

SUBSTITUTE FOR
HOUSE BILL NO. 4463

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 30106 (MCL 324.30106), as added by 1995 PA 59,
and by adding section 30106a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30106. (1) ~~The~~ **SUBJECT TO SUBSECTION (2), THE** department
2 shall issue a permit if it finds that the structure or project will
3 not adversely affect the public trust or riparian rights. In
4 passing upon an application, the department shall consider the
5 possible effects of the proposed action upon the inland lake or
6 stream and upon waters from which or into which its waters flow and
7 the uses of all such waters, including uses for recreation, fish
8 and wildlife, aesthetics, local government, agriculture, commerce,
9 and industry. The department shall not grant a permit if the

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1 proposed project or structure will unlawfully impair or destroy any
2 of the waters or other natural resources of the state. This part
3 does not modify the rights and responsibilities of any riparian
4 owner to the use of his or her riparian water. A permit shall
5 specify that a project completed in accordance with this part shall
6 not cause unlawful pollution as defined by part 31.

7 (2) THE DEPARTMENT SHALL ISSUE A PERMIT UNDER THIS PART FOR A
8 MARINA IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

9 (A) THE APPLICANT IS A LOCAL UNIT OF GOVERNMENT AND THE
10 LOCATION OF THE MARINA IS A ROAD END UNDER THE JURISDICTION OF THE
11 LOCAL UNIT OF GOVERNMENT THAT PROVIDES PUBLIC ACCESS TO AN INLAND
12 LAKE [THAT IS LARGER THAN 2,500 ACRES IN SIZE] AND TO WHICH THE
13 PRESUMPTION IN SECTION 253(2) OF
14 THE LAND DIVISION ACT, 1967 PA 288, MCL 560.253, APPLIES.

15 (B) THE LOCAL UNIT OF GOVERNMENT IS APPLYING FOR THE MARINA
16 PERMIT FOR THE PURPOSE OF CONSTRUCTING, INSTALLING, OR MAINTAINING
17 A SEASONAL DOCK.

18 (C) THE LOCAL UNIT OF GOVERNMENT HAS ADOPTED AN ORDINANCE IN
19 COMPLIANCE WITH SECTION 30106A [AND THE PROPOSED MARINA WILL OTHERWISE BE
20 IN COMPLIANCE WITH ALL LOCAL ORDINANCES].

21 SEC. 30106A. (1) A LOCAL UNIT OF GOVERNMENT MAY ADOPT AN
22 ORDINANCE, SUBJECT TO THE PERMIT REQUIREMENT UNDER SECTION 30106,
23 THAT AUTHORIZES A MARINA AT A ROAD END UNDER THE JURISDICTION OF
24 THE LOCAL UNIT OF GOVERNMENT.

25 (2) AN ORDINANCE ADOPTED UNDER SUBSECTION (1) SHALL PROVIDE
26 FOR ALL OF THE FOLLOWING:

27 (A) NOT MORE THAN 1 NONEXCLUSIVE PUBLIC DOCK SHALL BE ALLOWED
AT THE [ROAD END]. THE LOCAL UNIT OF GOVERNMENT
SHALL CONDUCT A SURVEY TO DETERMINE THE LOCATION OF THE DOCK TO

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1 ENSURE THAT THE DOCK REMAINS WITHIN THE RIGHT-OF-WAY OF THE ROAD AS
2 EXTENDED INTO THE WATERS OF THE INLAND LAKE OR STREAM AND DOES NOT
3 ENCROACH ONTO OR OVER THE RIPARIAN BOTTOMLAND OF ADJACENT PROPERTY. [THE
SURVEY SHALL BE PERFORMED BY A PROFESSIONAL LAND SURVEYOR LICENSED IN
THE STATE OF MICHIGAN.]

4 IF A SURVEY WAS PREVIOUSLY CONDUCTED AT THE ROAD END AND THE SURVEY
5 STAKES AND DRAWING FROM THAT SURVEY ARE IDENTIFIABLE, THAT SURVEY
6 MAY BE USED TO MAKE THE DETERMINATION UNDER THIS SUBDIVISION.

7 (B) THE DOCK SHALL NOT BE INSTALLED PRIOR TO MAY 1 AND SHALL
8 BE REMOVED NOT LATER THAN SEPTEMBER 30 OF EACH YEAR.

9 (C) THE DOCK SHALL NOT EXCEED 250 FEET IN LENGTH.

10 (D) THE DOCK SHALL BE NOT MORE THAN 5 FEET IN WIDTH OR THE
11 WIDTH REQUIRED BY STATE OR FEDERAL LAW, WHICHEVER IS GREATER.

12 (E) THE DOCK SHALL BE CONSTRUCTED TO ALLOW ACCESS FOR LAW
13 ENFORCEMENT OR EMERGENCY PERSONNEL.

14 (F) THE LENGTH OF THE DOCK SHALL NOT UNREASONABLY INTERFERE
15 WITH THE SAFETY AND NAVIGABILITY OF THE WATERS OF THE INLAND LAKE
16 OR STREAM.

17 (G) THE AUGERING OR DRIVING OF ANY BOAT MOORING POST OR THE
18 PLACEMENT OF ANY PERMANENT OR SEASONAL BOAT ANCHORING DEVICE, OTHER
19 THAN A PERMITTED BOAT HOIST, WITHIN THE AREA OF [THE ROAD END

20] AS EXTENDED INTO THE INLAND LAKE OR STREAM SHALL BE
21 PROHIBITED.

22 (H) THE CONSTRUCTION, INSTALLATION, OR MAINTENANCE OF BOAT
23 HOISTS ON THE ROAD END AND IN THE ADJACENT WATERS TO ESTABLISH
24 SEASONAL OVERNIGHT MOORING OR DOCKING OF UNOCCUPIED VESSELS,
25 INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING REQUIREMENTS:

26 (i) [BOAT] HOISTS SHALL BE PLACED IN A UNIFORM
27 STRAIGHT LINE RUNNING AWAY FROM AND PARALLEL TO THE SHORELINE IN

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1 SUCH A MANNER AS TO ASSURE THAT THE HOIST AND ASSOCIATED MOORED
2 WATERCRAFT REMAIN WITHIN THE RIGHT-OF-WAY OF THE PUBLIC ROAD AS
3 EXTENDED INTO THE WATERS OF THE INLAND LAKE OR STREAM. THE
4 ORDINANCE SHALL REQUIRE THAT, WHEN MOORED IN ITS HOIST, A
5 WATERCRAFT SHALL NOT ENCROACH ONTO OR OVER THE RIPARIAN BOTTOMLAND
6 OF ADJACENT PROPERTY.

7 (ii) [BOAT] HOISTS SHALL BE PLACED A MINIMUM OF 20
8 FEET OFFSHORE AND SHALL NOT UNREASONABLY INTERFERE WITH THE
9 INGRESS, EGRESS, SAFETY, AND NAVIGABILITY OF THE WATERS OF THE
10 INLAND LAKE OR STREAM. A HOIST SHALL NOT BE LOCATED FARTHER THAN
11 250 FEET OFFSHORE.

12 (iii) BOAT HOISTS SHALL NOT BE PLACED IN SUCH A WAY AS TO IMPEDE
13 ACCESS FOR LAW ENFORCEMENT OR EMERGENCY PERSONNEL.

14 (iv) BOAT HOISTS SHALL NOT BE INSTALLED PRIOR TO MAY 1 AND
15 SHALL BE REMOVED NOT LATER THAN SEPTEMBER 30 OF EACH YEAR.

16 (I) A [ROAD END
17] SHALL NOT BE ALTERED, IMPROVED, OR MAINTAINED
18 IN ANY MANNER WITHOUT FIRST OBTAINING AN APPROPRIATE LAND USE
19 PERMIT FOR THE DESIRED ACTIVITY. THE PROVISIONS MAY REQUIRE THAT
20 ADDITIONAL PERMITS BE OBTAINED FROM THE COUNTY ROAD COMMISSION OR
21 DRAIN COMMISSION.

22 (J) PROVISIONS FOR THE USE OF A LOTTERY TO ALLOCATE THE USE OF
23 BOAT HOISTS AND BOAT SLIPS [

24] IF THE DEMAND FOR THE USE OF THESE FACILITIES IS GREATER
25 THAN THE SUPPLY.

26 (K) IF FEES ARE TO BE CHARGED FOR THE USE OF MARINA
27 FACILITIES, AN ITEMIZATION OF THE SPECIFIC FEES. FEES ASSESSED

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1 SHALL BE USED BY THE LOCAL UNIT OF GOVERNMENT ONLY TO PAY FOR THE
2 INSTALLATION, REMOVAL, AND MAINTENANCE OF DOCKS AND BOAT HOISTS,
3 FOR NECESSARY SURVEYS RELATED TO THE MARINA OR ROAD END, AND FOR
4 LAW ENFORCEMENT ACTIVITIES.

5 (l) PROVISIONS FOR FEES FOR USE OF BOAT SLIPS AND BOAT HOISTS
6 AT THE MARINA THAT ARE EQUIVALENT TO FEES FOR SIMILAR SERVICES
7 CHARGED AT OTHER MARINAS ON THAT INLAND LAKE OR STREAM OR AT A
8 COMPARABLE INLAND LAKE OR STREAM.

9 (m) PROVISIONS FOR VIOLATIONS CONSISTENT WITH SUBSECTION (4).

10 (3) AN ORDINANCE ADOPTED UNDER SUBSECTION (1) MAY ALLOW FOR
11 USE OF THE WATERFRONT WITHIN THE BOUNDARIES OF THE ROAD END FOR
12 SUNBATHING AND LOUNGING ACTIVITIES. ANY ALLOWANCE OF SUCH
13 ACTIVITIES SHALL BE ACCOMPANIED BY RULES SPECIFYING WHAT USES ARE
14 PERMITTED AND WHAT USES ARE PROHIBITED. ANY ALLOWANCE OF SUCH
15 ACTIVITIES SHALL ALSO BE ACCOMPANIED BY RULES SPECIFYING THE HOURS
16 OF OPERATION FOR THESE ACTIVITIES. THE HOURS OF OPERATION FOR THESE
17 ACTIVITIES SHALL NOT EXCEED SUNRISE TO SUNSET.

18 (4) A PERSON WHO VIOLATES AN ORDINANCE ADOPTED UNDER THIS
19 SECTION IS RESPONSIBLE FOR A MUNICIPAL INFRACTION AND MAY BE
20 ORDERED TO PAY A FINE OF NOT MORE THAN \$500.00 PER VIOLATION.

21 (5) A MARINA OPERATED BY A LOCAL UNIT OF GOVERNMENT IN
22 COMPLIANCE WITH THIS SECTION SHALL NOT BE FOUND TO BE A PUBLIC OR
23 PRIVATE NUISANCE.

24 (6) AS USED IN THIS SECTION, "ROAD END" MEANS THE END OF A
25 ROAD, STREET, OR ALLEY THAT TERMINATES AT AN INLAND LAKE OR STREAM,
26 OR TERMINATES AT A COMMON AREA, A RIGHT-OF-WAY, OR A PUBLIC PARK
27 THAT IS CONTIGUOUS TO THE SHORELINE OF AN INLAND LAKE OR STREAM. [HOWEVER,
ROAD END DOES NOT INCLUDE A ROAD, STREET, OR ALLEY, OR A PORTION OF A
ROAD, STREET, OR ALLEY, THAT RUNS LATERALLY ALONG AN INLAND LAKE OR
STREAM.]

1 Enacting section 1. This amendatory act does not take effect
2 unless House Bill No. 4464 of the 94th Legislature is enacted into
3 law.