

SENATE BILL No. 18

January 20, 2015, Introduced by Senator NOFS and referred to the Committee on Local Government.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 2120a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2120A. (1) THIS SECTION APPLIES AND SECTIONS 2120 AND
2 2121 DO NOT APPLY TO THE RECEIPT OF THE FOLLOWING LANDS BY PATENT
3 OR OTHERWISE FROM THE UNITED STATES OR TO THE CONVEYANCE OF THOSE
4 LANDS BY THE DEPARTMENT AS PROVIDED IN THIS SECTION:

5 PROPERTY LOCATED IN CLARENCE TOWNSHIP, CALHOUN COUNTY, TOWNSHIP 1
6 SOUTH, RANGE 4 WEST, MICHIGAN MERIDIAN:

7 (A) GOVERNMENT LOTS 1 TO 10 IN SECTION 23.

8 (B) GOVERNMENT LOTS 1 TO 3 IN SECTION 24.

9 (C) GOVERNMENT LOT 1 IN SECTION 25.

10 (D) GOVERNMENT LOTS 1 TO 7 AND 10 TO 13 IN SECTION 26.

11 (E) GOVERNMENT LOTS 1 TO 4 IN SECTION 27.

1 (F) GOVERNMENT LOT 1 IN SECTION 35.

2 (2) THE LEGISLATURE FINDS ALL OF THE FOLLOWING:

3 (A) UNDER STATUTES OF THE UNITED STATES ENACTED IN 1850 AND
4 SUBSEQUENTLY, THE GOVERNOR OF THIS STATE HAS HAD THE POWER TO
5 REQUEST THE CONVEYANCE OF SWAMPLANDS FROM THE UNITED STATES TO THIS
6 STATE.

7 (B) SOME CONVEYANCES DESCRIBED IN SUBDIVISION (A) HAVE BEEN
8 REQUESTED AND MADE TO THIS STATE IN THE PAST.

9 (C) HOWEVER, ALTHOUGH THE PROPERTY DESCRIBED IN SUBSECTION (1)
10 HAS BEEN ELIGIBLE FOR A REQUEST AND CONVEYANCE AS DESCRIBED IN
11 SUBDIVISION (A), NO SUCH REQUEST AND CONVEYANCE HAS EVER BEEN MADE.

12 (D) A NUMBER OF CITIZENS OF THIS STATE ARE OCCUPANTS AND DE
13 FACTO OWNERS UNDER COLOR OF TITLE OF PORTIONS OF THE PROPERTY
14 DESCRIBED IN SUBSECTION (1). THESE INDIVIDUALS HAVE MADE
15 IMPROVEMENTS TO, MAINTAINED, AND PAID TAXES ON THOSE PORTIONS OF
16 THE PROPERTY HELD UNDER COLOR OF TITLE.

17 (E) IT IS THE INTENT OF THE LEGISLATURE, THROUGH THIS SECTION,
18 TO OBTAIN TITLE FROM THE UNITED STATES TO THE PROPERTY DESCRIBED IN
19 SUBSECTION (1) AND TO CONVEY THE PROPERTY TO THE APPROPRIATE
20 CITIZENS.

21 (3) IF THE GOVERNOR APPLIES TO THE BUREAU OF LAND MANAGEMENT
22 OF THE DEPARTMENT OF THE INTERIOR OF THE UNITED STATES, OR TO ANY
23 OTHER OFFICIAL OR AGENCY OF THE UNITED STATES THAT THE GOVERNOR
24 DETERMINES IS APPROPRIATE, FOR THE CONVEYANCE OF THE LANDS
25 DESCRIBED IN SUBSECTION (1) TO THIS STATE, BY PATENT OR OTHERWISE,
26 UNDER AN 1850 ACT OF CONGRESS, CHAPTER 84, 9 STAT. 519, UNDER 43
27 USC 981 TO 986, OR UNDER ANY OTHER APPLICABLE LAW, AND IF THE LANDS

1 ARE CONVEYED TO THIS STATE, THE DEPARTMENT SHALL USE ITS BEST
2 EFFORTS TO DETERMINE THE IDENTITY OF THE CURRENT DE FACTO OWNERS OF
3 THE LANDS. IN MAKING THE DETERMINATION REQUIRED BY THIS SUBSECTION,
4 THE DEPARTMENT SHALL CONSULT WITH THE DEPARTMENT OF THE ATTORNEY
5 GENERAL.

6 (4) THE DEPARTMENT MAY REQUIRE A PERSON CLAIMING TO BE A DE
7 FACTO OWNER OF ANY OF THE LANDS TO REIMBURSE THE DEPARTMENT, IN
8 ADVANCE OF THE CONVEYANCE OF THE PROPERTY IF THE DEPARTMENT
9 DETERMINES NECESSARY, FOR ANY EXPENSE INCURRED BY THE DEPARTMENT OR
10 THE DEPARTMENT OF THE ATTORNEY GENERAL IN MAKING THE DETERMINATION
11 UNDER SUBSECTION (3) AND IN CONVEYING THE PROPERTY UNDER SUBSECTION
12 (6).

13 (5) THE DEPARTMENT IS NOT REQUIRED TO TAKE ANY STEPS TO MAKE A
14 DETERMINATION UNDER SUBSECTION (3) OTHER THAN THE STEPS THAT THE
15 DEPARTMENT, IN ITS DISCRETION, DETERMINES ARE REASONABLY NECESSARY.
16 IF THE DEPARTMENT IS UNABLE TO DETERMINE A DE FACTO OWNER FOR A
17 PORTION OF THE LAND OR IS UNABLE TO DETERMINE WHICH OF 1 OR MORE
18 POTENTIAL DE FACTO OWNERS HAS THE MOST LEGITIMATE CLAIM TO A
19 PORTION OF THE LAND, THE DEPARTMENT IS NOT REQUIRED TO BRING OR
20 ACTIVELY PARTICIPATE IN A QUIET TITLE ACTION OR ANY OTHER LEGAL
21 ACTION WITH RESPECT TO THE PROPERTY. IF THE DEPARTMENT DETERMINES
22 THAT THERE IS NO DE FACTO OWNER FOR A PORTION OF THE PROPERTY, THE
23 DEPARTMENT, IN ITS SOLE DISCRETION, MAY CONVEY THE PORTION TO AN
24 ADJACENT DE FACTO OWNER.

25 (6) AFTER MAKING A DETERMINATION UNDER SUBSECTION (3), THE
26 DEPARTMENT SHALL CONVEY A PORTION OR PORTIONS OF THE PROPERTY
27 DESCRIBED IN SUBSECTION (1) TO A DE FACTO OWNER AS DETERMINED UNDER

1 SUBSECTIONS (3) AND (5).

2 (7) THE LEGAL DESCRIPTION IN SUBSECTION (1) IS APPROXIMATE FOR
3 PURPOSES OF THIS SECTION. IF THE DEPARTMENT DETERMINES THAT THERE
4 IS A DISCREPANCY BETWEEN THE LEGAL DESCRIPTION IN SUBSECTION (1)
5 AND THE LEGAL DESCRIPTION OF PROPERTY RECEIVED BY THIS STATE UNDER
6 THIS SECTION, THE DEPARTMENT, AS DIRECTED BY THE DEPARTMENT OF
7 ATTORNEY GENERAL, MAY ADJUST THE DESCRIPTION ACCORDINGLY IN ANY
8 DEEDS PREPARED UNDER THIS SECTION.

9 (8) THE DEPARTMENT IS NOT RESPONSIBLE FOR RECORDING A DEED
10 PREPARED UNDER THIS SECTION OR ANY COSTS OR FEES FOR OR ASSOCIATED
11 WITH THE RECORDING.

12 (9) ANY INTERESTS OR RIGHTS IN, OR OBLIGATIONS CONNECTED TO,
13 LAND CONVEYED UNDER SUBSECTION (6) CREATED BEFORE THE CONVEYANCE
14 UNDER SUBSECTION (6) HAVE THE SAME LEGAL EFFECT AS IF THE
15 CONVEYANCE UNDER SUBSECTION (6) PRECEDED THE CREATION OF THE
16 INTEREST, RIGHT, OR OBLIGATION, INCLUDING, BUT NOT LIMITED TO, ANY
17 OF THE FOLLOWING:

18 (A) A STREET OR HIGHWAY RIGHT OF WAY.

19 (B) A UTILITY, DRAIN, OR OTHER EASEMENT.

20 (C) A MORTGAGE.

21 (D) A LEASEHOLD.

22 (E) MINERAL RIGHTS.

23 (F) A CONSTRUCTION LIEN.

24 (G) AN INTEREST RESULTING FROM AN ATTACHMENT, EXECUTION, OR
25 OTHER JUDICIAL PROCESS.

26 (H) A TAX OR TAX LIEN, WHETHER FEDERAL, STATE, OR LOCAL.

27 (I) A SPECIAL ASSESSMENT.

1 (J) ANY OTHER GOVERNMENTAL LIEN.

2 (K) ANY OTHER LIEN.

3 (10) SUBSECTION (9) IS INTENDED TO AFFIRM TITLE TO REAL
4 PROPERTY AND DOES NOT CREATE A CAUSE OF ACTION FOR OR OTHERWISE
5 CONSTITUTE A BASIS FOR A TAX REFUND OR A PROPERTY TAX APPEAL.

6 (11) THE DEPARTMENT SHALL MAKE A CONVEYANCE UNDER SUBSECTION
7 (6) BY QUITCLAIM DEED, APPROVED BY THE DEPARTMENT OF ATTORNEY
8 GENERAL.

9 (12) AS USED IN THIS SECTION, "DE FACTO OWNER" MEANS A PERSON
10 THAT COULD REASONABLY BE CONSIDERED THE OWNER OF THE LAND DESPITE
11 NOT HAVING GOOD LEGAL TITLE, AS INDICATED BY 1 OR MORE OF THE
12 FOLLOWING:

13 (A) A PURPORTED CHAIN OF TITLE THAT WOULD SHOW MARKETABLE
14 TITLE IN THE PERSON IF A VALID GOVERNMENTAL PATENT OR OTHER
15 CONVEYANCE HAD BEEN GIVEN TO THE APPROPRIATE PREDECESSOR IN THE
16 CHAIN OF TITLE.

17 (B) PAYMENT OF PROPERTY TAXES ON THE LAND BY THE PERSON.

18 (C) POSSESSION OF AND IMPROVEMENT TO OR MAINTENANCE OF THE
19 LAND BY THE PERSON.

20 (D) ANY OTHER SIMILAR FACTOR THAT THE DEPARTMENT IN ITS
21 DISCRETION DETERMINES SHOULD BE CONSIDERED.

22 Enacting section 1. This amendatory act does not take effect
23 unless Senate Bill No. 19

24 of the 98th Legislature is enacted into law.