

HOUSE BILL No. 6411

September 24, 2002, Introduced by Reps. Kolb, Zelenko, Schermesser and Lipsey and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 30321 (MCL 324.30321), as amended by 1996
PA 530.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30321. (1) The department shall make or cause to be
2 made a preliminary inventory of all wetland in this state on a
3 county by county basis and file the inventory with the agricul-
4 tural extension office, register of deeds, and county clerk.

5 (2) At least 2 hearings shall be held in each state planning
6 and development region created by Executive Directive
7 No. 1973-1. The hearing shall be held by the department after
8 publication and due notice so that interested parties may comment
9 on the inventory. After the hearings, AND BY JANUARY 1, 2004,
10 the department shall issue a final inventory which shall be sent

1 and kept by the agricultural extension office, register of deeds,
2 and county clerk. ~~Legislators shall receive~~ THE DEPARTMENT
3 SHALL PROVIDE EACH STATE LEGISLATOR WITH an inventory of a county
4 or regional classification for ~~their districts~~ HIS OR HER
5 DISTRICT including both preliminary and final inventories unless
6 the ~~legislators request~~ LEGISLATOR REQUESTS not to receive the
7 materials.

8 (3) AT LEAST EVERY 3 YEARS AFTER THE FINAL INVENTORY IS COM-
9 PLETED, THE DEPARTMENT SHALL UPDATE THE INVENTORY, FOLLOWING THE
10 SAME PROCEDURES AS PROVIDED UNDER SUBSECTIONS (1) AND (2).

11 (4) ~~-(3)-~~ Before an inventory is made of a county, a person
12 who owns or leases a parcel of property located in that county
13 may request that the department of environmental quality assess
14 whether the parcel of property or a portion of the parcel is
15 wetland. The request shall satisfy all of the following
16 requirements:

17 (a) Be made on a form provided by the department.

18 (b) Be signed by the person who owns or leases the
19 property.

20 (c) Contain a legal description of the parcel and, if only a
21 portion of the parcel is to be assessed, a description of the
22 portion to be assessed.

23 (d) Include a map showing the location of the parcel.

24 (e) Grant the department or its agent permission to enter on
25 the parcel for the purpose of conducting the assessment.

26 (5) ~~-(4)-~~ The department shall assess the parcel within a
27 reasonable time after the request is made. The department may

1 enter upon the parcel to conduct the assessment. Upon completion
2 of the assessment, the department shall provide the person with a
3 written assessment report. The assessment report shall do all of
4 the following:

5 (a) Identify in detail the location of any wetland in the
6 area assessed.

7 (b) If wetland is present in the area assessed, describe the
8 types of activities that require a permit under this part.

9 (c) If the assessment report determines that the area
10 assessed or part of the area assessed is not wetland, state that
11 the department lacks jurisdiction under this part as to the area
12 that the report determines is not wetland and that this determi-
13 nation is binding on the department for 3 years from the date of
14 the assessment.

15 (d) Contain the date of the assessment.

16 (e) Advise that the person may request the department to
17 reassess the parcel or any part of the parcel that the person
18 believes was erroneously determined to be wetland if the request
19 is accompanied by evidence pertaining to wetland vegetation,
20 soils, or hydrology that is different from or in addition to the
21 information relied upon by the department.

22 (f) Advise that the assessment report does not constitute a
23 determination of wetland that may be regulated under local ordi-
24 nance or wetland areas that may be regulated under federal law
25 and advise how a determination of wetland areas regulated under
26 federal law may be obtained.

(g) List regulatory programs that may limit land use activities on the parcel, advise that the list is not exhaustive, and advise that the assessment report does not constitute a determination of jurisdiction under those programs. The regulatory programs listed shall be those under the following parts:

(i) Part 31, with respect to floodplains and floodways.

(ii) Part 91.

(iii) Part 301.

(iv) Part 323.

(v) Part 325.

(vi) Part 353.

(6) ~~-(5)-~~ A person may request the department to reassess any area assessed under subsections ~~-(3)-and-~~ (4) AND (5) that the person believes the department erroneously determined to be wetland. The requirements of subsections ~~-(3)-and-~~ (4) AND (5) apply to the request, assessment, and assessment report. However, the request shall be accompanied by evidence pertaining to wetland vegetation, soils, or hydrology that is different from or in addition to the information relied upon by the department. The assessment report shall not contain the information required by subsection ~~-(4)-(e)-~~ (5)(E).

(7) ~~-(6)-~~ If an assessment report determines that the area assessed or part of the area assessed is not a wetland regulated by the department under this part, then the area determined by the assessment report not to be a wetland is not a wetland regulated by the department under this part for a period of 3 years after the date of the assessment.

1 (8) ~~-(7)-~~ The department may charge a fee for an assessment
2 requested under subsection ~~-(3)-~~ (4) based upon the cost to the
3 department of conducting an assessment.