

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

PART 339
CONTROL OF CERTAIN STATE LANDS

324.33901 Unpatented overflowed lands, made lands, and Lake St. Clair bottomlands; authority of department.

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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33902 Powers of department to convey lands; dedication of unleased lands for recreational uses.

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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33903 Conveyance of certain leased lands by department; rights reserved.

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 PA 326, 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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33904 Deeds; prerequisites to granting.

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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33905 Repealed. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Compiler's note: The repealed section pertained to sale of leased lands in St. Clair Flats.

Popular name: Act 451

Popular name: NREPA

324.33906 St. Clair Flats lands; conflicting claims; determination; appeal.

Sec. 33906. In all cases where there is a contest or conflict between applicants for a deed to the same piece or parcel of land growing out of errors of description, overlapping descriptions, prior leases, or otherwise, the conflicting claims shall be determined by the department at a meeting scheduled by the department after notice to each of the claimants of the time and place of hearing, and in such cases depositions may be taken by any claimant in the manner provided for in taking depositions in the circuit courts of this state. Any party

considering himself or herself aggrieved by any decision of the department refusing to grant him or her a deed under this part, whether in case of conflict, contest, or otherwise, shall have a right of appeal to the circuit court for the county in which the land is situated, and the proceedings to take the appeal and the trial of the appeal in any of the courts shall be in accordance with the statutes providing for appeals from district courts of this state, or to take such other action at law or in equity as provided by the statutes and laws of the state of Michigan.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.33907 St. Clair Flats area; rules.

Sec. 33907. The department may promulgate and enforce rules as it considers necessary for the preservation and use of the paramount right of navigation, hunting, and fishing covering the entire St. Clair Flats area.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.33908 Receipts; credit of consideration and fees to land and water management permit fee fund.

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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33909 Repealed. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Compiler's note: The repealed section pertained to conveyance and sale of lots in St. Clair Flats.

Popular name: Act 451

Popular name: NREPA

324.33910 Water highway lands; lease; conveyance to contiguous lessees.

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 sections 33902 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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33911 Granting deeds to certain property; requirements.

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 PA 326 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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33912 Rental valuation periods; determination; improvements; maximum increase; gross sum.

Sec. 33912. Whenever any person is entitled under this part to lease for the period of 99 years, the department shall divide the term of 99 years into 2 periods of 50 and 49 years each, to be known as rental valuation periods, and the consideration or rental to be paid by the lessee for the first period of 50 years is to be determined by the department at the time such lessee is adjudged entitled to the lease. At the expiration of the first period of 50 years, the department shall redetermine the rental value or consideration to be paid by the lessee for the next succeeding rental period of 49 years until the expiration of the full term of the lease. However, the department, in determining the rental value to be paid by the lessee, shall consider the value of the land only and shall not increase the rental value or consideration for any of the rental periods because of the improvements that may have been made on any of the premises by a lessee. In determining the rental value or consideration to be paid by the lessee for the second valuation period of 49 years, the department shall not increase the rental value or consideration to any sum in excess of double the rental value or consideration determined for the first valuation period of 50 years. The consideration so fixed shall, as applied to the claimants coming within the provisions of this section, be a gross sum and not an annual rental.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.33913-324.33915 Repealed. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Compiler's note: The repealed sections pertained to rental valuation periods, applications for leases, and uncontested applications.

Popular name: Act 451

Popular name: NREPA

324.33916 Former lease holder as trespasser; recovery of possession by state.

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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33917-324.33920 Repealed. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Compiler's note: The repealed sections pertained to form of lease, fixing rental value, occupants or claimants in possession of lands, and leasing certain lands.

Popular name: Act 451

Popular name: NREPA

324.33921 Rights of lessees subject to certain public rights.

Sec. 33921. The rights of lessees under this part shall be subject to the paramount right of navigation, hunting, and fishing, which rights are to remain in the general public and in the government as now existing and recognized by law.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.33922, 324.33923 Repealed. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Compiler's note: The repealed sections pertained to possessor or occupant of lands, and application or right to lease.

Popular name: Act 451

Popular name: NREPA

324.33924 Definitions.

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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33925 Repealed. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Compiler's note: The repealed section pertained to application to lease.

Popular name: Act 451

Popular name: NREPA

324.33926 Surveys governing terms of part.

Sec. 33926. In describing the lands that may be leased under this part, the department shall be governed by maps, plats, and field notes of surveys made by the United States surveyors or by this state.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.33927 Ascertainment of rights by department; hearing; powers of department.

Sec. 33927. The department shall ascertain and decide upon the rights of persons claiming the benefit of this part, and it may hear and decide in a summary manner all matters respecting such applications or claims, except as otherwise provided in this part, and to that end may compel the attendance of witnesses and receive testimony by deposition or otherwise as may be produced, and determine thereon, according to equity and justice, the validity and just extent of the claim and respective rights of conflicting claimants making application for a lease. It shall cause minutes of the filing of such claims and all its proceedings to be entered in a book kept for that purpose and keep a record of the evidence from which its decisions are made, and it is authorized when it considers it necessary, or upon request of any of the claimants, to employ a stenographer to assist the department. The department may administer oaths, issue subpoenas, and compel the attendance of witnesses and the production of papers upon any hearing before the department under this part. In case of

disobedience on the part of any person or persons, or willful failure to appear pursuant to any subpoena issued by the department, or upon refusal of any witnesses to testify regarding any matter pending before the department or to produce books and papers which he or she is required by the department to produce, the circuit court of any county in this state, upon the application of the department, shall compel obedience by attachment proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein, and in addition the department shall have the powers vested in the circuit court to compel witnesses to testify to any matter pending before the department, and each witness who appears before the department by its order or subpoena shall receive for his or her attendance the fees and mileage provided witnesses in civil cases in circuit courts, said fees to be paid by the party calling such witnesses.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.33928 Conflicting claims; determination by department; hearing; notice; depositions; appeal.

Sec. 33928. In all cases where there is a contest or conflict between applicants for a lease to the same piece or parcel of land growing out of a prior occupation or improvements, such conflicting claims shall be determined by the department at a meeting scheduled by the department after notice to each of the claimants of the time and place of hearing, and in such cases depositions may be taken by any claimant in the manner provided for taking depositions in the circuit courts of this state. Any party considering himself or herself aggrieved by any decision of the department refusing to grant him or her a lease under the provisions of this part, whether in case of conflict, contest, or otherwise, has the right of appeal to the circuit court for the county in which the land is situated, and the proceedings to take the appeal and the trial of the appeal in any of those courts shall be in accordance with the statutes providing for appeals from district courts of this state, or the aggrieved party may take such other action at law or in equity as provided by the statutes and laws of this state.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.33929 State leased lands; sale or transfer of lease; statement of purpose; approval by department; record of assignment.

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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33930-324.33932 Repealed. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Compiler's note: The repealed sections pertained to state leased lands and disposition of money received from leasing.

Popular name: Act 451

Popular name: NREPA

324.33933 State leased lands; taxes; assessment.

Sec. 33933. The lessee's interest in all leases made under this part shall be assessed as real estate by the assessing officer of the township, city, or village in which the lands leased may be located, and the levy and collection of taxes so assessed on said lessee's interest shall be made and collected in the same manner and subject to the law now in force for the levy and collection of taxes upon real estate, and the assessing officers in determining the value of such leasehold interest for taxation purposes shall take into consideration the

value of the land together with the improvements on the land.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995.

Popular name: Act 451

Popular name: NREPA

324.33934 State leased lands; tax default; procedure for payment; forfeiture of lease; co-owners; partial payment of taxes; certificate of cancellation.

Sec. 33934. (1) If default is made in the payment of taxes to the treasurer of the township, city, or village in which the lands leased are located, the same shall be returned to the county treasurer according to and subject to the provisions of law for the return and collection of unpaid taxes assessed upon real estate. The treasurer of the township, city, or village, at the same time that he or she makes returns to the county treasurer, shall make and transmit to the department a list of the lands so delinquent for taxes and the amount of taxes delinquent upon each description in the list. The county treasurer shall, at the same time he or she makes his or her return of delinquent lands to the department of treasury, make a similar return to the department of all such leasehold interests, the taxes upon which have not been collected, with a statement of the amount thereof. The county treasurer shall not receive payment of the amount of any taxes assessed upon such leasehold interests; but such taxes when returned delinquent by the township treasurer shall be payable only to the department. The department shall provide suitable books and enter in those books the description of every leasehold interest so returned and the taxes thereon. The person holding such interest in any parcel of this land may pay to the department at any time within 1 year after the same becomes a lien on the premises, the taxes assessed thereon, with interest at the rate of 1/2 of 1% per month or fraction thereof, with 4% as a collection fee, from the first day of March last preceding. However, if the taxes are not paid within this time period, the leasehold interest is forfeited because of the nonpayment of the taxes, and within its discretion the department may release the premises to any person for any term of years not exceeding 99 years, upon that person paying to the department all unpaid taxes on the land, together with such rental as may be determined upon under this part by the department.

(2) If the leasehold interest is owned by 2 or more persons, and any 1 or more of the persons neglect or refuse to pay his or her or their proportionate share of the taxes assessed against the leasehold at the date when the taxes become due and payable, then any 1 or more of the owners may pay his or her or their proportionate share of the taxes, and the county treasurer, in his or her return of delinquent lands to the department, shall indicate partial payments of taxes credited to the owner or owners making them. Any owner not having made payment of his or her proportionate share of the taxes may, at any time within 1 year after the taxes have become a lien on the premises, pay to the department his or her proportionate share of the taxes with interest at the rate of 1% per month or fraction thereof, from the first day of March last preceding. If the proportionate share of taxes of any such owner is not paid within this time period, the interest of the owner in the leasehold is forfeited because of the nonpayment of the taxes, and thereafter within 30 days, such of the owners as have paid their proportionate share of the taxes, upon payment to the department of the amount of the taxes remaining due with interest accrued to the date of forfeiture, shall be entitled to conveyances by the department of the interests in the leasehold that have been forfeited. The interest thus conveyed shall be allotted equally among those owners who shall pay the delinquent taxes with interest as provided in this section.

(3) If default is made by any lessee in the payment of taxes, he or she shall be notified in writing by the department at least 3 months before the date of final forfeiture of the amount due and the penalty for nonpayment and the date upon which forfeiture is to occur.

(4) Upon payment to the department of taxes and interest as provided in this section, the payment amount shall be credited to the county in which such leasehold interests were assessed, in the same manner as taxes and interest are now credited to counties on part-paid state lands.

(5) Immediately upon formal determination by the department that a lease has been forfeited under this part, a certificate of cancellation of the lease shall be executed under the seal of the department and shall be forwarded to the register of deeds of the county where the land is situated. Upon receipt of this certificate, the register of deeds shall at once cause it to be recorded in a suitable book to be provided by the register of deeds. If the lease is of record in the register of deeds, the register of deeds shall note on the lease the fact that a certificate of cancellation has been issued and shall also note the citation to the record of such certificate.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2002, Act 356, Imd. Eff. May 23, 2002.

Popular name: Act 451

Popular name: NREPA

324.33935 State leased lands; nonpayment of taxes; report.

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.

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Popular name: Act 451

Popular name: NREPA

324.33936-324.33939 Repealed. 2006, Act 496, Imd. Eff. Dec. 29, 2006.

Compiler's note: The repealed sections pertained to unpatented overflowed lands, supervisor of wells, removal of natural materials from or beneath Great Lakes bottomlands, and violation of MCL 324.33938.

Popular name: Act 451

Popular name: NREPA