

**SUBSTITUTE FOR
SENATE BILL NO. 398**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding section 30111d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 30111d. (1) The director of the department may issue a
2 written emergency order that requires any person that the
3 department determines to be in violation of this part to take
4 emergency action necessary to prevent significant harm to public
5 health, safety, welfare, property, or natural resources or the
6 public trust in natural resources. The emergency action may
7 include, but is not limited to, immediate repair or removal of a
8 structure or fill owned by the person and located on bottomlands.
9 This subsection does not expand the department's authority under

1 part 315 as limited by section 31506(2) (a). If a person fails to
2 comply with an order under this subsection, or is unavailable or
3 unable to be contacted, the department may take the action
4 necessary and may recover the costs incurred from that person in a
5 civil action in a court of competent jurisdiction. The director of
6 the department may modify an emergency order. The director of the
7 department may terminate an emergency order upon a determination in
8 writing that all necessary emergency actions have been completed
9 and that an emergency no longer exists.

10 (2) Within 15 days after the director of the department issues
11 an emergency order to a person under subsection (1), the department
12 shall provide the person with an opportunity for a hearing pursuant
13 to chapter 4 of the administrative procedures act of 1969, 1969 PA
14 306, MCL 24.271 to 24.288. At the hearing, the director of the
15 department shall determine, based on information and fact, if the
16 emergency order must be continued, modified, suspended, or
17 terminated as necessary for or consistent with the protection of
18 public health, safety, welfare, property, or natural resources or
19 the public trust in natural resources.

20 (3) This section does not apply to a structure or fill failure
21 that causes damage limited to agriculture, uninhabited buildings or
22 structures, or minor collector roads, local roads, or nonrated
23 roadways as defined in the National Functional Classification (NFC)
24 system, if environmental degradation will be minimal and danger to
25 individuals is slight or nonexistent.