

HOUSE BILL NO. 4770

June 15, 2023, Introduced by Reps. Hill and Morgan and referred to the Committee on Government Operations.

A bill to amend 1956 PA 40, entitled
"The drain code of 1956,"
by amending sections 74 and 381 (MCL 280.74 and 280.381).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 74. ~~(1) Commissioners may take acknowledgments of~~ **A**
2 **commissioner may obtain** releases of right of way and administer
3 oaths in ~~all drain~~ proceedings in ~~any way pertaining to drains~~
4 under this act. A simple form of release of right of way and
5 damages ~~that shall set~~ **is legally sufficient if it sets** forth, by

1 reference to the survey of the drain ~~, or by other convenient~~
 2 description, the ~~particular~~ land to be conveyed and **if it is** signed
 3 and acknowledged by the person having the right to convey. ~~, shall~~
 4 ~~be deemed a sufficient conveyance under the provisions of this act.~~
 5 ~~All releases for rights of way shall be deemed~~ **A release of right**
 6 **of way is considered** to include sufficient ~~ground~~ land on each side
 7 of the center line of ~~such~~ **the** drain for the deposit of the
 8 excavations therefrom. ~~It shall~~ **from the drain. It is** not be
 9 necessary for the ~~wife~~ **spouse of an individual having the right to**
 10 **convey** to sign the release of right of way unless ~~she~~ **the spouse**
 11 has an interest in the land other than ~~her inchoate~~ **a** right of
 12 dower. ~~Whenever~~

13 (2) **If** a portion of a drain ~~shall~~ **will** be located within ~~any~~ **a**
 14 street, highway, or public place, ~~then~~ a resolution adopted by a
 15 majority vote of the governing body having jurisdiction over ~~such~~
 16 **the** street, highway, or public place ~~granting leave~~ **is a legally**
 17 **sufficient release of right of way if it grants permission** to
 18 construct ~~such~~ **the** drain therein ~~, designating and designates~~ the
 19 place to be traversed by ~~said~~ **the** drain. ~~, shall be a sufficient~~
 20 ~~release of the right of way, and shall be deemed a sufficient~~
 21 ~~conveyance under this act, and said governing body may permit the~~
 22 ~~construction of an open drain if such consent~~ **Permission to**
 23 **construct an open drain, if granted by the governing body, must** be
 24 set forth in ~~such~~ **the** resolution.

25 Sec. 381. ~~Whenever the~~ **If a drain** commissioner of ~~any~~ county
 26 ~~shall receive~~ **receives** a petition asking ~~for the laying out,~~
 27 construction, cleaning out, deepening, or widening of ~~any~~ **a** drain,
 28 or a petition ~~asking for~~ proceedings ~~by virtue of which any~~ **that**
 29 **would result in an** assessment ~~upon~~ **on** lands for benefits received

1 ~~would result, wherein such commissioner shall be interested by~~
2 ~~reason of himself, wife or child, owning~~ **and if the commissioner or**
3 **the commissioner's spouse or child owns** lands that would be liable
4 ~~to~~ **for** an assessment for benefits upon ~~the work or proceeding~~
5 ~~proposed to be done or had, and in cases where such~~ **or the**
6 commissioner ~~may be~~ **is** otherwise disqualified to ~~act in the making~~
7 ~~of apportionment of~~ **apportion** benefits, ~~such~~ **the** commissioner shall
8 file a copy of ~~such~~ **the** petition with the judge of probate of the
9 county. ~~, together with~~ **The filing shall include** a statement signed
10 by ~~him,~~ **the commissioner and** showing that he **or she** is disqualified
11 to ~~act in making such apportionment of~~ **apportion** benefits.

12 Enacting section 1. This amendatory act does not take effect
13 unless Senate Joint Resolution ____ or House Joint Resolution F
14 (request no. 00367'23) of the 102nd Legislature becomes a part of
15 the state constitution of 1963 as provided in section 1 of article
16 XII of the state constitution of 1963.