

# Legislative Analysis



## ALLOW EMERGENCY ORDERS TO BE ISSUED TO ADDRESS HAZARDOUS STRUCTURES AND FILL

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<http://www.house.mi.gov/hfa>

**House Bill 4832 as introduced**  
**Sponsor: Rep. Julie M. Rogers**  
**Committee: Natural Resources, Environment,  
Tourism and Outdoor Recreation**  
**Complete to 9-20-23**

Analysis available at  
<http://www.legislature.mi.gov>

### SUMMARY:

House Bill 4832 would amend the Natural Resources and Environmental Protection Act (NREPA) by adding a new section, section 30111d, which would allow the director of the Department of Environment, Great Lakes, and Energy (EGLE) to issue a written emergency order that requires action be taken by the owner of a structure or fill located on **bottomlands** that is in imminent danger of failure or is causing, or threatening to cause, significant harm to public health, safety, welfare, property, or natural resources or the public trust in natural resources. The order could require the owner to immediately repair or remove the structure or fill or take any other action the director determines necessary.

Part 301 of NREPA contains provisions regarding inland lakes and streams. Presently, **bottomland** is defined as the land area of an **inland lake or stream** that lies below the ordinary high-water mark and that may or may not be covered by water.

**Inland lake or stream** means either:

- An artificial or natural lake, pond, or impoundment that is a water of the United States as that term is used in 33 USC 1362.
- A natural or artificial lake, pond, or impoundment; a river, stream, or creek which may or may not be serving as a drain as defined by the Drain Code; or any other body of water that has definite banks, a bed, and visible evidence of a continued flow or continued occurrence of water, including the St. Marys, St. Clair, and Detroit Rivers, but not including the Great Lakes, Lake St. Clair, or a lake or pond that has a surface area of less than five acres.

If an owner failed to comply with an emergency order or was unavailable or unable to be contacted, EGLE could take the action necessary and recover the costs incurred from the owner in a civil action in a court of competent jurisdiction. The director could modify an emergency order and could also terminate an emergency order upon a determination in writing that all necessary emergency actions have been completed and that an emergency no longer exists.

Within 15 days after the emergency order's issuance, EGLE would have to provide the owner with an opportunity for a hearing as provided under Chapter 4 of the Administrative Procedures Act. At the hearing, the director would have to determine, based on information and fact, whether the issued emergency order must be continued, modified, suspended, or terminated as necessary for, or consistent with, the protection of public health, safety, welfare, property, or natural resources or the public trust in natural resources.

Proposed MCL 324.30111d

## **FISCAL IMPACT:**

House Bill 4832 is unlikely to directly or immediately increase costs for EGLE. The department may realize increased costs if it becomes necessary to repair or remove a bottomlands structure or fill as described in the bill. Similarly, EGLE may realize increased administrative costs in the course of assessing the significant harm or imminent danger caused by bottomlands structures or fills under the bill. The bill provides a means for EGLE to cover these costs through pursuit of a civil action. The bill is unlikely to affect costs or revenues for local governments.

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