deemed desirable by the department.

History: 1976, Act 295, Eff. Nov. 15, 1976;—Am. 1984, Act 210, Imd. Eff. July 9, 1984.

474.69 Repealed. 1984, Act 210, Imd. Eff. July 9, 1984.

Compiler's note: The repealed section pertained to program approval procedure for rail continuation contractual grant and upgrading programs.

474.69a Compliance.

Sec. 19a. In exercising the powers provided by this act, the department shall comply with policies established by the state transportation commission in accordance with section 28 of article V of the state constitution of 1963.

History: Add. 1984, Act 210, Imd. Eff. July 9, 1984.

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474.70 Effective date.

Sec. 20. This act shall not take effect until November 15, 1976.

History: 1976, Act 295, Eff. Nov. 15, 1976.

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