

DISCONTINUATION OF HIGHWAY BORDERING LAKE OR STREAM (EXCERPT)
Act 341 of 1927

247.44 Highway bordering on lake or stream; court order; operation and maintenance of property; effect of noncompliance with subsection (3); reopening road ending; closure; initiation of proceedings.

Sec. 4. (1) Upon the day of hearing the application or any adjournment of the hearing, testimony may be taken from any person or persons interested in the application, and if it satisfactorily appears to the court that there is no reasonable objection to the application, and that it is necessary for the best interest and welfare of the public that the highway be abandoned, discontinued, vacated, or altered as to its course, as prayed for in the application, or if it appears to the court that the highway or any part of the highway should remain as then established, an order shall be entered in the record of the court in accordance with the determination.

(2) If a circuit court determines pursuant to this act that an official or officials of a city or village in this state may discontinue, abandon, alter the course, or vacate a public highway or portion of a public highway, and the department of natural resources or, if applicable, the township in which the highway is situated decides to maintain the property as an ingress and egress point, the court shall order the official or officials either to relinquish control to the state or township if the interest is nontransferable or to convey by quitclaim deed whatever interest in the property is held by the local unit of government to the state or township. The township shall have first priority to obtain the property or control of the property as an ingress and egress point. If the township obtains the property or control of the property as an ingress and egress point and later proposes to transfer the property or control of the property, it shall give the department of natural resources first priority to obtain the property or control of the property. If the state obtains the property or control of the property under this subsection, the property shall be under the jurisdiction of the department of natural resources. The state may retain title to the property, transfer title to a local unit of government, or deed the property to the adjacent property owners. If the property was purchased by the state from restricted fund revenue, money obtained from sale of the property shall be returned to that restricted fund.

(3) If interest in the property is conveyed or control over the property is relinquished to a local unit or this state under subsection (2), the local unit or this state, as applicable, shall operate and maintain the property so as to prevent and eliminate garbage and litter accumulation, unsanitary conditions, undue noise, and congestion as necessary.

(4) If a person shows substantial noncompliance with the requirements of subsection (3), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for a period of up to 30 days.

(5) If a person shows substantial noncompliance with the requirements of subsection (3) and the circuit court has previously closed the road ending for up to 30 days under subsection (4), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for 90 days.

(6) If a person shows substantial noncompliance with the requirements of subsection (3) and the circuit court has previously closed the road ending for 90 days under subsection (5), the circuit court may order the local unit or this state to close the road ending in a manner to prevent ingress and egress to the body of water for 180 days.

(7) If a person shows substantial noncompliance with the requirements of subsection (3) and the circuit court has previously closed the road ending for 180 days under subsection (6), the circuit court shall order the local unit or this state to show cause why the road ending should not be permanently closed in a manner to prevent ingress and egress to the body of water. Subject to subsection (8), the circuit court shall permanently close the road ending unless the local unit or this state shows cause why the road ending should not be closed.

(8) After a road ending is closed under subsection (7), and unless the property has been conveyed or relinquished to the adjacent landowners under subsection (9), the local unit or this state may petition the circuit court to reopen the road ending. The circuit court may order the road ending reopened if the local unit or this state presents a management plan to and posts a performance bond with the circuit court, and the circuit court finds that the management plan and performance bond are adequate to ensure compliance with subsection (3).

(9) After a road ending is closed by the circuit court under subsection (7), 1 or more of the adjacent landowners may petition the circuit court to order the local unit or this state to convey any interest in the property that the local unit or this state holds to the adjacent landowners, or, if the interest is nontransferable, to relinquish control over the property to the adjacent landowners.

(10) Proceedings under subsection (4), (5), (6), or (7) shall be initiated by application of 7 owners of record title of land in the local unit who own land within 1 mile of the road ending to the circuit court for the county

in which the road ending is located. The applicants in proceedings under subsection (4), (5), (6), (7), (8), or (9) shall give the persons described in section 3 notice of the application by registered mail.

History: 1927, Act 341, Eff. Sept. 5, 1927;—CL 1929, 3953;—CL 1948, 247.44;—Am. 1996, Act 217, Imd. Eff. May 28, 1996.

Compiler's note: For transfer of powers and duties of department of natural resources to department of natural resources and environment, and abolishment of department of natural resources, see E.R.O. No. 2009-31, compiled at MCL 324.99919.