

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.32505 Unpatented lake bottomlands and unpatented made lands; consideration for conveyances or lease.

Sec. 32505. (1) If the department determines that it is in the public interest to grant an applicant a deed or lease to lands 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 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 its 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) The department may enter into a lease with the owner of riparian or littoral property, occupied only for single-family residential purposes, to use the abutting unpatented lake bottomlands and waters over those bottomlands for a private harbor if all of the following conditions are met:

- (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) 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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2018, Act 18, Eff. May 14, 2018.

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