

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

SUBPART 8
EASEMENTS OVER STATE OWNED LANDS

324.2123 Granting easement over state-owned land under jurisdiction of department to individual; conditions; 30-day period to consider application; notification of incomplete application; tolling of time period; time period for approval or denial of application.

Sec. 2123. (1) Subject to sections 2123a and 2124, the department may grant or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:

- (a) The individual applies for the easement on a form provided by the department.
 - (b) The individual does not have other legal access to the individual's land.
 - (c) The easement does not conflict with any of the following:
 - (i) An existing program or management as described in an existing plan of the department.
 - (ii) A local ordinance.
 - (d) The road for which the easement is granted is open to public access and not for the exclusive use of the grantee.
 - (e) The easement provides the logical and most feasible access to the individual's land.
 - (f) The width of the road is restricted to the minimum consistent with the quality of the road required.
 - (g) The individual agrees to construct, if necessary, and maintain the road.
 - (h) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.
 - (i) The individual does all of the following:
 - (i) Pays the cost of a survey.
 - (ii) Pays the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (h).
- (2) Effective 30 days after the department receives an application for an easement, the application shall be considered to be complete unless the department proceeds as provided under subsection (3).
- (3) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant, in writing, that the request is not complete, specifying the information necessary to make the request complete, the running of the 30-day period under subsection (2) is tolled until the applicant submits to the department the specified information, at which time the request shall be considered to be complete.
- (4) Within 90 days after the application is considered to be complete, the department shall grant or deny the application for the easement and notify the applicant in writing. If the department denies the application, the notice shall set forth the reasons for the denial.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2011, Act 323, Imd. Eff. Dec. 27, 2011.

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Popular name: NREPA

324.2123a Granting easement over state-owned land under jurisdiction of department to individual; conditions; 30-day period to consider application; notification of incomplete application; tolling of time period; time period for approval or denial of application.

Sec. 2123a. (1) Subject to section 2124 and notwithstanding section 2123, the department shall grant or otherwise provide for an easement for a road over state-owned land under the jurisdiction of the department to an individual if all of the following conditions are met:

- (a) The individual applies for the easement on a form provided by the department.
- (b) The individual does not have other legal access to the individual's land.
- (c) The easement does not conflict with any of the following:
 - (i) With an existing program or management as described in an existing plan of the department.
 - (ii) If the land was acquired using revenue from hunting and fishing license fees, federal funds from a wildlife or sport fish restoration program, or other state or federal program funds, with state or federal laws governing the use of lands acquired through the respective program.
 - (iii) With a local ordinance.

(d) The easement does not cross an environmentally sensitive area, including, but not limited to, a wetland as defined in section 30301 or a critical dune area as defined in section 35301.

(e) The individual offers a similar road easement to the department to provide public access to state-owned land across the individual's land to which the easement is to be granted by the department, where applicable. The department shall not accept a road easement under this subdivision if the road easement would end at a body of water.

(f) The individual does all of the following:

(i) Pays the cost of a survey.

(ii) Pays to the department the fair market value of the easement. The fair market value of the easement granted by the department shall be offset by the fair market value of any easement granted to the department under subdivision (e).

(2) Effective 30 days after the department receives an application for an easement, the application shall be considered to be complete unless the department proceeds as provided under subsection (3).

(3) If, before the expiration of the 30-day period under subsection (1), the department notifies the applicant, in writing, that the request is not complete, specifying the information necessary to make the request complete, the running of the 30-day period under subsection (2) is tolled until the applicant submits to the department the specified information, at which time the request shall be considered to be complete.

(4) Within 90 days after the application is considered to be complete, the department shall grant or deny the application for the easement and notify the applicant in writing. If the department denies the application, the notice shall set forth the reasons for the denial.

(5) The department may impose conditions on an easement granted under this section.

History: Add. 2011, Act 323, Imd. Eff. Dec. 27, 2011.

Popular name: Act 451

Popular name: NREPA

324.2124 Granting easement over state-owned land under jurisdiction of department prohibited.

Sec. 2124. The department shall not grant an easement over state-owned land under the jurisdiction of the department if any of the following apply:

(a) The proposed easement is over land designated as a wilderness area, wild area, or natural area under part 351.

(b) The proposed easement is over land in an area closed to vehicular traffic pursuant to management as described in an existing plan of the department.

(c) The construction or use of the new or existing road will result in unreasonable damage to or destruction of the surface, soil, animal life, fish or other aquatic life, or property.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2011, Act 323, Imd. Eff. Dec. 27, 2011.

Popular name: Act 451

Popular name: NREPA

324.2125 Granting easement over state owned land under jurisdiction of department to individual; interest in land required; “interest” defined; construction of words and phrases used to define interest.

Sec. 2125. (1) The department shall not grant an easement over state owned land under the jurisdiction of the department to an individual unless that individual has an interest, as that term is defined in this section, in the land to which the easement is to provide access.

(2) As used in this section, "interest" means an estate in possession other than a chattel interest, which may be in severalty, joint tenancy, tenancy by the entireties, or tenancy in common.

(3) The words and phrases used in subsection (2) to define interest shall be construed pursuant to chapter 62 of the Revised Statutes of 1846, being sections 554.1 to 554.46 of the Michigan Compiled Laws; Act No. 126 of the Public Acts of 1925, being section 557.81 of the Michigan Compiled Laws; and Act No. 210 of the Public Acts of 1927, being sections 557.101 to 557.102 of the Michigan Compiled Laws.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

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324.2126 Payment of charges by individual applying for easement; application fee.

Sec. 2126. Before the department grants an easement under this subpart, the individual applying for the

easement shall pay charges as required by the department. The charges shall be the same as those charges required for the granting of an easement under subpart 9. However, the department may charge a fee for an application for the grant of an easement under this subpart. The fee shall not exceed the actual reasonable cost of processing an application for an easement or \$300.00, whichever is less.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995;—Am. 2011, Act 323, Imd. Eff. Dec. 27, 2011;—Am. 2018, Act 238, Eff. Sept. 25, 2018.

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324.2127 Disposition of revenues.

Sec. 2127. The revenues received from the charges levied under section 2126, less amounts necessary to pay the expenses of administering this subpart, shall be credited to the state fund from which the revenue is appropriated for the payment in lieu of taxes on the land crossed.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

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324.2128 Termination of easement; hearing.

Sec. 2128. (1) If the land to which an easement is granted by the department pursuant to this subpart or former Act No. 421 of the Public Acts of 1982 is subsequently subdivided, as this term is defined by section 102 of the subdivision control act, Act No. 288 of the Public Acts of 1967, being section 560.102 of the Michigan Compiled Laws, the easement shall terminate.

(2) If an individual who obtains an easement pursuant to this subpart violates the terms of the easement, the easement shall terminate, and any rights in the easement shall terminate, after opportunity for a hearing under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, is provided.

History: Add. 1995, Act 60, Imd. Eff. May 24, 1995.

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