Act No. 496

Public Acts of 2006

Approved by the Governor

December 28, 2006

Filed with the Secretary of State

December 29, 2006

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STATE OF MICHIGAN

93RD LEGISLATURE

REGULAR SESSION OF 2006

Introduced by Senators McManus and Gilbert

ENROLLED SENATE BILL No. 670

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 30113, 33901, 33902, 33903, 33904, 33908, 33910, 33911, 33916, 33924, 33929, and 33935 (MCL 324.30113, 324.33901, 324.33902, 324.33903, 324.33904, 324.33908, 324.33910, 324.33911, 324.33916, 324.33924, 324.33929, and 324.33935), section 30113 as amended by 2004 PA 325 and sections 33901, 33902, 33903, 33904, 33908, 33910, 33911, 33916, 33924, 33929, and 33935 as added by 1995 PA 59; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 30113. (1) The land and water management permit fee fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The state treasurer shall annually present to the department an accounting of the amount of money in the fund.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only to implement this part and the following:

(a) Sections 3104, 3107, and 3108.

(b) Before October 1, 2004, section 12562 of the public health code, 1978 PA 368, MCL 333.12562, or, on or after October 1, 2004, part 33.

(c) Part 303.

(d) Part 315.

(e) Part 323.

(f) Part 325.

(g) Part 339.

(h) Part 353.

(i) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(5) The department shall annually report to the legislature how money in the fund was expended during the previous fiscal year.

Sec. 33901. All of the unpatented overflowed lands, made lands, and Lake St. Clair bottomlands belonging to this state or held in trust by this state as provided in this part shall be held, leased, disposed of by deed, and controlled by the department in the manner provided in this part.

Sec. 33902. The department shall not deed or convey the lands described in section 33901 except as provided in sections 33903 to 33911. The department may dedicate unleased lands of the character described in section 33901 for public hunting, fishing, and other recreational uses.

Sec. 33903. The department, upon application of any person who, on the effective date of the 2006 amendatory act that amended this section, holds a lease of any portion or portions of land from this state pursuant to former 1913 PA326, or this part, or upon application by that person's heirs or assigns, shall execute and deliver to the applicant or his or her heirs or assigns a deed conveying to him or her all of the right, title, and interest of this state in and to the lands described in this section, subject to the paramount rights of navigation, hunting, and fishing that remain in the general public and in the government as now existing and recognized by law. The deeds shall contain the provisions as to residency and club use and occupancy as now set forth in all leases previously granted under former 1913 PA 326. An application under this section must be filed at least 1 year before the date on which the lease expires.

Sec. 33904. Before the department grants a deed, there shall be presented evidence that the applicant requesting the deed is the lessee of the land, that the land is part of the lands described in section 33903, and that all taxes on the land are paid. All property deeded under this part is thereafter subject to the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and the recording laws of this state.

Sec. 33908. The consideration received for the execution and delivery of deeds under this part and all fees collected under this part shall be forwarded to the state treasurer and credited to the land and water management permit fee fund created in section 30113.

Sec. 33910. The department, in its discretion, upon application of a person holding a lease or deed under this part to any lands lying contiguous to a water highway as surveyed under former 1899 PA 175, if it is determined that the water highway is no longer needed for navigation, ingress, and egress to surveyed lots, or for any public use, whether dredged or not, may execute and deliver to the applicant a deed subject to all the applicable conditions and provisions of sections33902 to 33908, to all of the right, title, and interest of the state in and to 1/2 of the surveyed width of that portion of the water highway as lies contiguous to land held under lease or deed by the applicant.

Sec. 33911. (1) Upon application of a person that holds a lease from this state of any portion or portions of the real property described in this part, the department may execute and deliver to the applicant a deed conveying all of the right, title, and interest of this state in and to that real property, subject to the paramount rights of hunting, fishing, and navigation, which remain in the general public and in the government as recognized by law. The deeds shall contain the same provisions as to

use and occupancy now set forth in all the leases previously granted under former 1913 PA326 or under this part. The department shall not grant a deed under this part unless the lessee of the subject property agrees to cancel the lease and relinquishes all rights under the lease.

(2) The department shall not grant a deed under this part for a lot that contains a structure unless the structure and the lot subject to the deed, including seawalls where present, comply with the applicable township building code and county and state sanitation codes and part 325, and the structure is located on a parcel of land that is adequately protected from erosion.

(3) A deed granted under this part shall not include a portion of the original lease that is submerged or lies below the elevation of 575.3 International Great Lakes Datum (IGLD 1985). The department of environmental quality shall perform a site inspection and set stakes, if necessary, to identify the boundaries of the area of the leased lot to be deeded. The applicant shall provide a boundary survey, completed by a professional surveyor, that delineates the area of the real property to be deeded. The state shall retain proprietary ownership in trust over the portion of the leased lot below the ordinary high-water mark of Lake St. Clair at the time of the conveyance.

(4) A deed shall not be granted under this part at less than the estimated land value of the real property as determined by the township in which the real property is located. Appraisal procedures and practices may include utilizing independent fee appraisal contractors. The appraisal shall not include improvements such as buildings, seawalls, and docks. Credit shall not be granted to the lessee for the years remaining on an unexpired lease when determining the sale value to the state. The applicant shall remit the full consideration within 1 year after being notified in writing of the selling price by the department. If the applicant does not remit the full consideration for the deed within 1 year, the department shall close the file and a new application must be submitted.

(5) If the applicant is not satisfied with the fair market value determined by the department under subsection (4), the applicant, within 30 days after receiving the determination, may submit a petition in writing to the circuit court in the thirty-first judicial circuit, and the court shall appoint an appraiser or appraisers from the department's approved listing to conduct an appraisal of the parcel. The decision of the court is final. The applicant shall pay all costs associated with this additional appraisal.

(6) A request for a deed shall be on a form provided by the department of environmental quality and shall be accompanied by an application fee of $500.00.

Sec. 33916. If a lease under this part expires and a deed is not issued under this part to the former lease holder, the former lease holder shall be considered to be a trespasser, and an action may be brought in the circuit court for the county in which that land is located, in the name of the people of this state, by the attorney general of this state, to recover possession of that land.

Sec. 33924. As used in this part:

(a) "Department" means the department of natural resources unless expressly indicated otherwise.

(b) "Possession", "occupancy", and "improvement" include dredging or ditching, the throwing up of embankments, sheetpiling, filling in, the erection of fences, a boathouse, land made by dredging and filling, or building structures.

(c) "Person" means an individual, partnership, corporation, association, or other nongovernmental legal entity.

(d) "Well maintained" means that any structure on the land complies with township building codes and current county and state sanitation codes and part 325 and that the land is adequately protected from erosion.

Sec. 33929. (1) Each sale or transfer of a lease shall contain a specific statement of the purpose for which the property leased is to be used by the purchaser or assignee. A sale or transfer of a lease for other than club or residence purposes is not valid unless and until the sale or transfer is approved by the department of environmental quality.

(2) Before selling or transferring a property that is subject to a lease under this part, the parties involved shall apply to the department of environmental quality for approval of the transfer of the lease to the purchaser. The application shall be made

on a form provided by the department of environmental quality and shall be accompanied by a fee of $250.00. Upon approval by the department of environmental quality, an assignment of lease form shall be recorded with the county register of deeds.

Sec. 33935. Each county treasurer shall report to the department all descriptions of parcels of property subject to this part that have been returned for nonpayment of taxes, if those taxes have not been paid within 6 months after being returned for nonpayment of taxes. The report shall be made by the treasurer within 30 days after the 6-month period has expired. Land leased or deeded under this part that is returned to state ownership through purchase, gift, devise, lease expiration, or tax reversion shall not be re-leased or sold by the state if that land is not well maintained.

Enacting section 1. Sections 33905, 33909, 33913, 33914, 33915, 33917, 33918, 33919, 33920, 33922, 33923, 33925, 33930, 33931, 33932, 33936, 33937, 33938, and 33939 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.33905, 324.33909, 324.33913, 324.33914, 324.33915, 324.33917, 324.33918, 324.33919, 324.33920, 324.33922, 324.33923, 324.33925, 324.33930, 324.33931, 324.33932, 324.33936, 324.33937, 324.33938, and 324.33939, are repealed.

This act is ordered to take immediate effect.

Secretary of the Senate

Clerk of the House of Representatives

Approved

Governor