

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)

Act 451 of 1994

HARBOR DEVELOPMENT

PART 791

HARBOR DEVELOPMENT

324.79101 Definitions.

Sec. 79101. As used in this part:

(a) "Commission" means the Michigan state waterways commission created in part 781.

(b) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected in order to be a place of safety for watercraft.

(c) "Harbor facilities" means the structures of a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and on shore for the mooring and servicing of watercraft and the servicing of crews and passengers.

(d) "Marina" means a site which contains harbor facilities.

(e) "Nonrevenue-producing harbor facilities" means any portion of harbor facilities that would not normally produce revenue and includes, but is not limited to, jetties, breakwaters, dredging, and shore protection.

(f) "Revenue-producing harbor facilities" means any portion of harbor facilities that normally produce revenue and includes, but is not limited to, watercraft slips, watercraft launching facilities, watercraft storage, lodging, access roads, watercraft repair facilities, parking lots, mechanical haul-out devices, and facilities for fuel, food, and other services.

(g) "Watercraft" means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79102 Providing assistance to certain persons.

Sec. 79102. The department may provide assistance to a person seeking to secure construction, operation, and maintenance of recreational boat slips on the waters of this state as provided in this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79103 Purchase of real property for development of marinas.

Sec. 79103. The department may purchase real property accessible to, or capable of being made accessible to, the waters of this state for the development of marinas, as provided in this part, only when it can be demonstrated that the demand for recreational boat slips within a specific harbor or within a local unit of government exceeds the available supply.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79104 Purchase of property located within local unit of government.

Sec. 79104. The department shall not purchase property located within a local unit of government, under this part, if the local unit of government where the property is located imposes property taxes on property containing a shoreline recreational facility that is owned by an adjacent local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79105 Sale of structures, real property, or rights or interest in real property.

Sec. 79105. The department may sell or remove buildings or other structures on real property acquired by the department under this part, and may sell real property or rights or interest in real property not considered

essential for the purposes of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79106 Construction of nonrevenue-producing harbor facilities.

Sec. 79106. If, in the judgment of the department, real property acquired under this part requires modification or improvement to make it financially attractive to potential investors in a marina, the department may construct nonrevenue-producing harbor facilities at those sites.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79107 Leases of real property.

Sec. 79107. After real property is acquired under this part, the department may enter into leases of the real property or portions of the real property the department determines will aid in the construction of a marina, the provision of summer or winter storage of watercraft, or the provision of services normally found at commercial marinas.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79108 Solicitation and evaluation of proposals.

Sec. 79108. (1) If the department determines that real property acquired by it under this part is suitable for use as a marina, the department shall publicly solicit proposals for the development of the marina and the lease of the real property. The solicitation of proposals shall include published notices in at least 1 local news publication of general circulation in the area in which the marina will be located and in at least 2 journals related to the marina, watercraft, or harbor industries, which journals have statewide circulation. A reasonable time shall be allowed for bidders to respond, and all proposals shall be publicly opened and read. A proposal received by the department in response to the solicitation may be rejected by the department for any reason or without cause if the department believes such action to be appropriate. The department may waive any defects in any proposals received, at its discretion, but is not required to do so.

(2) In evaluating proposals for the construction of revenue-producing harbor facilities and the operation of a marina, the department shall take into consideration, among other things, the technical qualifications of the applicants; the financial responsibility of the applicants; the ability of the applicants to perform efficiently the services necessary to maintain a sound facility, including the prior experience, if any, of the applicants in operating a marina; the proposed lease payments; the nature and scope of each applicant's plans for the marina; and the timetables for development of the proposed marina.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79109 Term of lease; extension; rule establishing penalty schedule for nonpayment of lease payments; notice of taxation.

Sec. 79109. (1) A lease entered into by the department under this part shall be for an initial term of not more than 25 years. A lease may be extended for a period not to exceed 5 years, at the discretion of the department, if the lessee has complied with the provisions of the lease and has made appropriate efforts to upgrade and maintain the real property.

(2) The department shall establish, by rule, a penalty schedule for nonpayment of lease payments. The department shall provide in a lease entered into under this part that, if a lessee is in default on a payment for more than 60 days, or if a lessee defaults on a payment or delays making a payment for more than 30 days on more than 2 occasions in a single year, the department may declare the lease agreement breached and seek its remedies at law or in accordance with the lease agreement.

(3) The department shall provide notice in any lease entered into under this part that the lessee may be subject to taxation under Act No. 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79110 Sale, transfer, or assignment of lease; transfer by bequest or descent of lessee.

Sec. 79110. A lease entered into by the department under this part or an interest in a lease entered into by the department under this part shall not be sold, transferred, or assigned unless the sale, transfer, or assignment is first approved by the department, after receipt of a written application containing the same information as to the purchaser, transferee, or assignee as is required of an original applicant. This section does not restrict the transfer by bequest or descent of the lessee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79111 Consideration for issuance of lease; reduction of initial financial burden.

Sec. 79111. A lease entered into by the department under this part shall not be issued without consideration. However, the department may establish annual lease payments, which reduce the initial financial burden on the lessee as much as is reasonably possible, with subsequent payments to be appropriately increased to assure payment of the total lease obligation prior to the termination of the lease.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79112 Lease agreements with 1 or more local units of government; apportionment of revenue.

Sec. 79112. The department may enter into lease agreements for purposes of this part with 1 or more local units of government or public colleges or universities acting jointly with the department as a lessor. Revenue from each lease shall be apportioned according to the proportional share of the investments made by the department and the local unit or units of government or public colleges or universities in the construction of nonrevenue-producing harbor facilities and in consideration of the relative land investments of the entities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2003, Act 19, Imd. Eff. June 18, 2003.

Popular name: Act 451

Popular name: NREPA

324.79113 Minimum standards for construction and operation of harbor facilities by lessee.

Sec. 79113. The department may establish minimum standards applicable to the construction and operation of harbor facilities by a lessee including, but not limited to, restrooms and showers, the number of slips available to transient and seasonal watercraft rentals, construction material, parking lots, engineering and architectural plans and designs, watercraft launching facilities, and watercraft storage and repair facilities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79114 Disposition of revenue from lease contracts.

Sec. 79114. All revenue from lease contracts entered into under this part shall be deposited in the state treasury and credited to the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995;—Am. 2004, Act 587, Eff. Dec. 23, 2006.

Compiler's note: Enacting section 2 of Act 587 of 2004 provides:

"Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular name: Act 451

Popular name: NREPA

324.79115 Liability.

Sec. 79115. The department shall not be liable for loss of life or injury or damage to persons or property as a result of the conditions on real property, waterways, or facilities on real property leased to persons by the department under this part. However, this section shall not relieve lessees of any obligations they may otherwise have to persons or to damages if they are found to have failed to meet their obligations properly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79116 Rules.

Sec. 79116. The department shall promulgate rules as are necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79117 Administration of part; advice by department.

Sec. 79117. The Michigan state waterways commission created in part 781 shall advise the department on the administration of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79118 Discrimination prohibited.

Sec. 79118. A person shall not deny another individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations created under this part because of religion, race, color, national origin, age, sex, or marital status.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 793

HARBORS, CHANNELS, AND OTHER NAVIGATIONAL FACILITIES

324.79301 "Political subdivision" defined.

Sec. 79301. As used in this part, "political subdivision" means any local unit of government or port district of this state and any other governmental agency or subdivision, public corporation, authority, or district in this state, which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate harbors, channels, and other navigational facilities. Whenever used in this part, the term political subdivision includes any combination of political subdivisions acting jointly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79302 Political subdivision; powers.

Sec. 79302. A political subdivision may do 1 or more of the following:

(a) Adopt and amend all necessary rules, regulations, and ordinances for the management, government, and use of any waterways, harbors, channels, or other navigational facilities under its control, either within or outside of its territorial limits; employ harbor guards, police, or a harbormaster with full police powers; establish penalties for the violation of the rules, regulations, and ordinances; and enforce those penalties.

(b) Adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of harbors, channels, connecting waterways, or other navigational facilities within the political subdivision or its political jurisdiction, which rules shall be consistent with and conform to, as nearly as possible, the laws of this state.

(c) Vest authority for the maintenance, operation, and regulation thereof in an officer, board, or body of the political subdivision by ordinances or resolution which shall prescribe the duties and powers of the officers, boards, or body.

(d) Employ a regular harbormaster for the harbors, channels, connecting waterways, or navigational facilities under its control; or, in cases where a harbor board or body is established, the harbormaster may be employed by the board or body.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.79303 Political subdivisions; joint action.

Sec. 79303. All powers, rights, and authority granted to any political subdivision in this part may be exercised and enjoyed by 2 or more political subdivisions, or by this state through its appropriate agencies and 1 or more such political subdivisions acting jointly, either within or outside of the territorial limits of either of them, and contracts may be entered with each political subdivision for the purposes of implementing this part and authorizing joint action.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

PART 795 WATERFRONT REVITALIZATION

324.79501 Definitions.

Sec. 79501. As used in this part:

- (a) "Commission" means the Michigan jobs commission.
- (b) "Department" means the department of environmental quality.
- (c) "Gaming facility" means a gaming facility regulated under the Michigan gaming control and revenue act, the initiated law of 1996, MCL 432.201 to 432.226.
- (d) "Grant" means a waterfront redevelopment grant under this part.
- (e) "Response activity" means that term as it is defined in part 201.
- (f) "Waterfront" means land that is contiguous to the Great Lakes or their connecting waterways, a river, or a lake or impoundment that has a surface area of not less than 50 acres.
- (g) "Waterfront planning area" means the geographic area included within a waterfront redevelopment plan.
- (h) "Waterfront redevelopment plan" means a waterfront redevelopment plan prepared by a local unit of government under section 79503 or a state approved recreation plan that includes waterfront improvements.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79502 Waterfront redevelopment grants program; establishment; provisions; funding sources; waterfront public access.

Sec. 79502. (1) The department shall establish a waterfront redevelopment grants program. A local unit of government may apply to the department for a grant to conduct a project that does any of the following:

- (a) Provides for response activities on waterfront property consistent with a waterfront redevelopment plan.
 - (b) Provides for the demolition of buildings and other facilities along a waterfront that are inconsistent with a waterfront redevelopment plan.
 - (c) Provides for the acquisition of waterfront property or the assembly of waterfront property consistent with a waterfront redevelopment plan.
 - (d) Provides public infrastructure and public facility improvements to waterfront property consistent with a waterfront redevelopment plan.
- (2) A grant shall not be provided under this part for a project that is located at any of the following:
- (a) Land sited for use as a gaming facility or as a stadium or arena for use by a professional sports team.
 - (b) Land or other facilities owned or operated by a gaming facility or by a stadium or arena for use by a professional sports team.
 - (c) Land within a project area described in a project plan pursuant to the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, for a gaming facility.
- (3) For any grant issued under this part, the department shall require that a local unit of government provide at least 25% of the total project's cost from other public or private funding sources.
- (4) A project funded pursuant to this part shall provide for waterfront access to the general public.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79503 Waterfront redevelopment plan; preparation.

Sec. 79503. A local unit of government that wishes to apply for a grant shall prepare a waterfront redevelopment plan that provides for the improvement of the waterfront. The waterfront redevelopment plan,

at a minimum, shall do both of the following:

- (a) Clearly designate the geographic area included within the waterfront planning area.
- (b) Identify the economic impact on the improved area, the surrounding neighborhood, and the region in which the waterfront planning area is located.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79504 Grant application.

Sec. 79504. A local unit of government that wishes to be considered for a grant shall submit a written grant application to the department in a manner prescribed by the department and containing the information required by the department. The grant application shall also include all of the following:

- (a) A detailed description of the project and how the grant would be used, including any private sector participation.
- (b) A copy of the waterfront redevelopment plan for the area in which the project is to be located.
- (c) An explanation of how the project will contribute significantly to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.
- (d) An explanation of how the project will provide for public access to the waterfront or will provide recreational opportunities for the public.
- (e) If the project includes the purchase of property, an identification of the intended use of the property, and a timeline for redevelopment of the property.
- (f) The total cost of the project and the source of the local unit of government's contribution to the project.
- (g) A detailed description of the practices the local unit of government will implement and maintain to control nonpoint source pollution from the project site both during construction activities and throughout the period of time in which the state is paying off the bonds that were issued pursuant to the clean Michigan initiative act.
- (h) Other information that the department and the commission consider relevant.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79505 Grant application; review by department and commission.

Sec. 79505. Upon receipt of a grant application under section 79504, the department shall forward a copy of the application to the commission. The department and the commission shall jointly review the grant applications. In reviewing grant applications, the department and the commission shall consider all of the following:

- (a) Whether the project proposed to be funded is authorized by this part.
- (b) Whether the grant application submitted complies with this part.
- (c) Whether the project is consistent with the waterfront redevelopment plan for the area in which the project is located.
- (d) Whether the project provides significant public access to the waterfront or provides recreational opportunities for the public.
- (e) Whether the project will significantly contribute to the local unit of government's economic and community redevelopment or the revitalization of adjacent neighborhoods.
- (f) Whether there is evidence of adverse economic and socioeconomic conditions within the waterfront planning area.
- (g) The viability of the waterfront redevelopment plan.
- (h) Whether the project is innovative in comparison to other grant applications.
- (i) The level of public and private commitment and other resources available for the project.
- (j) The level of public and private commitment to other aspects of the waterfront redevelopment plan.
- (k) How the project relates to a broader economic and community development plan for the local unit of government as a whole.
- (l) The level of demonstrated commitment from other governmental agencies.
- (m) The level of public and private commitment to improving abandoned real property within the waterfront planning area in which the project is located.
- (n) Other criteria that the department and the commission consider relevant.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79506 Issuance of grants.

Sec. 79506. The department, with the approval of the commission, shall issue grants under this part for projects that the department determines meet the requirements of this part and will contribute to the revitalization of waterfronts throughout the state that are not being used in a manner that maximizes economic and public value.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79507 Recovery of costs.

Sec. 79507. The department and the department of attorney general may recover costs expended pursuant to section 79502(1)(a) and all other costs recoverable under part 201 from persons who are liable under part 201. Actions to recover costs shall proceed in the manner provided in part 201.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA

324.79508 Administration of part.

Sec. 79508. Grants made under this part are subject to the applicable requirements of part 196. The department shall administer this part in compliance with the applicable requirements of part 196, including the reporting requirements to the legislature of the grants provided under this part.

History: Add. 1998, Act 285, Eff. Dec. 1, 1998.

Popular name: Act 451

Popular name: NREPA