

HOUSE BILL No. 4642

April 24, 2007, Introduced by Reps. Mayes, Sheltroun, Rick Jones, Accavitti, Gillard, Ball, Miller, Nitz, Donigan, Young and Walker and referred to the Committee on Agriculture.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending section 6 (MCL 280.6).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. All established drains regularly located and
2 established ~~in pursuance of~~ **UNDER** law existing ~~IN EFFECT~~ at the
3 time of location and establishment and visibly in existence, which
4 were established as drains, and all drains ~~visibly in existence~~
5 **EVIDENCED** in written drain easements or rights of way on file in
6 the office of the **DRAIN** commissioner, ~~shall be deemed~~ **ARE** public
7 drains located in public easements or rights of way which are valid
8 and binding against any owners of any property interest who became
9 ~~or hereafter become such~~ owners after the location and

1 establishment of the drain or the existence of the drain became
2 visible or the written drain easement or right of way was executed.
3 ~~, and the~~ **THE DRAIN** commissioner or drainage board may use, enter
4 upon, and preserve ~~such~~ **THE** easement or right of way for
5 maintenance of the visible drain and any other lawful activity with
6 respect to the ~~same~~ **DRAIN** not requiring a larger or different
7 easement or right of way and may exercise any rights granted in the
8 written easement or right of way on file in the office of the **DRAIN**
9 commissioner. **DRAINS THAT ARE VISIBLY IN EXISTENCE INCLUDE OPEN OR**
10 **CLOSED DRAINS THAT CAN BE VISIBLY IDENTIFIED BY BANKS, SLOPES,**
11 **MANHOLE COVERS, OR OTHER STRUCTURES THAT WOULD IDENTIFY THE**
12 **EXISTENCE OF A DRAIN.** Easements or rights of way, or portions of
13 easements or rights of way, no longer necessary for drainage
14 purposes ~~may~~ **SHALL** be conveyed or released to the ~~fee owners~~
15 **LANDOWNERS** by the **DRAIN** commissioner or drainage board on behalf of
16 the drainage district. The drain commissioner or drainage board
17 shall give at least 30 days' notice of the intention to release the
18 excess easements by publishing a notice in a newspaper of general
19 circulation in the county or a newspaper of general circulation
20 where the drainage district boundaries are located. This notice
21 shall give a general description of the excess easements to be
22 released and the date any taxpayers may appear to protest ~~said~~ **THAT**
23 ~~release. After said date if no protests are received, the drain~~
24 ~~commissioner or drainage board may release said excess easements or~~
25 ~~portions thereof not necessary for drainage purposes.~~ **THE DRAIN**
26 **COMMISSIONER OR DRAINAGE BOARD SHALL CONSIDER ANY PROTESTS OR**
27 **PUBLIC COMMENTS RECEIVED BY THAT DATE BEFORE DETERMINING THAT AN**

1 EASEMENT OR PORTION OF AN EASEMENT IS NOT NECESSARY FOR DRAINAGE
2 PURPOSES AND BEFORE RELEASING THE EXCESS EASEMENT OR PORTIONS OF
3 THOSE EASEMENTS.