

Act No. 178
Public Acts of 1993
Approved by the Governor
September 29, 1993
Filed with the Secretary of State
September 29, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Senator Ehlers

ENROLLED SENATE BILL No. 241

AN ACT to amend sections 3, 7, 10, 12, and 13 of Act No. 247 of the Public Acts of 1955, entitled as amended "An act to authorize the department of conservation of the state of Michigan to grant, convey or lease certain unpatented lake bottomlands and unpatented made lands in the Great Lakes, including the bays and harbors thereof, belonging to the state of Michigan or held in trust by it; to permit the private and public use of waters over submerged patented lands and the making of agreements limiting and regulating the use thereof; to provide for the disposition of revenue derived therefrom; and to provide penalties for violation of this act," section 3 as amended by Act No. 180 of the Public Acts of 1985, being sections 322.703, 322.707, 322.710, 322.712, and 322.713 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 3, 7, 10, 12, and 13 of Act No. 247 of the Public Acts of 1955, section 3 as amended by Act No. 180 of the Public Acts of 1985, being sections 322.703, 322.707, 322.710, 322.712, and 322.713 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 3. (1) Except as otherwise provided in this section, the department of natural resources, hereinafter referred to as the "department", after finding that the public trust in the waters will not be impaired or substantially affected, may enter into agreements pertaining to waters over and the filling in of submerged patented lands, or to lease or deed unpatented lands, after approval of the state administrative board. Quitclaim deeds, leases, or agreements may be issued or entered into by the department with any person, firm, or corporation, public or private, covering unpatented lands, and shall contain such terms and conditions and requirements that the department determines to be just and equitable and in conformity with the public trust. The department shall reserve to the state of Michigan all mineral rights, including but not limited to coal, oil, gas, sand, gravel, stone, and other materials or products located or found in those lands, except where lands are occupied or to be occupied for residential purposes at the time of conveyance.

(2) A riparian owner shall obtain a permit from the department before dredging or placing spoil or other materials on bottomland.

(3) The department shall not enter into a lease or deed of unpatented lands that permits drilling operations for the taking of oil or gas, unless all drilling operations originate from locations above and inland of the ordinary high-water mark. The department shall not enter into a lease or deed of unpatented lands that permits drilling for exploration purposes unless the drilling operations originate from locations above and inland of the ordinary high-water mark.

(4) An agreement, lease, or deed entered into under this act by the department with the United States shall be entered into and executed pursuant to the property rights acquisition act Act No. 201 of the Public Acts of 1986, being section 3.251 to 3.262 of the Michigan Compiled Laws.

Sec. 7. (1) All money received by the department from the sale, lease, or other disposition of land and water areas under this act shall be forwarded to the state treasurer and be credited to the land and water management permit fee fund created in section 16 of the inland lakes and streams act of 1972, Act No. 346 of the Public Acts of 1972, being section 281.966 of the Michigan Compiled Laws.

(2) The department shall comply with the accounting laws of this state and the requirements with respect to submission of budgets. The department may hire employees, assistants, and services that may be necessary within the appropriation made by the legislature and may delegate this authority as may be necessary to carry out the terms of this act.

Sec. 10. (1) Except as provided in subsection (2), a person who excavates or fills, or in any manner alters or modifies any of the land or waters subject to this act without the approval of the department is guilty of a misdemeanor, and upon conviction shall be fined not more than \$1,000.00 or imprisoned not more than 1 year, or both such fine and imprisonment. Land altered or modified in violation of this act shall not be sold to any person convicted under this section at less than fair, cash market value.

(2) A person who commits a minor offense is guilty of a misdemeanor, punishable by a fine of not more than \$500.00 for each violation. A law enforcement officer may issue and serve an appearance ticket upon a person for a minor offense pursuant to sections 9a to 9g of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being sections 764.9a to 764.9g of the Michigan Compiled Laws.

(3) As used in this section, "minor offense" means either of the following violations of this act if the department determines that restoration of the affected property is not required:

- (a) The failure to obtain a permit under this act.
- (b) A violation of a permit issued under this act.

Sec. 12. Unless a permit has been granted by the department or authorization has been granted by the legislature, or except as to boat wells and slips facilitating private, noncommercial, recreational boat use, not exceeding 50 feet in length where the spoil is not disposed of below the ordinary high-water mark of the body of water to which it is connected, it is unlawful to do any of the following:

- (a) To construct, dredge, commence, or do any work with respect to an artificial canal, channel, ditch, lagoon, pond, lake, or similar waterway where the purpose is ultimate connection of the waterway with any of the Great Lakes, including Lake St. Clair.
- (b) To connect any natural or artificially constructed waterway, canal, channel, ditch, lagoon, pond, lake, or similar waterway with any of the Great Lakes, including Lake St. Clair, for navigation or any other purpose.
- (c) To dredge or place spoil or other material on bottomland.
- (d) To construct a marina.

Sec. 13. (1) Before any work or connection specified in section 12 is undertaken a person shall file an application with the department setting forth the following:

- (a) The name and address of the applicant.
 - (b) The legal description of the lands included in the project.
 - (c) A summary statement of the purpose of the project.
 - (d) A map or diagram showing the proposal on an adequate scale with contours and cross-section profiles of the waterway to be constructed.
 - (e) Other information required by the department.
- (2) Except as provided in subsections (3) and (4), an application for a permit under this section shall be accompanied by a fee according to the following schedule:
- (a) Until October 1, 1995:
 - (i) For activities included in the minor project category as described in rules promulgated under this act, \$50.00.
 - (ii) For construction or expansion of a marina, a fee of:
 - (A) \$50.00 for an expansion of 1-10 slips to an existing permitted marina.
 - (B) \$100.00 for a new marina with 1-10 proposed marina slips.
 - (C) \$250.00 for an expansion of 11-50 slips to an existing permitted marina, plus \$10.00 for each slip over 50.
 - (D) \$500.00 for a new marina with 11-50 proposed marina slips, plus \$10.00 for each slip over 50.
 - (E) \$1,500.00 if an existing permitted marina proposes maintenance dredging of 10,000 cubic yards or more or the addition of seawalls, bulkheads, or revetments of 500 feet or more.
 - (iii) For major projects other than a project described in subparagraph (ii)(E), involving any of the following, a fee of \$2,000.00:

- (A) Dredging of 10,000 cubic yards or more.
- (B) Filling of 10,000 cubic yards or more.
- (C) Seawalls, bulkheads, or revetment of 500 feet or more.
- (D) Filling or draining of 1 acre or more of coastal wetland.
- (E) New dredging or upland boat basin excavation in areas of suspected contamination.
- (F) New breakwater or channel jetty.
- (G) Shore protection, such as groins and underwater stabilizers, that extend 150 feet or more on Great Lakes bottomlands.
- (H) New commercial dock or wharf of 300 feet or more in length.
- (iv) For all other projects not listed in subparagraphs (i) through (iii), \$500.00.
- (b) Beginning October 1, 1995, a fee of \$50.00 for any project listed in subdivision (a).
- (3) A project that requires review and approval under this act and 1 or more of the following acts is subject to only the single highest permit fee required under this act or the following acts:
 - (a) The inland lakes and streams act of 1972, Act No. 346 of the Public Acts of 1972, being sections 281.951 to 281.966 of the Michigan Compiled Laws.
 - (b) The Goemaere-Anderson wetland protection act, Act No. 203 of the Public Acts of 1979, being sections 281.701 to 281.722 of the Michigan Compiled Laws.
 - (c) The shorelands protection and management act of 1970, Act No. 245 of the Public Acts of 1970, being sections 281.631 to 281.644 of the Michigan Compiled Laws.
 - (d) Section 2a of Act No. 245 of the Public Acts of 1929, being section 323.2a of the Michigan Compiled Laws.
 - (e) Section 117 of the subdivision control act of 1967, Act No. 288 of the Public Acts of 1967, being section 560.117 of the Michigan Compiled Laws.
- (4) If work has been done in violation of a permit requirement under this act and restoration is not ordered by the department, the department may accept an application for a permit if the application is accompanied by a fee equal to 2 times the permit fee required under this section.
- (5) The department shall forward all fees collected under this section to the state treasurer for deposit into the land and water management permit fee fund created in section 16 of Act No. 346 of the Public Acts of 1972, being section 281.966 of the Michigan Compiled Laws.

Section 2. This amendatory act shall not take effect unless Senate Bill No. 238 of the 87th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Co-Clerk of the House of Representatives.

Approved -----

Governor.