

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994
Part 791
HARBOR DEVELOPMENT

324.79101 Definitions.

Sec. 79101.

As used in this part:

- (a) "Commission" means the Michigan state waterways commission created in part 781.
- (b) "Harbor" means a portion of a lake or other body of water either naturally or artificially protected in order to be a place of safety for watercraft.
- (c) "Harbor facilities" means the structures of a harbor constructed to protect the lake or body of water and the facilities provided within the harbor and on shore for the mooring and servicing of watercraft and the servicing of crews and passengers.
- (d) "Marina" means a site which contains harbor facilities.
- (e) "Nonrevenue-producing harbor facilities" means any portion of harbor facilities that would not normally produce revenue and includes, but is not limited to, jetties, breakwaters, dredging, and shore protection.
- (f) "Revenue-producing harbor facilities" means any portion of harbor facilities that normally produce revenue and includes, but is not limited to, watercraft slips, watercraft launching facilities, watercraft storage, lodging, access roads, watercraft repair facilities, parking lots, mechanical haul-out devices, and facilities for fuel, food, and other services.
- (g) "Watercraft" means any contrivance used or designed for navigation on water, including, but not limited to, any vessel, ship, boat, motor vessel, steam vessel, vessel operated by machinery, motorboat, sailboat, barge, scow, tugboat, and rowboat.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79102 Providing assistance to certain persons.

Sec. 79102.

The department may provide assistance to a person seeking to secure construction, operation, and maintenance of recreational boat slips on the waters of this state as provided in this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79103 Purchase of real property for development of marinas.

Sec. 79103.

The department may purchase real property accessible to, or capable of being made accessible to, the waters of this state for the development of marinas, as provided in this part, only when it can be demonstrated that the demand for recreational boat slips within a specific harbor or within a local unit of government exceeds the available supply.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79104 Purchase of property located within local unit of government.

Sec. 79104.

The department shall not purchase property located within a local unit of government, under this part, if the local unit of government where the property is located imposes property taxes on property containing a shoreline recreational facility that is owned by an adjacent local unit of government.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79105 Sale of structures, real property, or rights or interest in real property.

Sec. 79105.

The department may sell or remove buildings or other structures on real property acquired by the department under this part, and may sell real property or rights or interest in real property not considered essential for the purposes of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79106 Construction of nonrevenue-producing harbor facilities.

Sec. 79106.

If, in the judgment of the department, real property acquired under this part requires modification or improvement to make it financially attractive to potential investors in a marina, the department may construct nonrevenue-producing harbor facilities at those sites.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79107 Leases of real property.

Sec. 79107.

After real property is acquired under this part, the department may enter into leases of the real property or portions of the real property the department determines will aid in the construction of a marina, the provision of summer or winter storage of watercraft, or the provision of services normally found at commercial marinas.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79108 Solicitation and evaluation of proposals.

Sec. 79108.

(1) If the department determines that real property acquired by it under this part is suitable for use as a marina, the department shall publicly solicit proposals for the development of the marina and the lease of the real property. The solicitation of proposals shall include published notices in at least 1 local news publication of general circulation in the area in which the marina will be located and in at least 2 journals related to the marina, watercraft, or harbor industries, which journals have statewide circulation. A reasonable time shall be allowed for bidders to respond, and all proposals shall be publicly opened and read. A proposal received by the department in response to the solicitation may be rejected by the department for any reason or without cause if the department believes such action to be appropriate. The department may waive any defects in any proposals received, at its discretion, but is not required to do so.

(2) In evaluating proposals for the construction of revenue-producing harbor facilities and the operation of a marina, the department shall take into consideration, among other things, the technical qualifications of the applicants; the financial responsibility of the applicants; the ability of the applicants to perform efficiently the services necessary to maintain a sound facility, including the prior experience, if any, of the applicants in operating a marina; the proposed lease payments; the nature and scope of each applicant's plans for the marina; and the timetables for development of the proposed marina.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79109 Term of lease; extension; rule establishing penalty schedule for nonpayment of lease payments; notice of taxation.

Sec. 79109.

(1) A lease entered into by the department under this part shall be for an initial term of not more than 25 years. A lease may be extended for a period not to exceed 5 years, at the discretion of the department, if the lessee has complied with the provisions of the lease and has made appropriate efforts to upgrade and maintain the real property.

(2) The department shall establish, by rule, a penalty schedule for nonpayment of lease payments. The department shall provide in a lease entered into under this part that, if a lessee is in default on a payment for more than 60 days, or if a lessee defaults on a payment or delays making a payment for more than 30 days on more than 2 occasions in a single year, the department may declare the lease agreement breached and seek its remedies at law or in accordance with the lease agreement.

(3) The department shall provide notice in any lease entered into under this part that the lessee may be subject to taxation under Act No. 189 of the Public Acts of 1953, being sections 211.181 to 211.182 of the Michigan Compiled Laws.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79110 Sale, transfer, or assignment of lease; transfer by bequest or descent of lessee.

Sec. 79110.

A lease entered into by the department under this part or an interest in a lease entered into by the department

under this part shall not be sold, transferred, or assigned unless the sale, transfer, or assignment is first approved by the department, after receipt of a written application containing the same information as to the purchaser, transferee, or assignee as is required of an original applicant. This section does not restrict the transfer by bequest or descent of the lessee.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79111 Consideration for issuance of lease; reduction of initial financial burden.

Sec. 79111.

A lease entered into by the department under this part shall not be issued without consideration. However, the department may establish annual lease payments, which reduce the initial financial burden on the lessee as much as is reasonably possible, with subsequent payments to be appropriately increased to assure payment of the total lease obligation prior to the termination of the lease.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79112 Lease agreements with 1 or more local units of government; apportionment of revenue.

Sec. 79112.

The department may enter into lease agreements for purposes of this part with 1 or more local units of government or public colleges or universities acting jointly with the department as a lessor. Revenue from each lease shall be apportioned according to the proportional share of the investments made by the department and the local unit or units of government or public colleges or universities in the construction of nonrevenue-producing harbor facilities and in consideration of the relative land investments of the entities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2003, Act 19, Imd. Eff. June 18, 2003

Popular Name: Act 451

Popular Name: NREPA

324.79113 Minimum standards for construction and operation of harbor facilities by lessee.

Sec. 79113.

The department may establish minimum standards applicable to the construction and operation of harbor facilities by a lessee including, but not limited to, restrooms and showers, the number of slips available to transient and seasonal watercraft rentals, construction material, parking lots, engineering and architectural plans and designs, watercraft launching facilities, and watercraft storage and repair facilities.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79114 Disposition of revenue from lease contracts.

Sec. 79114.

All revenue from lease contracts entered into under this part shall be deposited in the state treasury and credited to the waterways account of the Michigan conservation and recreation legacy fund provided for in section 2035.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995 ;-- Am. 2004, Act 587, Eff. Dec. 23, 2006

Compiler's Notes: Enacting section 2 of Act 587 of 2004 provides: "Enacting section 2. This amendatory act does not take effect unless House Joint Resolution Z of the 92nd Legislature becomes a part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963."

Popular Name: Act 451

Popular Name: NREPA

324.79115 Liability.

Sec. 79115.

The department shall not be liable for loss of life or injury or damage to persons or property as a result of the conditions on real property, waterways, or facilities on real property leased to persons by the department under this part. However, this section shall not relieve lessees of any obligations they may otherwise have to persons or to damages if they are found to have failed to meet their obligations properly.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79116 Rules.

Sec. 79116.

The department shall promulgate rules as are necessary to implement this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79117 Administration of part; advice by department.

Sec. 79117.

The Michigan state waterways commission created in part 781 shall advise the department on the administration of this part.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA

324.79118 Discrimination prohibited.

Sec. 79118.

A person shall not deny another individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations created under this part because of religion, race, color, national origin, age, sex, or marital status.

History: Add. 1995, Act 58, Imd. Eff. May 24, 1995

Popular Name: Act 451

Popular Name: NREPA