(m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to a final agency determination of policy or action. This exemption does not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under state law for purposes of section 8(h) of the open meetings act, 1976 PA 267, MCL 15.268. As used in this subdivision, "determination of policy or action" includes a determination relating to collective bargaining, unless the public record is otherwise required to be made available under 1947 PA 336, MCL 423.201 to 423.217.

(n) Records of law enforcement communication codes, or plans for deployment of law enforcement personnel, that if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.

(o) Information that would reveal the exact location of archaeological sites. The department of history, arts, and libraries may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for the disclosure of the location of archaeological sites for purposes relating to the preservation or scientific examination of sites.

(p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. This subdivision does not apply after 1 year has elapsed from the time the public body completes the testing.

(q) Academic transcripts of an institution of higher education established under section 5, 6, or 7 of article VIII of the state constitution of 1963, if the transcript pertains to a student who is delinquent in the payment of financial obligations to the institution.

(r) Records of a campaign committee including a committee that receives money from a state campaign fund.

(s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a law enforcement agency, the release of which would do any of the following:

(*i*) Identify or provide a means of identifying an informant.

(*ii*) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.

(*iii*) Disclose the personal address or telephone number of active or retired law enforcement officers or agents or a special skill that they may have.

(*iv*) Disclose the name, address, or telephone numbers of family members, relatives, children, or parents of active or retired law enforcement officers or agents.

(*v*) Disclose operational instructions for law enforcement officers or agents.

(*vi*) Reveal the contents of staff manuals provided for law enforcement officers or agents.

(*vii*) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, parents, or those who furnish information to law enforcement departments or agencies.

(*viii*) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informant.

(*ix*) Disclose personnel records of law enforcement agencies.

(*x*) Identify or provide a means of identifying residences that law enforcement agencies are requested to check in the absence of their owners or tenants.

(t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:

(*i*) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.

(*ii*) The fact that an allegation was received by the department; the fact that the department did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

(u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.

(v) Records or information relating to a civil action in which the requesting party and the public body are parties.

(w) Information or records that would disclose the social security number of an individual.

(x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.

(y) Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

(2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974. A public body that is a local or intermediate school district or a public school academy shall exempt from disclosure directory information, as defined by 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974, requested for the purpose of surveys, marketing, or solicitation, unless that public body determines that the use is consistent with the educational mission of the public body and beneficial to the affected students. A public body that is a local or intermediate school district or a public school academy may take steps to ensure that directory information disclosed under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation. Before disclosing the directory information, a public

body that is a local or intermediate school district or a public school academy may require the requester to execute an affidavit stating that directory information provided under this subsection shall not be used, rented, or sold for the purpose of surveys, marketing, or solicitation.

(3) This act does not authorize the withholding of information otherwise required by law to be made available to the public or to a party in a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) Except as otherwise exempt under subsection (1), this act does not authorize the withholding of a public record in the possession of the executive office of the governor or lieutenant governor, or an employee of either executive office, if the public record is transferred to the executive office of the governor or lieutenant governor, or an employee of either executive office, after a request for the public record has been received by a state officer, employee, agency, department, division, bureau, board, commission, council, authority, or other body in the executive branch of government that is subject to this act.

This act is ordered to take immediate effect.
Approved December 19, 2006.
Filed with Secretary of State December 22, 2006.

[No. 483]

(SB 1111)

AN ACT to amend 1974 PA 198, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," by amending section 7 (MCL 207.557), as amended by 2005 PA 267.

The People of the State of Michigan enact:

207.557 Determination by commission; issuance of industrial facilities exemption certificate; notice of application; concurrence; effective date of certificate; mailing and filing of certificate; notice of refusal to issue certificate; failure of commission to receive application; certificate beginning December 30, 2002 and ending December 30, 2009; retroactive amendment of certificate.

Sec. 7. (1) Within 60 days after receipt of an approved application or an appeal of a disapproved application that was submitted to the commission before October 31 of that year, the commission shall determine whether the facility is a speculative building or designed and acquired primarily for the purpose of restoration or replacement of obsolete industrial property or the construction of new industrial property, and whether the facility otherwise complies with section 9 and with the other provisions of this act. If the commission so finds, it shall issue an industrial facilities exemption certificate. Before issuing a certificate the commission shall notify the state treasurer of the application and shall obtain the written

concurrence of the department of labor and economic growth that the application complies with the requirements in section 9. Except as otherwise provided in section 7a, the effective date of the certificate for a replacement facility or new facility is the immediately succeeding December 31 following the date the certificate is issued. For a speculative building or a portion of a speculative building, except as otherwise provided in section 7a, the effective date of the certificate is the immediately succeeding December 31 following the date the speculative building, or the portion of a speculative building, is used as a manufacturing facility.

(2) The commission shall send an industrial facilities exemption certificate, when issued, by certified mail to the applicant, and a certified copy by certified mail to the assessor of the assessing unit in which the facility is located or to be located, and that copy shall be filed in his or her office. Notice of the commission's refusal to issue a certificate shall be sent by certified mail to the same persons.

(3) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997.

(4) Notwithstanding any other provision of this act, if pursuant to section 16a a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on October 14, 2003 for a certificate that expired in December 2002, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 30, 2002 and ends December 30, 2009.

(5) Notwithstanding any other provision of this act, if on or before February 10, 2007 a local governmental unit passed a resolution approving an amendment of an industrial facilities exemption certificate for a replacement facility and that certificate was revoked by the commission effective December 30, 2005 with the order of revocation issued by the commission on April 10, 2006, notwithstanding the revocation, the commission shall retroactively amend the certificate and give full effect to the amended certificate, which shall include the additional personal property expenditures described in the resolution amending the certificate, for the period of time beginning when the certificate was originally approved until the certificate was revoked.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 28, 2006.

[No. 484]

(HB 6118)

AN ACT to amend 1995 PA 24, entitled "An act to promote economic growth and job creation within this state; to create and regulate the Michigan economic growth authority; to prescribe the powers and duties of the authority and of state and local officials; to assess and collect a fee; to approve certain plans and the use of certain funds; and to provide qualifications for and determine eligibility for tax credits and other incentives for authorized businesses and for qualified taxpayers," by amending sections 4 and 8 (MCL 207.804 and 207.808), section 4 as amended by 2003 PA 248 and section 8 as amended by 2006 PA 283.

The People of the State of Michigan enact:

207.804 Michigan economic growth authority; creation within Michigan strategic fund; duties; membership, appointment, and terms of members; vacancy; compensation; expenses.

Sec. 4. (1) The Michigan economic growth authority is created within the Michigan strategic fund. The Michigan strategic fund shall provide staff for the authority and shall carry out the administrative duties and functions as directed by the authority. The budgeting, procurement, and related functions as directed by the authority are under the supervision of the president of the Michigan strategic fund.

(2) The authority consists of the following 8 members:

(a) The president of the Michigan strategic fund, or his or her designee, as chairperson of the authority.

(b) The state treasurer or his or her designee.

(c) The director of the department of labor and economic growth, or his or her designee.

(d) The director of the state transportation department, or his or her designee.

(e) Four other members appointed by the governor by and with the advice and consent of the senate who are not employed by this state and who have knowledge, skill, and experience in the academic, business, local government, labor, or financial fields.

(3) A member shall be appointed for a term of 4 years, except that of the members first appointed by the governor, 2 shall be appointed for a term of 2 years and 2 for a term of 4 years from the dates of their appointments. A vacancy shall be filled for the balance of the unexpired term in the same manner as an original appointment by the governor and by and with the advice and consent of the senate.

(4) Except as otherwise provided by law, a member of the authority shall not receive compensation for services, but the authority may reimburse each member for expenses necessarily incurred in the performance of his or her duties.

207.808 Agreement for tax credit; determination; requirements; amount and duration of tax credits; additional requirements; authorization of business; criteria; limitation on new agreements; execution.

Sec. 8. (1) After receipt of an application, the authority may enter into an agreement with an eligible business for a tax credit under section 9 if the authority determines that all of the following are met:

(a) Except as provided in subsection (5), the eligible business creates 1 or more of the following within 12 months of the expansion or location as determined by the authority:

(*i*) A minimum of 50 qualified new jobs at the facility if expanding in this state.

(*ii*) A minimum of 100 qualified new jobs at the facility if locating in this state.

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(*iv*) A minimum of 5 qualified new jobs at the facility if the eligible business is a qualified high-technology business.

(*v*) A minimum of 5 qualified new jobs at the facility if the eligible business is a rural business.

(b) Except as provided in subsection (5), the eligible business agrees to maintain 1 or more of the following for each year that a credit is authorized under this act:

(*i*) A minimum of 50 qualified new jobs at the facility if expanding in this state.

(*ii*) A minimum of 100 qualified new jobs at the facility if locating in this state.

(*iii*) A minimum of 25 qualified new jobs at the facility if the facility is located in a neighborhood enterprise zone as determined under the neighborhood enterprise zone act, 1992 PA 147, MCL 207.771 to 207.786, is located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, or is located in a federally designated empowerment zone, rural enterprise community, or enterprise community.

(*iv*) If the eligible business is a qualified high-technology business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority and a minimum of 25 qualified new jobs at the facility each year thereafter for which a credit is authorized under this act.

(*v*) If the eligible business is a rural business, all of the following apply:

(A) A minimum of 5 qualified new jobs at the facility.

(B) A minimum of 25 qualified new jobs at the facility within 5 years after the date of the expansion or location as determined by the authority.

(c) Except as provided in subsection (5) and as otherwise provided in this subdivision, in addition to the jobs specified in subdivision (b), the eligible business, if already located within this state, agrees to maintain a number of full-time jobs equal to or greater than the number of full-time jobs it maintained in this state prior to the expansion, as determined by the authority. After an eligible business has entered into a written agreement as provided in subsection (2), the authority may adjust the number of full-time jobs required to be maintained by the authorized business under this subdivision, in order to adjust for decreases in full-time jobs in the authorized business in this state due to the divestiture of operations, provided a single other person continues to maintain those full-time jobs in this state. The authority shall not approve a reduction in the number of full-time jobs to be maintained unless the authority has determined that it can monitor the maintenance of the full-time jobs in this state by the other person, and the authorized business agrees in writing that the continued maintenance of the full-time jobs in this state by the other person, as determined by the authority, is a condition of receiving tax credits under the written agreement. A full-time job maintained by another person under this subdivision, that otherwise meets the requirements of section 3(i), shall be considered a full-time job, notwithstanding the requirement that a full-time job be performed by an individual employed by an authorized business, or an employee leasing company or professional employer organization on behalf of an authorized business.

(d) Except as otherwise provided in this subdivision, the average wage paid for all retained jobs and qualified new jobs is equal to or greater than 150% of the federal minimum wage. However, if the eligible business is a qualified high-technology business, then the average wage paid for all qualified new jobs is equal to or greater than 300% of the federal minimum wage.

(e) Except for a qualified high-technology business, the expansion, retention, or location of the eligible business will not occur in this state without the tax credits offered under this act.

(f) Except for an eligible business described in subsection (5)(b)(*ii*), the local governmental unit in which the eligible business will expand, be located, or maintain retained jobs, or a local economic development corporation or similar entity, will make a staff, financial, or economic commitment to the eligible business for the expansion, retention, or location.

(g) The financial statements of the eligible business indicated that it is financially sound or has submitted a chapter 11 plan of reorganization to the bankruptcy court and that its plans for the expansion, retention, or location are economically sound.

(h) Except for an eligible business described in subsection (5)(c), the eligible business has not begun construction of the facility.

(i) The expansion, retention, or location of the eligible business will benefit the people of this state by increasing opportunities for employment and by strengthening the economy of this state.

(j) The tax credits offered under this act are an incentive to expand, retain, or locate the eligible business in Michigan and address the competitive disadvantages with sites outside this state.

(k) A cost/benefit analysis reveals that authorizing the eligible business to receive tax credits under this act will result in an overall positive fiscal impact to the state.

(*l*) If feasible, as determined by the authority, in locating the facility, the authorized business reuses or redevelops property that was previously used for an industrial or commercial purpose.

(m) If the eligible business is a qualified high-technology business described in section 3(m)(*i*), the eligible business agrees that not less than 25% of the total operating expenses of the business will be maintained for research and development for the first 3 years of the written agreement.

(2) If the authority determines that the requirements of subsection (1) or (5) have been met, the authority shall determine the amount and duration of tax credits to be authorized under section 9, and shall enter into a written agreement as provided in this section. The duration of the tax credits shall not exceed 20 years or for an authorized business that is a distressed business, 3 years. In determining the amount and duration of tax credits authorized, the authority shall consider the following factors:

(a) The number of qualified new jobs to be created or retained jobs to be maintained.

(b) The average wage level of the qualified new jobs or retained jobs relative to the average wage paid by private entities in the county in which the facility is located.

(c) The total capital investment or new capital investment the eligible business will make.

(d) The cost differential to the business between expanding, locating, or retaining new jobs in Michigan and a site outside of Michigan.

(e) The potential impact of the expansion, retention, or location on the economy of Michigan.

(f) The cost of the credit under section 9, the staff, financial, or economic assistance provided by the local government unit, or local economic development corporation or similar entity, and the value of assistance otherwise provided by this state.

(3) A written agreement between an eligible business and the authority shall include, but need not be limited to, all of the following:

(a) A description of the business expansion, retention, or location that is the subject of the agreement.

(b) Conditions upon which the authorized business designation is made.

(c) A statement by the eligible business that a violation of the written agreement may result in the revocation of the designation as an authorized business and the loss or reduction of future credits under section 9.

(d) A statement by the eligible business that a misrepresentation in the application may result in the revocation of the designation as an authorized business and the refund of credits received under section 9.

(e) A method for measuring full-time jobs before and after an expansion, retention, or location of an authorized business in this state.

(f) A written certification from the eligible business regarding all of the following:

(*i*) The eligible business will follow a competitive bid process for the construction, rehabilitation, development, or renovation of the facility, and that this process will be open to all Michigan residents and firms. The eligible business may not discriminate against any contractor on the basis of its affiliation or nonaffiliation with any collective bargaining organization.

(*ii*) The eligible business will make a good faith effort to employ, if qualified, Michigan residents at the facility.

(*iii*) The eligible business will make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.

(*iv*) The eligible business is encouraged to make a good faith effort to utilize Michigan-based suppliers and vendors when purchasing goods and services.

(g) A condition that if the eligible business qualified under subsection (5)(b)(*ii*) and met the subsection (1)(g) requirement by filing a chapter 11 plan of reorganization, the plan must be confirmed by the bankruptcy court within 3 years of the date of the agreement or the agreement is rescinded.

(4) Upon execution of a written agreement as provided in this section, an eligible business is an authorized business.

(5) After receipt of an application, the authority may enter into a written agreement, which shall include a repayment provision of all or a portion of the credits under section 9 for a violation of the written agreement, with an eligible business that meets 1 or more of the following criteria:

(a) Is located in this state on the date of the application, makes new capital investment of $250,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(b) Meets 1 or more of the following criteria:

(*i*) Relocates production of a product to this state after the date of the application, makes capital investment of $500,000,000.00 in this state, and maintains 500 retained jobs, as determined by the authority.

(*ii*) Maintains 150 retained jobs at a facility, maintains 1,000 or more full-time jobs in this state, and makes new capital investment in this state.

(*iii*) Is located in this state on the date of the application, maintains at least 100 retained jobs at a single facility, and agrees to make new capital investment at that facility equal to the greater of $100,000.00 per retained job maintained at that facility or $10,000,000.00 to be completed or contracted for not later than December 31, 2007.

(*iv*) Maintains 300 retained jobs at a facility; the facility is at risk of being closed and if it were to close, the work would go to a location outside this state, as determined by the

authority; new management or new ownership is proposed for the facility that is committed to improve the viability of the facility, unless otherwise provided in this subparagraph; and the tax credits offered under this act are necessary for the facility to maintain operations. The authority may not enter into a written agreement under this subparagraph after December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 3 written agreements under this subparagraph that are excluded from the requirements of subsection (1)(e), (f), (g), (h), (j), and (k) if the authority considers it in the public interest and if the eligible business would have met the requirements of subsection (1)(e), (i), (j), and (k) within the immediately preceding 6 months from the signing of the written agreement for a tax credit. Of the 3 written agreements described in this subparagraph, the authority may also waive the requirement for new management if the existing management and labor make a commitment to improve the viability and productivity of the facility to better meet international competition as determined by the authority.

(*v*) Maintains 100 retained jobs at a facility; is a rural business, unless otherwise provided in this subparagraph; the facility is at risk of being closed and if it were to close, the work would go to a location outside this state, as determined by the authority; new management or new ownership is proposed for the facility that is committed to improve the viability of the facility; and the tax credits offered under this act are necessary for the facility to maintain operations. The authority may not enter into a written agreement under this subparagraph after December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 3 written agreements under this subparagraph that are excluded from the requirements of subsection (1)(e), (f), (g), (h), (j), and (k) if the authority considers it in the public interest and if the eligible business would have met the requirements of subsection (1)(e), (i), (j), and (k) within the immediately preceding 6 months from the signing of the written agreement for a tax credit. Of the 3 written agreements described in this subparagraph, the authority may also waive the requirement that the business be a rural business if the business is located in a county with a population of 500,000 or more and 600,000 or less.

(*vi*) Maintains 175 retained jobs and makes new capital investment at a facility in a county with a population of not less than 7,500 but not greater than 8,000.

(*vii*) Is located in this state on the date of the application, maintains at least 675 retained jobs at a facility, agrees to create 400 new jobs, and agrees to make a new capital investment of at least $45,000,000.00 to be completed or contracted for not later than December 31, 2007. Of the written agreements entered into under this subparagraph, the authority may enter into 1 written agreement under this subparagraph that is excluded from the requirements of subsection (1)(h) if the authority considers it in the public interest.

(*viii*) Is located in this state on the date of the application, makes new capital investment of $250,000,000.00 or more in this state, and makes that capital investment at a facility located north of the 45th parallel.

(c) Is a distressed business.

(6) The authority shall not execute more than 25 new written agreements each year for eligible businesses that are not qualified high-technology businesses, distressed businesses, or rural businesses. If the authority executes less than 25 new written agreements in a year, the authority may carry forward for 1 year only the difference between 25 and the number of new agreements executed in the immediately preceding year.

(7) The authority shall not execute more than 50 new written agreements each year for eligible businesses that are qualified high-technology businesses or rural business. Only 25 of the 50 written agreements for businesses that are qualified high-technology businesses or rural business may be executed each year for qualified rural businesses.

(8) The authority shall not execute more than 20 new written agreements each year for eligible businesses that are distressed businesses. The authority shall not execute more than 5 of the written agreements described in this subsection each year for distressed businesses that had 1,000 or more full-time jobs at a facility 4 years immediately preceding the application to the authority under this act.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 485]

(SB 1128)

AN ACT to amend 1982 PA 295, entitled "An act to provide for and to supplement statutes that provide for the provisions and enforcement of support, health care, and parenting time orders with respect to divorce, separate maintenance, paternity, child custody and support, and spousal support; to prescribe and authorize certain provisions of those orders; to prescribe the powers and duties of the circuit court and friend of the court; to prescribe certain duties of certain employers and other sources of income; to provide for penalties and remedies; and to repeal acts and parts of acts," (MCL 552.601 to 552.650) by adding section 15a.

The People of the State of Michigan enact:

552.615a Military service adjustment; procedures.

Sec. 15a. (1) If a payer is called to emergency military service, that payer may request a military service adjustment on his or her support obligation by providing a written request to the office of the friend of the court along with information showing all military and civilian pay. A military service adjustment shall be made by multiplying the payer's child support by a fraction, the numerator of which is the payer's income during emergency military service and the denominator of which is the payer's income upon which the support was ordered.

(2) Except as otherwise provided in this subsection, a payer is not eligible for a military service adjustment before the date the friend of the court receives the request for the military service adjustment. If the payer requests a military service adjustment on or before 56 days from the date the payer is called to emergency military service, the friend of the court shall make the military service adjustment effective beginning on the date of the commencement of emergency military service.

(3) If the friend of the court receives a request for a military service adjustment under subsection (1), the friend of the court shall calculate the adjustment as provided under this section and shall notify all parties of the amount of the adjustment, that they may object to the adjustment within 21 days, and of the place and manner for filing objections.

(4) If a party objects to a military service adjustment under this section, the military service adjustment shall continue until a party's objection is resolved under subsection (5) or until 35 days after the payer's emergency military service ends, whichever is sooner.

(5) If a party objects to a military service adjustment under this section, the friend of the court shall set a hearing to be held before a judge or referee to determine whether the military service adjustment should be modified or set aside. The hearing shall be held as soon as possible, and the court may permit the payer to appear at the hearing by any means

authorized by supreme court rules. If the court cannot hold the hearing during the payer's emergency military service, the court shall do 1 of the following:

(a) Hold the hearing no later than 35 days after the payer's emergency military service ends.

(b) Conduct a support review upon a payer's return from emergency military service. If a support review is conducted, the notice of adjustment shall be treated as a petition for modification of support for determining an effective date for the modification.

(c) Schedule a meeting between the parties to be held upon the payer's return from emergency military service to attempt to resolve the dispute over whether the adjustment should be set aside or modified.

(6) As used in this section, "emergency military service" means that the payer is a member of the armed forces reserves or national guard, called into active military duty for a period of more than 30 days.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 486]

(HB 5221)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 8407 (MCL 600.8407), as amended by 1991 PA 192.

The People of the State of Michigan enact:

600.8407 Filing of claim in small claims division; restrictions.

Sec. 8407. (1) A claim shall not be filed or prosecuted in the small claims division by an assignee of a claim or by a third party beneficiary under a third party beneficiary contract.

(2) Within a district court district a person shall not file more than the following number of claims in the small claims division in 1 week:

(a) Except as provided in subdivision (b), a person shall not file more than 5 claims.

(b) A person shall not file more than 20 claims on behalf of a county, city, village, or township.

(3) A person shall not file a claim on behalf of a sole proprietorship or a partnership unless that person is the proprietor, a partner in the plaintiff partnership, or a full-time salaried employee of the plaintiff having knowledge of the facts surrounding the complaint. A person shall not file a claim on behalf of a corporation unless that person is a full-time, salaried employee having knowledge of the facts surrounding the complaint. A person shall

not file a claim on behalf of a county, city, village, township, or local or intermediate school district unless that person is an elected or appointed officer or an employee of the county, city, village, township, or local or intermediate school district who has knowledge of the facts surrounding the complaint and who is authorized by the governing body of the county, city, village, township, or local or intermediate school district to file the claim.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2007.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 487]

(HB 6275)

AN ACT to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," (MCL 791.201 to 791.283) by adding section 40.

The People of the State of Michigan enact:

791.240 Prisoner convicted of violent felony; placement on parole; special provisions; history of substance abuse; report on parole violators; definitions.

Sec. 40. (1) If a prisoner serving a sentence for conviction of a violent felony is placed on parole, both of the following special provisions apply:

(a) The supervising parole agent shall make a home call within the first 45 days after the prisoner is placed on parole.

(b) The supervising parole agent shall do a LEIN check not less than quarterly for that parolee and not later than 1 month before a parolee is discharged from parole.

(2) If a prisoner who has a history of substance abuse is placed on parole and is assigned to intensive, maximum, or medium parole supervision, the department shall require as a condition of parole that the parolee submit to substance abuse testing at least twice each month.

(3) Not later than April 1 of each year, the department shall report to the legislature on the number of parolees who are returned to state correctional facilities for a violation of parole involving the use of alcohol or a controlled substance during the preceding calendar year. The report shall specify the number of parolees who are returned to a state correctional facility after 1 such violation, 2 such violations, 3 such violations, 4 such violations, and 5 or more such violations.

(4) The department shall report to the legislature on a quarterly basis both of the following:

(a) The number of parolees who are absconders.

(b) The number of parolees who have been absconders for more than 3 months.

(5) As used in this section:

(a) "LEIN" means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(b) "Substance abuse" means the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

(c) "Violent felony" means that term as defined in section 36.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2007.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 488]

(SB 1292)

AN ACT to amend 1939 PA 288, entitled "An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties," by amending sections 1, 3, 7, 10, 11, 15, and 17 of chapter XII (MCL 712.1, 712.3, 712.7, 712.10, 712.11, 712.15, and 712.17), sections 1, 7, 10, 11, 15, and 17 as added by 2000 PA 232 and section 3 as amended by 2002 PA 688, and by adding section 2a to chapter XII; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

CHAPTER XII

712.1 Short title of chapter; definitions.

Sec. 1. (1) This chapter shall be known and may be cited as the "safe delivery of newborns law".

(2) As used in this chapter:

(a) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) "Court" means the family division of circuit court.

(c) "Department" means the department of human services.

(d) "DNA identification profile" and "DNA identification profiling" mean those terms as defined in section 1 of the paternity act, 1956 PA 205, MCL 722.711.

(e) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(f) "Emergency service provider" means a uniformed or otherwise identified employee or contractor of a fire department, hospital, or police station when that individual is inside the premises and on duty. Emergency service provider also includes a paramedic or an emergency medical technician when either of those individuals is responding to a 9-1-1 emergency call.

(g) "Fire department" means an organized fire department as that term is defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(h) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(i) "Hospital" means a hospital that is licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(j) "Lawyer-guardian ad litem" means an attorney appointed under section 2 of this chapter. A lawyer-guardian ad litem represents the newborn, and has the powers and duties, as set forth in section 17d of chapter XIIA.

(k) "Newborn" means a child who a physician reasonably believes to be not more than 72 hours old.

(*l*) "Police station" means that term as defined in section 43 of the Michigan vehicle code, 1949 PA 300, MCL 257.43.

(m) "Preplacement assessment" means an assessment of a prospective adoptive parent as described in section 23f of chapter X.

(n) "Surrender" means to leave a newborn with an emergency service provider without expressing an intent to return for the newborn.

712.2a Confidentiality.

Sec. 2a. (1) A hearing under this chapter is closed to the public. A record of a proceeding under this chapter is confidential, except that the record is available to any individual who is a party to that proceeding.

(2) All child placing agency records created under this chapter are confidential except as otherwise provided in the provisions of this chapter.

(3) An individual who discloses information made confidential under subsection (1) or (2) without a court order or specific authorization under federal or state law is guilty of a mis-

demeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both. An individual who discloses information made confidential under subsection (1) or (2) without a court order or specific authorization under federal or state law is civilly liable for damages proximately caused by disclosure of that information.

712.3 Conduct of emergency service provider.

Sec. 3. (1) If a parent surrenders a child who may be a newborn to an emergency service provider, the emergency service provider shall comply with the requirements of this section under the assumption that the child is a newborn. The emergency service provider shall, without a court order, immediately accept the newborn, taking the newborn into temporary protective custody. The emergency service provider shall make a reasonable effort to do all of the following:

(a) Take action necessary to protect the physical health and safety of the newborn.

(b) Inform the parent that by surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(c) Inform the parent that the parent has 28 days to petition the court to regain custody of the newborn.

(d) Provide the parent with written material approved by or produced by the department that includes, but is not limited to, all of the following statements:

(*i*) By surrendering the newborn, the parent is releasing the newborn to a child placing agency to be placed for adoption.

(*ii*) The parent has 28 days after surrendering the newborn to petition the court to regain custody of the newborn.

(*iii*) After the 28-day period to petition for custody elapses, there will be a hearing to determine and terminate parental rights.

(*iv*) There will be public notice of this hearing, and the notice will not contain the parent's name.

(*v*) The parent will not receive personal notice of this hearing.

(*vi*) Information the parent provides to an emergency service provider will not be made public.

(*vii*) A parent can contact the safe delivery line established under section 20 of this chapter for more information.

(2) After providing a parent with the information described in subsection (1), an emergency service provider shall make a reasonable attempt to do all of the following:

(a) Encourage the parent to provide any relevant family or medical information.

(b) Provide the parent with the pamphlet produced under section 20 of this chapter and inform the parent that he or she can receive counseling or medical attention.

(c) Inform the parent that information that he or she provides will not be made public.

(d) Ask the parent to identify himself or herself.

(e) Inform the parent that in order to place the newborn for adoption the state is required to make a reasonable attempt to identify the other parent, and then ask the parent to identify the other parent.

(f) Inform the parent that the child placing agency that takes temporary protective custody of the newborn can provide confidential services to the parent.

(g) Inform the parent that the parent may sign a release for the newborn that may be used at the parental rights termination hearing under this chapter.

(3) A newborn whose birth is described in the born alive infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, and who is in a hospital setting or transferred to a hospital under section 3(1) of the born alive infant protection act, 2002 PA 687, MCL 333.1073, is a newborn surrendered as provided in this chapter. An emergency service provider who has received a newborn under the born alive infant protection act, 2002 PA 687, MCL 333.1071 to 333.1073, shall do all of the following:

(a) Comply with the requirements of subsections (1) and (2) to obtain information from or supply information to the surrendering parent by requesting the information from or supplying the information to the attending physician who delivered the newborn.

(b) Make no attempt to directly contact the parent or parents of the newborn.

(c) Provide humane comfort care if the newborn is determined to have no chance of survival due to gestational immaturity in light of available neonatal medical treatment or other condition incompatible with life.

712.7 Duties of child placing agency.

Sec. 7. Upon receipt of notice from a hospital under section 5 of this chapter, the child placing agency shall do all of the following:

(a) Immediately assume the care, control, and temporary protective custody of the newborn.

(b) If a parent is known and willing, immediately meet with the parent.

(c) Unless otherwise provided in this subdivision, make a temporary placement of the newborn with a prospective adoptive parent who has an approved preplacement assessment. If a petition for custody is filed under section 10 of this chapter, the child placing agency may make a temporary placement of the newborn with a licensed foster parent.

(d) Unless the birth was witnessed by the emergency service provider, immediately request assistance from law enforcement officials to investigate and determine, through the missing children information clearinghouse, the national center for missing and exploited children, and any other national and state resources, whether the newborn is a missing child.

(e) Not later than 48 hours after a transfer of physical custody to a prospective adoptive parent, petition the court in the county in which the prospective adoptive parent resides to provide authority to place the newborn and provide care for the newborn. The petition shall include all of the following:

(*i*) The date of the transfer of physical custody.

(*ii*) The name and address of the emergency service provider to whom the newborn was surrendered.

(*iii*) Any information, either written or verbal, that was provided by and to the parent who surrendered the newborn. The emergency service provider that originally accepted the newborn as required by section 3 of this chapter shall provide this information to the child placing agency.

(f) Within 28 days, make reasonable efforts to identify, locate, and provide notice of the surrender of the newborn to the nonsurrendering parent. The child placing agency shall file a written report with the court that issued the order placing the child. The report shall state the efforts the child placing agency made in attempting to identify and locate the nonsurrendering parent and the results of those efforts. If the identity and address of the nonsurrendering parent are unknown, the child placing agency shall provide notice of the surrender of the newborn by publication in a newspaper of general circulation in the county where the newborn was surrendered.

712.10 Custody action by surrendering or nonsurrendering parent; filing; hearing; determination of paternity or maternity.

Sec. 10. (1) If a surrendering parent wants custody of a newborn who was surrendered under section 3 of this chapter, the parent shall, within 28 days after the newborn was surrendered, file a petition with the court for custody. Not later than 28 days after notice of surrender of a newborn has been published, an individual claiming to be the nonsurrendering parent of that newborn may file a petition with the court for custody. The surrendering parent or nonsurrendering parent shall file the petition for custody in 1 of the following counties:

(a) If the parent has located the newborn, the county where the newborn is located.

(b) If subdivision (a) does not apply and the parent knows the location of the emergency service provider to whom the newborn was surrendered, the county where the emergency service provider is located.

(c) If neither subdivision (a) nor (b) applies, the county where the parent is located.

(2) If the court in which the petition for custody is filed did not issue the order placing the newborn, the court in which the petition for custody is filed shall locate and contact the court that issued the order and shall transfer the proceedings to that court.

(3) Before holding a custody hearing on a petition filed under this section and not later than 7 days after a petition for custody under this section has been filed, the court shall conduct a hearing to make the determinations of paternity or maternity as described in section 11.

712.11 Blood or tissue typing or DNA identification profiling; presumption; costs; dismissal of custody petition.

Sec. 11. (1) In a petition for custody filed under this chapter, the court shall order the child and each party claiming paternity to submit to blood or tissue typing determinations or DNA identification profiling, as described in section 16 of the paternity act, 1958 PA 205, MCL 722.716.

(2) Unless the birth was witnessed by the emergency service provider and sufficient documentation exists to support maternity, in a petition for custody filed under this chapter, the court shall order the child and each party claiming maternity to submit to blood or tissue typing determinations or DNA identification profiling, as described in section 16 of the paternity act, 1958 PA 205, MCL 722.716.

(3) If the probability of paternity or maternity determined by the blood or tissue typing or DNA identification profiling is 99% or higher and the DNA identification profile and summary report are admissible, paternity or maternity is presumed and the petitioner may move for summary disposition on the issue of paternity or maternity.

(4) The court may order the petitioner to pay all or part of the cost of the paternity or maternity testing.

(5) If the result of the paternity or maternity testing is admissible and establishes that the petitioner could not be the parent of the newborn, the court shall dismiss the petition for custody.

712.15 Court order.

Sec. 15. Based on the court's finding under section 14 of this chapter, the court may issue an order that does 1 of the following:

(a) Grants legal or physical custody, or both, of the newborn to the parent and either retains or relinquishes jurisdiction.

(b) Determines that the best interests of the newborn are not served by granting custody to the petitioner parent and terminates the parent's parental rights and gives a child placing agency custody and care of the newborn.

(c) Dismisses the petition.

712.17 Release or termination of parental rights.

Sec. 17. (1) A parent who surrenders a newborn under section 3 of this chapter and who does not file a custody action under section 10 of this chapter is presumed to have knowingly released his or her parental rights to the newborn.

(2) If the surrendering parent has not filed a petition for custody of the newborn within 28 days of the surrender, the child placing agency with authority to place the newborn shall immediately file a petition with the court to determine whether the release shall be accepted and whether the court shall enter an order terminating the rights of the surrendering parent.

(3) If the nonsurrendering parent has not filed a petition for custody of the newborn within 28 days of notice of surrender of a newborn under section 10 of this chapter, the child placing agency with authority to place the newborn shall immediately file a petition with the court to determine whether the court shall enter an order terminating the rights of the nonsurrendering parent.

(4) The court shall schedule a hearing on the petition from the child placing agency within 14 days of receipt of that petition. At the hearing, the child placing agency shall present evidence that demonstrates that the surrendering parent released the newborn and that demonstrates the efforts made by the child placing agency to identify, locate, and provide notice to the nonsurrendering parent.

(5) If the court finds by a preponderance of the evidence that the surrendering parent has knowingly released his or her rights to the child and that reasonable efforts were made to locate the nonsurrendering parent, the court shall enter an order terminating parental rights of the surrendering parent and the nonsurrendering parent under this chapter.

Repeal of MCL 712.12 and 712.13.

Enacting section 1. Sections 12 and 13 of chapter XII of the probate code of 1939, 1939 PA 288, MCL 712.12 and 712.13, are repealed.

Effective date.

Enacting section 2. This amendatory act takes effect January 1, 2007.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 489]

(SB 603)

AN ACT to amend 1980 PA 299, entitled "An act to revise, consolidate, and classify the laws of this state regarding the regulation of certain occupations; to create a board for each of those occupations; to establish the powers and duties of certain departments and agencies and the boards of each occupation; to provide for the promulgation of rules; to provide for certain fees; to provide for penalties and civil fines; to establish rights, relationships, and remedies of certain persons under certain circumstances; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 303a (MCL 339.303a), as amended by 1995 PA 183, and by adding article 29.

The People of the State of Michigan enact:

339.303a Commencement of terms; dates.

Sec. 303a. The terms provided for in this act shall commence on the following dates:

Accountancy	July 1
Architects	April 1
Auctioneers	October 1
Barbers	October 1
Collection agencies	July 1
Community planners	July 1
Cosmetology	January 1
Employment agencies	October 1
Foresters	April 1
Hearing aid dealers	October 1
Land surveyors	April 1
Landscape architects	July 1
Mortuary science	July 1
Professional engineers	April 1
Real estate appraisers	July 1
Real estate brokers and salespersons	July 1
Residential builders	April 1

ARTICLE 29

339.2901 Definitions.

Sec. 2901. As used in this article:

(a) "Apprentice" means an individual engaged in learning the business of conducting an auction, under the control and supervision of a registered auctioneer.

(b) "Auction" means the sale or offer for sale by bidding of real or personal property at a public or private location.

(c) "Auctioneer" means an individual who, for compensation, is engaged in the business of the conduct of or offers to engage in the conduct of an auction.

(d) "Depository" means a state or nationally chartered bank or state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government under the laws of this state or the United States.

339.2903 Board of auctioneers; creation.

Sec. 2903. There is created a board of auctioneers.

339.2905 Registered auctioneer; use of title; qualifications; suspension, revocation, or denial of registration; automatic suspension.

Sec. 2905. (1) A person shall not use the title "registered auctioneer" unless registered under this article.

(2) A corporation, partnership, limited liability company, association, or other legal entity may apply for registration under this article if not less than 1 of its officers, partners, members, or managing agents is designated as a qualifying member. The department shall issue a registration to the qualifying member upon that individual's fulfillment of the requirements of this article. The qualifying member is responsible for exercising the supervision and control of the activities regulated by this article to assure full compliance with this article and any rules that may be promulgated under this article.

(3) The department shall suspend, revoke, or deny the registration of a corporation, partnership, limited liability company, association, or other legal entity when the registration of the qualifying member is suspended, revoked, or denied.

(4) Except as otherwise provided in this subsection, if the qualifying member of a registrant stops being its qualifying member, such circumstance operates as an automatic suspension of the entity's registration. Upon request, the department may permit the registration to remain in force for 60 days in order to allow the qualifying of a new qualifying member.

339.2907 Registration; issuance; conditions.

Sec. 2907. Except as otherwise provided in section 2917, the department shall issue a registration as a registered auctioneer to an individual or to the qualifying member of a legal entity who meets all of the following conditions:

(a) Has either 2 years of apprentice experience with a registered auctioneer or proof of graduation from an accredited auction school acceptable to the board and 1 year of apprentice experience with a registered auctioneer. Under both circumstances, the individual shall have actively participated in the conduct of not less than 10 auctions. The experience shall be verified by an affidavit of a registered auctioneer and shall provide the names and addresses of the parties on whose behalf the auction was held and the dates of the auction.

(b) Has completed an examination as described in section 2915.

(c) Is of good moral character.

339.2909 Registration of experienced auctioneer.

Sec. 2909. (1) Notwithstanding section 2907, the department shall register as an auctioneer, after verification of the experience requirements imposed in this section, an individual who applies not more than 2 years after the effective date of this article and submits to the department an affidavit attesting to experience in the conduct of auctions for not less than 3 years before the effective date of this article.

(2) The department shall issue a registration under this section only if the applicant's experience includes conducting 12 or more auctions.

339.2911 Registrant as trustee for payment of money.

Sec. 2911. Money paid by any person to a registrant in connection with an auction under this article is considered to be held in trust for the benefit of the person making the payment and the registrant is considered the trustee for the money.

339.2913 Place of business; contract; posting of registration; establishment of trust account; deposits; payment advances; commingling; requirements; disbursements; records; ledgers and journals.

Sec. 2913. (1) A registered auctioneer shall maintain a regular place of business in this state. If more than 1 place of business is maintained, the department shall issue a duplicate registration at no additional cost. A regular place of business does not include a location used only as a warehouse. Records required to be kept under this article shall be kept at that regular place of business.

(2) A registered auctioneer shall not conduct an auction unless a written contract is executed between the person desiring auction services and the registered auctioneer. A registrant shall keep a copy of the contract as part of his or her records and, upon request, make them available to the department for inspection or audit, or both, during normal business hours.

(3) A registrant under this article shall conspicuously post at the regular place of business a copy of the registration issued under this article.

(4) A registrant under this article shall establish a trust account, or other segregated type of account, in the manner described in this section. The registrant shall deposit into the trust account all checks, drafts, negotiable instruments, and cash tendered by 1 or more buyers for the payment of an item sold by auction. The registrant shall make a disbursement relative to a sale by auction through that trust account in the time period and manner described in this section.

(5) A registrant shall not permit an advance payment of money by a customer to be deposited in the registrant's business or personal account or to be commingled in any way with funds belonging to the registrant, except as provided in this section. The registrant shall deposit customer money into a trust account until the transaction involved is consummated or terminated, within 2 banking days after the auction transaction but not later than 5 days after its receipt.

(6) The trust account is subject to the following requirements:

(a) May be an interest bearing account maintained in a depository recognized by the department. Interest accrued shall be allocated as provided for in the contract between the parties.

(b) Shall designate the registrant as the trustee or custodian.

(c) Shall provide for withdrawal of money without previous notice and shall not be encumbered in any manner.

(d) Shall not contain any money of the registrant except for an amount sufficient to pay service charges on the account or to maintain the account when customer money is not on deposit, that amount not to exceed $500.00.

(7) Disbursements from the trust account shall be made only for the following purposes:

(a) Payment as a result of the sale of an item by the registrant pursuant to the contract.

(b) Refund of an amount to the customer upon termination of the transaction.

(c) Payment to the registrant of a commission and documented and approved expenses following the consummation of a transaction upon which a commission is payable to the registrant.

(8) The registrant shall keep records of money deposited in the trust account. The records shall show all of the following:

(a) The date of the receipt of money from a customer, the amount received, and the name of the customer on whose behalf the money was paid.

(b) The purpose for which the money was paid.

(c) The date the money was deposited in the trust account.

(d) The date of disbursement of the money, the purpose of the withdrawal, and the name of the person to whom the money was paid upon disbursement.

(e) Any other pertinent information regarding the transaction.

(9) The department and the board may, upon notice given to a registrant, inspect or audit, or both, the records or other relevant documents required to be kept pursuant to this section.

(10) A registrant shall create, electronically or otherwise, a cash receipts and disbursements journal and ledgers. The ledgers are to be maintained separately for each transaction and shall contain the following:

(a) Names of both parties.

(b) Postings of all transactions.

(c) Date of each transaction, in chronological sequence.

(d) Amount received or disbursed, or both; name of party giving money; name of principal or payee; and purpose of disbursements.

(e) Check numbers of disbursements.

(f) A running balance after each receipt and disbursement.

(g) Description of property being sold.

(11) A registrant shall create, electronically or otherwise, and maintain a personal money ledger to account for personal money maintained in the trust account. The personal money ledger shall include the following:

(a) Chronological sequence of funds received and disbursed.

(b) Running balance after each receipt and disbursement.

(c) Receipt postings to include date of receipt, date of deposit, name of party giving money, name of principal, and amount received.

(d) Disbursement postings to include the date; check number, if applicable; payee; amount; purpose; and a running balance after each receipt and disbursement.

(12) The ledgers and journals, as well as trust account bank statements, deposit tickets, and copies of deposit receipts, canceled checks, and voided checks shall be maintained for not less than 3 years from the date of inception of the records or not less than 3 years from the consummation or termination of the transaction, whichever is later.

(13) A registrant under this article shall maintain written records of each auction sale for a period of not less than 3 years from the date of the auction sale or not less than 3 years from consummation or termination of the transaction, whichever is later. The records shall include, but not be limited to, all of the following:

(a) Consignment receipts.

(b) Bidder registrations.

(c) Documents relating to final settlements with consignors.

339.2915 Examination for registration; subject matter; administration.

Sec. 2915. (1) The department and the board shall develop an examination for applicants for registration under this article in the manner provided for in section 316. In developing the examination, the department and the board shall consult with and accept advice from prominent industry and trade groups. The department may adopt all or part of any existing examinations developed by industry and trade groups.

(2) The examination developed under subsection (1) shall include, but not be limited to, the following subject matter areas:

(a) The provisions of this article.

(b) Ethics and ethical practices as they relate to the business of conducting auctions.

(c) Record keeping.

(d) Elementary mathematics.

(e) Elementary principles of real estate and personal property economics.

(f) Elementary principles of the law regarding bulk sales, deeds, mortgages, contracts of sale, agency, leases, auctions, and brokerage.

(3) The department shall administer the examinations on at least a quarterly basis. The department may administer the examinations more often than on a quarterly basis if the

board determines that circumstances exist that warrant the further administration of the examination.

339.2917 Nonresident; registration without examination; consent to service of process.

Sec. 2917. (1) The department shall issue a registration without examination to a nonresident individual who, at the time of application, is licensed, registered, certified, or otherwise regulated by another state if the requirements of that state, as determined by the board, are substantially the equivalent of the requirements of this article and if the other state offers licensure, certification, or registration on a reciprocal basis similar to this section to registrants under this article.

(2) A nonresident applicant shall file with the department an irrevocable consent to service of process, signed by the registrant. A process or pleading served upon the department shall be sufficient service upon the registrant. A process or pleading served upon the department under this section shall be in duplicate. The department shall immediately serve by first-class mail a copy of the process or pleading to the registrant's last known address as determined by the records of the department.

339.2919 Prohibited acts; sanctions and penalties.

Sec. 2919. A registrant who commits any of the following acts is subject to the sanctions and penalties contained in article 6:

(a) Fails to enter into a written contract with a seller or consignor before placing or authorizing any advertising for an auction.

(b) Fails to reduce to writing or fails to issue any appropriate documentation relative to an auction-related transaction.

(c) Fails to appropriately use or issue payment from a trust account.

(d) Is involved in capping, shilling, or steering relative to an auction.

(e) Fails to disclose his or her registration number on all advertising.

(f) Knowingly misrepresents the nature or value of an item being auctioned.

(g) Fails to account for all money deposited into a trust account.

(h) Fails to account for or remit money coming into the registrant's possession, which money belongs to others.

(i) Fails to deposit money belonging to others, in compliance with section 2913.

(j) Fails to establish and maintain records as required by this article.

(k) Violates the requirements of this article or a rule promulgated under this article.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 604 of the 93rd Legislature is enacted into law.

Effective date.

Enacting section 2. This amendatory act takes effect October 1, 2007.

This act is ordered to take immediate effect.

Approved December 28, 2006.

Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 604, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 490, Imd. Eff. Dec. 29, 2006.

[No. 490]

(SB 604)

AN ACT to amend 1979 PA 152, entitled "An act to provide for the establishment and collection of fees for the regulation of certain occupations and professions, and for certain agencies and businesses; to create certain funds; and to prescribe certain powers and duties of certain state agencies and departments," (MCL 338.2201 to 338.2277) by adding section 28.

The People of the State of Michigan enact:

338.2228 Auctioneer; registration fees.

Sec. 28. Fees for an individual registered or seeking registration as an auctioneer under article 28 of the occupational code, MCL 339.2801 to 339.2821, are as follows:

(a) Application processing for registered auctioneer	$ 50.00
(b) Examination fee for registered auctioneer	50.00
(c) Registration fees, per year:	
(*i*) Auctioneer - individual	$ 200.00
(*ii*) Auctioneer - firm	200.00

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 603 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 603, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 489, Eff. Oct. 1, 2007.

[No. 491]

(SB 1288)

AN ACT to establish the Michigan works one-stop service center system to deliver workforce development programs and services tailored to local needs; to provide for Michigan works areas; to provide for local workforce development boards; to provide for education advisory groups; to provide for consolidated access to employment and retention programs in one-stop service centers; and to prescribe the powers and duties of the Michigan works one-stop service center system and of certain state and local governmental officers and agencies.

The People of the State of Michigan enact:

408.111 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan works one-stop service center system act".

408.113 Definitions.

Sec. 3. As used in this act:

(a) "Chief elected official" means a chief elected official of a unit of general local government.

(b) "Department" means the department of labor and economic growth.

(c) "Education advisory group" means an education advisory group described in section 23.

(d) "Michigan works agency" means an entity designated to be the administrator for workforce development activities in a local Michigan works area under the guidance of the local workforce development board.

(e) "Michigan works area" means a geographic area that the governor designates as a local workforce investment area under section 116 of the workforce investment act, 29 USC 2831, including an area designated and recognized under that act before the effective date of this act.

(f) "Michigan works one-stop service center" means a facility designated to provide access to services delivered under the Michigan works one-stop service center system and certified as meeting standards established by the department.

(g) "Michigan works one-stop service center system" means the integrated and coordinated system of local boards, agencies, service centers, and advisory groups described in section 5 to deliver workforce development services and implement federal and state law.

(h) "Local workforce development board" means a local workforce investment board established as provided in section 9.

(i) "Workforce investment act" means the workforce investment act of 1998, 29 USC 2801 to 2945.

408.115 Michigan works one-stop service center system; creation.

Sec. 5. (1) The Michigan works one-stop service center system is created to provide an integrated and coordinated system for delivery of workforce development programs and services tailored to local needs, including, but not limited to, portions of services and programs regulated or funded under all of the following state and federal laws:

(a) Title I of the workforce investment act, Public Law 105-220.

(b) The Wagner-Peyser act, 29 USC 49 to 49c and 49d to 49*l*-2.

(c) Section 221 of the trade act of 1974, 19 USC 2271.

(d) Section 57f of the social welfare act, 1939 PA 280, MCL 400.57f.

(e) Section 6(d)(4) of the food stamp act of 1977, 7 USC 2015.

(f) Reed act transfers under 42 USC 1101 to 1110.

(2) The system consists of the local workforce development board in each Michigan works area, Michigan works agencies, Michigan works one-stop service centers, and education advisory groups.

408.117 Designation of Michigan works areas.

Sec. 7. The governor shall designate Michigan works areas in the state in accordance with section 116 of the workforce investment act, 29 USC 2831.

408.119 Local workforce development board; appointment; certification.

Sec. 9. The chief elected official in each Michigan works area shall appoint and the governor shall certify a local workforce development board for that Michigan works area in accordance with section 117 of the workforce investment act, 29 USC 2832.

408.121 Local workforce development board; members.

Sec. 11. All of the following apply to a local workforce development board:

(a) A majority of the members of a local workforce development board shall be representatives of the private sector appointed from a list of individuals nominated by local business organizations and business trade associations.

(b) A local workforce development board shall include representatives of education, the department of human services, the department of labor and economic growth, vocational rehabilitation providers, organized labor, economic development organizations, and community-based organizations. Representatives of government agencies shall be nominated by the department.

(c) Members of a local workforce development board shall be appointed for fixed and staggered terms.

(d) The chairperson of the local workforce development board shall be an individual from the private sector elected by the board.

408.123 Local workforce development board; duties.

Sec. 13. A local workforce development board shall do all of the following in cooperation with the chief elected officials in the Michigan works area:

(a) Develop and submit to the governor a plan for coordinating local workforce development services for employers and job seekers in the area. The plan shall provide for access to designated core services with no fees or charges and shall provide services beyond the core services based on eligibility criteria.

(b) Award competitive grants or contracts to eligible providers.

(c) Develop a budget.

(d) Employ staff necessary to carry out the duties of the board.

(e) Solicit and accept grants and donations.

(f) Oversee the operation of the one-stop delivery of services through the Michigan works one-stop service center system.

(g) Establish local performance standards through negotiation with the department for evaluating and improving the Michigan works one-stop service center system.

(h) Coordinate workforce development activities with other economic development activities and strategies in the Michigan works area.

(i) Promote private sector employer participation in the Michigan works one-stop service center system.

(j) Make available connecting, brokering, and coaching activities through intermediaries to help meet employer hiring needs.

(k) Appoint an education advisory group and its chair.

(*l*) Conduct business at public meetings held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and make information available to the public concerning performance of its duties or other information requested under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(m) Any other duties, functions, or responsibilities required of the board to implement the workforce investment act or state or federal law.

408.125 Conflict of interest.

Sec. 15. (1) A local workforce development board and each member of the board shall avoid a conflict of interest with duties of the board. Except as provided in subsection (2), an

individual shall not be appointed to or serve on a local workforce development board if he or she has an ownership interest in or is employed by an organization that receives money under the direct control of the board or if the individual engages in any other activity that creates a conflict of interest or what would appear to a reasonable person to be a conflict of interest.

(2) An individual who has an interest in or is employed by an entity that receives money under the partial or complete control of the local workforce development board may be appointed to or continue to serve on the board if the individual does not hold a policy-making position with the entity and would not receive other than a remote or incidental benefit from the board's decisions.

(3) The exception to the strict conflict of interest policy provided in subsection (2) applies to allow local workforce development board representation from entities such as a school that enrolls students with tuition paid from funds under the control of the board, a government agency from which representation is required, and an employer that accepts compensation for extraordinary costs of providing on-the-job training from funds under the board's control.

408.127 Designation of entities to perform administrative functions.

Sec. 17. The local workforce development board and local officials in each Michigan works area shall designate an entity to perform administrative functions. The entity shall be 1 of the following:

(a) A public office or agency of a local unit of government within the Michigan works area.

(b) A private nonprofit agency servicing 1 or more units of local government within the Michigan works area.

(c) A nonprofit organization exempt from tax under section 501(c)(3) of the internal revenue code, 26 USC 501.

(d) An entity organized under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, or 1967 (Ex Sess) PA 8, MCL 124.531 to 124.536.

408.129 Administrator; service; activities; direct services; approval of governor; pilot or demonstration projects.

Sec. 19. (1) An administrative entity designated under section 17 shall serve as the administrator for state and federal funding provided to the workforce development board for workforce development services and activities in the Michigan works area. Subject to subsection (2), an administrative entity designated under section 17 may engage in any activity necessary to fulfill the intent of this act, including, but not limited to, the following:

(a) Informing the state, units of local government, private agencies and organizations, and the general public of the nature and extent of the need for workforce development services for businesses and individuals within the Michigan works area.

(b) Developing and administering local workforce development programs within the Michigan works area.

(c) Conducting pilot and demonstration projects to research the effectiveness of innovative approaches to reduce unemployment, improve services, and utilize resources.

(d) Providing and advocating for training and technical assistance to public and private agencies, community groups, and local units of government to better define problems, improve services, and facilitate citizen participation.

(e) Increasing interagency coordination and cooperation in serving businesses and individuals.

(f) Entering into agreements with federal, state, and local public and private agencies and organizations if necessary to carry out the purposes of this act.

(g) Receiving and accepting grants or gifts to support or promote the activities authorized by this act.

(h) Implementing and operating Michigan works one-stop service centers.

(i) Engaging in any other activity necessary to fulfill the intent of this act.

(2) Except for incumbent worker training and business services, an administrative entity designated under section 17 shall not provide workforce development services directly to job seekers and individual trainees without the approval of the governor.

(3) The department shall establish criteria and procedures for approving all pilot or demonstration projects described in subsection (1)(c) that are funded by the department.

408.131 Service providers; competitive procurement process; agreement to deliver services.

Sec. 21. (1) Except as provided in subsection (2), an administrative entity designated under section 17 shall provide state or federally funded workforce development services to program applicants and participants only through service providers selected by a competitive procurement process established in accordance with department policy and applicable state law.

(2) An administrative entity designated under section 17 may provide state or federally funded services directly to program applicants and participants without contracting with a service provider, if the department determines after a competitive procurement process that no other provider is capable of providing the required services within the limits of available funding and cost-to-benefit analysis.

(3) Except as otherwise provided in this section, an administrative entity designated under section 17 may enter into any agreement necessary to deliver services under this act.

408.133 Education advisory group.

Sec. 23. (1) A local workforce development board shall appoint an education advisory group to operate in the Michigan works area and serve in an advisory capacity to the board on educational issues. The board shall appoint the chairperson of that group.

(2) An education advisory group appointed under this section shall include local workforce development board members and representatives of employers, labor representatives, local school districts, postsecondary institutions, intermediate school districts, career and technical educators, public school parents, and academic educators. An education advisory group member shall be employed in the sector he or she represents.

(3) The conflict of interest provisions in section 15 do not apply to the members of an education advisory group appointed under this section.

408.135 Oversight and evaluation by department; report.

Sec. 25. The department shall oversee and evaluate the activities of the Michigan works agencies and shall require Michigan works agencies to report information to the department to facilitate the oversight. All the reported information shall be available to the public.

This act is ordered to take immediate effect.

Approved December 28, 2006.

Filed with Secretary of State December 29, 2006.

[No. 492]

(SB 124)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 17205.

The People of the State of Michigan enact:

324.17205 Thermostat containing mercury or mercury compound; sale or distribution prohibited; exception.

Sec. 17205. (1) Beginning January 1, 2009, a person shall not sell, offer for sale, or distribute in this state or for use in this state a thermostat for use in regulating room temperature and that contains mercury or a mercury compound.

(2) This section does not apply to a thermostat if the thermostat is a replacement for an existing thermostat containing mercury or a mercury compound that is a component of an appliance.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 123.

(b) Senate Bill No. 186.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 123, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 493, Imd. Eff. Dec. 29, 2006.

Senate Bill No. 186, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 494, Imd. Eff. Dec. 29, 2006.

[No. 493]

(SB 123)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by amending the heading of part 172 and by adding section 17204.

The People of the State of Michigan enact:

PART 172. MERCURY-ADDED PRODUCTS

324.17204 Sale of blood pressure device containing mercury; prohibitions; exceptions.

Sec. 17204. (1) Beginning January 1, 2008, a person shall not sell, offer for sale, or offer for promotional purposes in this state or for use in this state a blood pressure recording, measuring, or monitoring device that contains mercury or a mercury compound intentionally added to the device.

(2) Except as provided in subsection (3), beginning January 1, 2009, a person shall not use a device described in subsection (1) in this state.

(3) Subsection (2) does not apply to a blood pressure recording, measuring, or monitoring device that contains mercury or a mercury-added compound if all of the following requirements are met:

(a) The blood pressure recording, measuring, or monitoring device was purchased prior to the date of enactment of the amendatory act that added this section.

(b) The blood pressure recording, measuring, or monitoring device is used exclusively in a private residence or is used exclusively in a health care facility for the purpose of calibrating blood pressure recording, measuring, or monitoring devices that do not contain mercury or a mercury-added compound and is kept in a locked area within that health care facility that is inaccessible to the general public.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 124.

(b) Senate Bill No. 186.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 124, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 492, Imd. Eff. Dec. 29, 2006.

Senate Bill No. 186, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 494, Imd. Eff. Dec. 29, 2006.

[No. 494]

(SB 186)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal

acts and parts of acts," by amending section 17201 (MCL 324.17201), as added by 2002 PA 578, and by adding section 17206.

The People of the State of Michigan enact:

324.17201 Definitions.

Sec. 17201. As used in this part:

(a) "Appliance" means a refrigerator, dehumidifier, freezer, oven, range, microwave oven, washer, dryer, dishwasher, trash compactor, window room air conditioner, television, or computer. Appliance does not include a home heating or central air-conditioning system.

(b) "Manufacturer" means a person that produces, imports, or distributes mercury thermometers in this state.

(c) "Mercury fever thermometer" means a mercury thermometer used for measuring body temperature.

(d) "Mercury thermometer" means a product or component, other than a dry cell battery, of a product used for measuring temperature that contains mercury or a mercury compound intentionally added to the product or component. Mercury thermometer does not include a product or component of a product that is used as a replacement for an existing thermometer that measures temperature as part of a manufacturing process.

(e) "Thermostat" means a consumer product that uses a switch that contains mercury or a mercury compound to sense and control room temperature, including room temperature in residential, commercial, industrial, and other buildings, by communicating with heating, ventilating, or air-conditioning equipment. Thermostat does not include a product used to control temperature as part of a manufacturing device.

324.17206 Esophageal dilator, bougie tube, or gastrointestinal tube with mercury or mercury compound added; sale, offer for sale, or distribution prohibited; exceptions.

Sec. 17206. (1) Except as provided in subsection (2), beginning January 1, 2009, a person shall not sell, offer for sale, or distribute in this state an esophageal dilator, bougie tube, or gastrointestinal tube if mercury or a mercury compound was added to the product during its manufacture.

(2) This section does not apply to either of the following:

(a) A product the use of which is required by a federal statute or regulation.

(b) A product whose only mercury-containing component is a button cell battery.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) Senate Bill No. 123.

(b) Senate Bill No. 124.

This act is ordered to take immediate effect.

Approved December 28, 2006.

Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 123, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 493, Imd. Eff. Dec. 29, 2006.

Senate Bill No. 124, also referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 492, Imd. Eff. Dec. 29, 2006.

[No. 495]

(SB 1426)

AN ACT to provide that certain entities contracting with state and local units of government are subject to the patient's right to independent review act.

The People of the State of Michigan enact:

550.1951 "Local unit of government" defined.

Sec. 1. As used in this act, "local unit of government" means any political subdivision of this state, including, but not limited to, school districts, community and junior colleges, state universities, cities, villages, townships, charter townships, counties, charter counties, authorities created by the state, and authorities created by other local units of government.

550.1952 Entities contracting with state or local government for costs of health care services under self-funded plan; duties.

Sec. 2. (1) An entity that contracts with a state or local unit of government to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services provided under a self-funded plan established or maintained by that state or local unit of government for its employees shall do all of the following:

(a) Establish procedures and make available to persons covered by the plan internal reviews as though the entity were an insurer subject to section 2213 of the insurance code of 1956, 1956 PA 218, MCL 500.2213.

(b) Establish procedures and make available to persons covered by the plan external reviews in the same manner and subject to all the obligations, conditions, and consequences as though the entity were a health carrier under the patient's right to independent review act, 2000 PA 251, MCL 550.1901 to 550.1929.

(2) The commissioner of the office of financial and insurance services shall provide external reviews under subsection (1)(b) to a person covered by the plan as though that person were a covered person under the patient's right to independent review act, 2000 PA 251, MCL 550.1901 to 550.1929.

550.1953 Exceptions.

Sec. 3. This act does not apply to a self-funded plan that provides coverage only for dental, vision care, or any other limited supplemental benefit.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 496]

(SB 670)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environ-

ment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 30113, 33901, 33902, 33903, 33904, 33908, 33910, 33911, 33916, 33924, 33929, and 33935 (MCL 324.30113, 324.33901, 324.33902, 324.33903, 324.33904, 324.33908, 324.33910, 324.33911, 324.33916, 324.33924, 324.33929, and 324.33935), section 30113 as amended by 2004 PA 325 and sections 33901, 33902, 33903, 33904, 33908, 33910, 33911, 33916, 33924, 33929, and 33935 as added by 1995 PA 59; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.30113 Land and water management permit fee fund.

Sec. 30113. (1) The land and water management permit fee fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. The state treasurer shall annually present to the department an accounting of the amount of money in the fund.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The department shall expend money from the fund, upon appropriation, only to implement this part and the following:

(a) Sections 3104, 3107, and 3108.

(b) Before October 1, 2004, section 12562 of the public health code, 1978 PA 368, MCL 333.12562, or, on or after October 1, 2004, part 33.

(c) Part 303.

(d) Part 315.

(e) Part 323.

(f) Part 325.

(g) Part 339.

(h) Part 353.

(i) Section 117 of the land division act, 1967 PA 288, MCL 560.117.

(5) The department shall annually report to the legislature how money in the fund was expended during the previous fiscal year.

324.33901 Unpatented overflowed lands, made lands, and Lake St. Clair bottomlands; authority of department.

Sec. 33901. All of the unpatented overflowed lands, made lands, and Lake St. Clair bottomlands belonging to this state or held in trust by this state as provided in this part shall be held, leased, disposed of by deed, and controlled by the department in the manner provided in this part.

324.33902 Powers of department to convey lands; dedication of unleased lands for recreational uses.

Sec. 33902. The department shall not deed or convey the lands described in section 33901 except as provided in sections 33903 to 33911. The department may dedicate unleased lands of the character described in section 33901 for public hunting, fishing, and other recreational uses.

324.33903 Conveyance of certain leased lands by department; rights reserved.

Sec. 33903. The department, upon application of any person who, on the effective date of the 2006 amendatory act that amended this section, holds a lease of any portion or portions of land from this state pursuant to former 1913 PA 326, or this part, or upon application by that person's heirs or assigns, shall execute and deliver to the applicant or his or her heirs or assigns a deed conveying to him or her all of the right, title, and interest of this state in and to the lands described in this section, subject to the paramount rights of navigation, hunting, and fishing that remain in the general public and in the government as now existing and recognized by law. The deeds shall contain the provisions as to residency and club use and occupancy as now set forth in all leases previously granted under former 1913 PA 326. An application under this section must be filed at least 1 year before the date on which the lease expires.

324.33904 Deeds; prerequisites to granting.

Sec. 33904. Before the department grants a deed, there shall be presented evidence that the applicant requesting the deed is the lessee of the land, that the land is part of the lands described in section 33903, and that all taxes on the land are paid. All property deeded under this part is thereafter subject to the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, and the recording laws of this state.

324.33908 Receipts; credit of consideration and fees to land and water management permit fee fund.

Sec. 33908. The consideration received for the execution and delivery of deeds under this part and all fees collected under this part shall be forwarded to the state treasurer and credited to the land and water management permit fee fund created in section 30113.

324.33910 Water highway lands; lease; conveyance to contiguous lessees.

Sec. 33910. The department, in its discretion, upon application of a person holding a lease or deed under this part to any lands lying contiguous to a water highway as surveyed under former 1899 PA 175, if it is determined that the water highway is no longer needed for navigation, ingress, and egress to surveyed lots, or for any public use, whether dredged or not, may execute and deliver to the applicant a deed subject to all the applicable conditions and provisions of sections 33902 to 33908, to all of the right, title, and interest of the state in and to 1/2 of the surveyed width of that portion of the water highway as lies contiguous to land held under lease or deed by the applicant.

324.33911 Granting deeds to certain property; requirements.

Sec. 33911. (1) Upon application of a person that holds a lease from this state of any portion or portions of the real property described in this part, the department may execute and deliver to the applicant a deed conveying all of the right, title, and interest of this state in and to that real property, subject to the paramount rights of hunting, fishing, and navigation, which remain in the general public and in the government as recognized by law. The deeds shall contain the same provisions as to use and occupancy now set forth in

all the leases previously granted under former 1913 PA 326 or under this part. The department shall not grant a deed under this part unless the lessee of the subject property agrees to cancel the lease and relinquishes all rights under the lease.

(2) The department shall not grant a deed under this part for a lot that contains a structure unless the structure and the lot subject to the deed, including seawalls where present, comply with the applicable township building code and county and state sanitation codes and part 325, and the structure is located on a parcel of land that is adequately protected from erosion.

(3) A deed granted under this part shall not include a portion of the original lease that is submerged or lies below the elevation of 575.3 International Great Lakes Datum (IGLD 1985). The department of environmental quality shall perform a site inspection and set stakes, if necessary, to identify the boundaries of the area of the leased lot to be deeded. The applicant shall provide a boundary survey, completed by a professional surveyor, that delineates the area of the real property to be deeded. The state shall retain proprietary ownership in trust over the portion of the leased lot below the ordinary high-water mark of Lake St. Clair at the time of the conveyance.

(4) A deed shall not be granted under this part at less than the estimated land value of the real property as determined by the township in which the real property is located. Appraisal procedures and practices may include utilizing independent fee appraisal contractors. The appraisal shall not include improvements such as buildings, seawalls, and docks. Credit shall not be granted to the lessee for the years remaining on an unexpired lease when determining the sale value to the state. The applicant shall remit the full consideration within 1 year after being notified in writing of the selling price by the department. If the applicant does not remit the full consideration for the deed within 1 year, the department shall close the file and a new application must be submitted.

(5) If the applicant is not satisfied with the fair market value determined by the department under subsection (4), the applicant, within 30 days after receiving the determination, may submit a petition in writing to the circuit court in the thirty-first judicial circuit, and the court shall appoint an appraiser or appraisers from the department's approved listing to conduct an appraisal of the parcel. The decision of the court is final. The applicant shall pay all costs associated with this additional appraisal.

(6) A request for a deed shall be on a form provided by the department of environmental quality and shall be accompanied by an application fee of $500.00.

324.33916 Former lease holder as trespasser; recovery of possession by state.

Sec. 33916. If a lease under this part expires and a deed is not issued under this part to the former lease holder, the former lease holder shall be considered to be a trespasser, and an action may be brought in the circuit court for the county in which that land is located, in the name of the people of this state, by the attorney general of this state, to recover possession of that land.

324.33924 Definitions.

Sec. 33924. As used in this part:

(a) "Department" means the department of natural resources unless expressly indicated otherwise.

(b) "Possession", "occupancy", and "improvement" include dredging or ditching, the throwing up of embankments, sheetpiling, filling in, the erection of fences, a boathouse, land made by dredging and filling, or building structures.

(c) "Person" means an individual, partnership, corporation, association, or other nongovernmental legal entity.

(d) "Well maintained" means that any structure on the land complies with township building codes and current county and state sanitation codes and part 325 and that the land is adequately protected from erosion.

324.33929 State leased lands; sale or transfer of lease; statement of purpose; approval by department; record of assignment.

Sec. 33929. (1) Each sale or transfer of a lease shall contain a specific statement of the purpose for which the property leased is to be used by the purchaser or assignee. A sale or transfer of a lease for other than club or residence purposes is not valid unless and until the sale or transfer is approved by the department of environmental quality.

(2) Before selling or transferring a property that is subject to a lease under this part, the parties involved shall apply to the department of environmental quality for approval of the transfer of the lease to the purchaser. The application shall be made on a form provided by the department of environmental quality and shall be accompanied by a fee of $250.00. Upon approval by the department of environmental quality, an assignment of lease form shall be recorded with the county register of deeds.

324.33935 State leased lands; nonpayment of taxes; report.

Sec. 33935. Each county treasurer shall report to the department all descriptions of parcels of property subject to this part that have been returned for nonpayment of taxes, if those taxes have not been paid within 6 months after being returned for nonpayment of taxes. The report shall be made by the treasurer within 30 days after the 6-month period has expired. Land leased or deeded under this part that is returned to state ownership through purchase, gift, devise, lease expiration, or tax reversion shall not be re-leased or sold by the state if that land is not well maintained.

Repeal of MCL 324.33905, 324.33909, 324.33913, 324.33914, 324.33915, 324.33917, 324.33918, 324.33919, 324.33920, 324.33922, 324.33923, 324.33925, 324.33930, 324.33931, 324.33932, 324.33936, 324.33937, 324.33938, 324.33939.

Enacting section 1. Sections 33905, 33909, 33913, 33914, 33915, 33917, 33918, 33919, 33920, 33922, 33923, 33925, 33930, 33931, 33932, 33936, 33937, 33938, and 33939 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.33905, 324.33909, 324.33913, 324.33914, 324.33915, 324.33917, 324.33918, 324.33919, 324.33920, 324.33922, 324.33923, 324.33925, 324.33930, 324.33931, 324.33932, 324.33936, 324.33937, 324.33938, and 324.33939, are repealed.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 497]

(SB 459)

AN ACT to amend 1980 PA 497, entitled "An act to establish, protect, and enforce by lien the rights of persons performing labor or providing material or equipment for the improvement of real property; to provide for certain defenses with respect thereto; to establish a

homeowner construction lien recovery fund within the department of licensing and regulation; to provide for the powers and duties of certain state officers; to provide for the assessments of certain occupations; to prescribe penalties; and to repeal certain acts and parts of acts," by amending the title and sections 104, 106, 107, 114, and 201 (MCL 570.1104, 570.1106, 570.1107, 570.1114, and 570.1201), sections 104, 106, 107, and 114 as amended by 1982 PA 17 and section 201 as amended by 1984 PA 190, and by adding section 114a.

The People of the State of Michigan enact:

TITLE

An act to establish, protect, and enforce by lien the rights of persons performing labor or providing material or equipment for the improvement of real property; to provide for certain defenses with respect thereto; to establish the homeowner construction lien recovery fund; to provide for the powers and duties of certain state officers and agencies; to provide for the assessment of certain occupations; to provide remedies and prescribe penalties; and to repeal acts and parts of acts.

570.1104 Additional definitions.

Sec. 104. (1) "Court" means the circuit court in which an action to enforce a construction lien through foreclosure is pending.

(2) "Department" means the department of labor and economic growth.

(3) "Designee" means the person named by an owner or lessee to receive, on behalf of the owner or lessee, all notices or other instruments whose furnishing is required by this act. The owner or lessee may name himself or herself as designee. The owner or lessee may not name the contractor as designee. However, a contractor who is providing only architectural or engineering services may be named as designee.

(4) "Fringe benefits and withholdings" means compensation due an employee pursuant to a written contract or written policy for holiday, time off for sickness or injury, time off for personal reasons or vacation, bonuses, authorized expenses incurred during the course of employment, and any other contributions made to or on behalf of an employee.

(5) "Fund" means the homeowner construction lien recovery fund created in section 201.

(6) "General contractor" means a contractor who contracts with an owner or lessee to provide, directly or indirectly through contracts with subcontractors, suppliers, or laborers, substantially all of the improvements to the property described in the notice of commencement.

(7) "Improvement" means the result of labor or material provided by a contractor, subcontractor, supplier, or laborer, including, but not limited to, surveying, engineering and architectural planning, construction management, clearing, demolishing, excavating, filling, building, erecting, constructing, altering, repairing, ornamenting, landscaping, paving, leasing equipment, or installing or affixing a fixture or material, pursuant to a contract.

(8) "Laborer" means an individual who, pursuant to a contract with a contractor or subcontractor, provides an improvement to real property through the individual's personal labor.

570.1106 Additional definitions.

Sec. 106. (1) "Person" means an individual, corporation, partnership, sole proprietorship, association, other legal entity, or any combination thereof.

(2) "Project" means the aggregate of improvements contracted for by the contracting owner.

(3) "Qualifying officer" means an individual designated as a qualifying officer of the contractor or subcontractor in the records of the department under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412.

(4) "Residential structure" means an individual residential condominium unit or a residential building containing not more than 2 residential units, the land on which it is or will be located, and all appurtenances, in which the owner or lessee contracting for the improvement is residing or will reside upon completion of the improvement.

(5) "Subcontractor" means a person, other than a laborer or supplier, who pursuant to a contract between himself or herself and a person other than the owner or lessee performs any part of a contractor's contract for an improvement.

(6) "Supplier" means a person who, pursuant to a contract with a contractor or a subcontractor, leases, rents, or in any other manner provides material or equipment that is used in the improvement of real property.

(7) "Wages" means all earnings of an employee whether determined on the basis of time, task, piece, commission, or other method of calculation for labor or services except fringe benefits and withholdings.

570.1107 Construction lien generally.

Sec. 107. (1) Each contractor, subcontractor, supplier, or laborer who provides an improvement to real property has a construction lien upon the interest of the owner or lessee who contracted for the improvement to the real property, as described in the notice of commencement given under section 108 or 108a, the interest of an owner who has subordinated his or her interest to the mortgage for the improvement of the real property, and the interest of an owner who has required the improvement. A construction lien acquired pursuant to this act shall not exceed the amount of the lien claimant's contract less payments made on the contract.

(2) A construction lien under this act attaches to the entire interest of the owner or lessee who contracted for the improvement, including any subsequently acquired legal or equitable interest.

(3) Each contractor, subcontractor, supplier, or laborer who provides an improvement to real property to which the person contracting for the improvement had no legal title has a construction lien upon the improvement for which the contractor, subcontractor, supplier, or laborer provided labor, material, or equipment. The forfeiture, surrender, or termination of any title or interest held by an owner or lessee who contracted for an improvement to the property, an owner who subordinated his or her interest to the mortgage for the improvement, or an owner who has required the improvement does not defeat the lien of the contractor, subcontractor, supplier, or laborer upon the improvement.

(4) If the rights of a person contracting for an improvement as a land contract vendee or a lessee are forfeited, surrendered, or otherwise terminated, any lien claimant who has provided a notice of furnishing or is excused from providing a notice of furnishing under section 108, 108a, or 109 and who performs the covenants contained in the land contract or lease within 30 days after receiving actual notice of the forfeiture, surrender, or termination is subrogated to the rights of the contracting vendee or lessee as those rights existed immediately before the forfeiture, surrender, or termination.

(5) For purposes of this act, if the real property is owned or leased by more than 1 person, there is a rebuttable presumption that an improvement to real property under a contract with an owner or lessee was consented to by any other co-owner or co-lessee. If enforcement of a construction lien through foreclosure is sought and the court finds that the improvement was consented to by a co-owner or co-lessee who did not contract for the

improvement, the court shall order the entire interest of that co-owner or co-lessee, including any subsequently acquired legal or equitable interest, to be subject to the construction lien. A deficiency judgment shall not be entered against a noncontracting owner, co-owner, lessee, or co-lessee.

(6) If the real property of an owner or lessee is subject to multiple construction liens, the sum of the construction liens shall not exceed the amount the owner or lessee agreed to pay the person with whom he or she contracted for the improvement as modified by all additions, deletions, and other amendments, less payments made by or on behalf of the owner or lessee, pursuant to either a contractor's sworn statement or a waiver of lien, in accordance with this act.

(7) After the effective date of the amendatory act that added this subsection, a construction lien of a subcontractor or supplier for an improvement to a residential structure shall only include an amount for interest, including, but not limited to, a time-price differential or a finance charge, if the amount is in accordance with the terms of the contract between the subcontractor or supplier and the contractor or subcontractor and does not include any interest that accrues after 90 days after the claim of lien is recorded.

570.1114 Construction lien upon interest of owner or lessee in residential structure; providing improvement pursuant to written contract required; statement; contents.

Sec. 114. A contractor does not have a right to a construction lien on the interest of an owner or lessee in a residential structure unless the contractor has provided an improvement to the residential structure pursuant to a written contract between the owner or lessee and the contractor and any amendments or additions to the contract are also in writing. The contract required by this section shall contain a statement, in type no smaller than that of the body of the contract, stating all of the following:

(a) That a residential builder or a residential maintenance and alteration contractor is required to be licensed under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412. That an electrician is required to be licensed under the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892. That a plumbing contractor is required to be licensed under the state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569. That a mechanical contractor is required to be licensed under the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988.

(b) If the contractor is required to be licensed to provide the contracted improvement, that the contractor is licensed and the contractor's license number.

570.1114a Construction lien recorded by unlicensed person.

Sec. 114a. (1) The owner of residential property on which a construction lien has been recorded by a person who was not licensed as described in section 114, or any person affected by the lien, may bring an action to discharge the lien.

(2) If the court in an action under subsection (1) determines that the person who recorded the lien was not licensed as required, the person is liable to the person who brought the action for all damages that result from the recording and any attempts to enforce the lien, including actual costs and attorney fees.

(3) A person who brings an action to recover for the performance of an act or contract for which a license is required as described in section 114 shall allege in the complaint and has the burden of proving that he or she was properly licensed.

570.1201 Homeowner construction lien recovery fund; creation; funding; fees; renewal fee; recovery from fund; date renewal fees due.

Sec. 201. (1) The homeowner construction lien recovery fund is created within the department. The fund shall be self-supporting and shall be funded as follows:

(a) In addition to the license fee, a person who applies for 1 of the following shall pay a fee of $10.00 and, subject to subsection (6), a person who applies to renew 1 of the following shall pay a fee of $10.00 for each year that the renewed license will be valid:

(*i*) A residential builders license or a residential maintenance and alteration contractor's license under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412.

(*ii*) An electrical contractor's license under the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892.

(*iii*) A plumbing contractor's license under the state plumbing act, 2002 PA 733, MCL 338.3511 to 338.3569.

(*iv*) A mechanical contractor's license under the Forbes mechanical contractors act, 1984 PA 192, MCL 338.971 to 338.988.

(b) A laborer who seeks to recover from the fund for the first time shall not be required to pay a fee until he or she obtains a recovery from the fund, at which time a fee of $15.00 shall be withheld by the fund from the laborer's final recovery.

(c) Except for persons described in subdivisions (a) and (b), all other lien claimants may become members of the fund by paying a fee of $50.00 prior to the date of the lien claimant's contract for the improvement to a residential structure. If the lien claimant is a supplier that conducts business from more than 1 retail location, each retail location shall be treated as a separate person for purposes of paying fees and renewal fees for fund membership.

(d) Subject to subsection (6), a person who has paid a fee under subdivision (b) or (c) shall pay a renewal fee as follows:

(*i*) If the person paid the initial fee on or before June 1, 2006, a renewal fee of $30.00 on or before June 1, 2009, and a renewal fee of $30.00 on or before June 1 of every third year after the first renewal payment.

(*ii*) If the person paid the initial fee after June 1, 2006, a renewal fee of $30.00 on or before the first June 1 following the third anniversary date of the initial payment and a renewal fee of $30.00 on or before June 1 of every third year after the first renewal payment.

(2) A person may pay a renewal fee under subsection (1)(d) after the date on which it is due, but is not entitled to recover from the fund for an improvement made after the due date and before the renewal fee is paid.

(3) A person who becomes a member of the fund by paying a fee under subsection (1) shall notify the department division that administers the fund and, if required by law, the appropriate licensing agency, in writing, of a change in the person's name, address, or form of business organization within 30 days of the change. Proof that a notice or other document related to this act was mailed or, if another method of delivery is required by law or rule, delivered by that other method to a member at the last address that the member provided to the fund administrator is conclusive proof that the notice or document was received by the member.

(4) At least 30 days before the date that a renewal payment under subsection (1)(d) is due, the department shall send a notice of the amount that will be due and the payment due date to the person who paid the fee under subsection (1)(b) or (c). The notice shall be sent by ordinary mail to the last address that the person provided to the fund administrator.

(5) A person is not entitled to recover from the fund unless the person has paid into the fund as required by this act.

(6) If on December 1 of any year the balance in the fund is more than $6,000,000.00, a renewal fee under subsection (1) with a due date after January 1 of the following year is not due. If on any subsequent December 1 the balance in the fund is less than $4,000,000.00, renewal fees under subsection (1) are due after January 1 of the following year.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 405 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 405, referred to in enacting section 1, was filed with the Secretary of State January 3, 2007, and became 2006 PA 572, Imd. Eff. Jan. 3, 2007.

[No. 498]

(SB 868)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 78m (MCL 211.78m), as amended by 2003 PA 263.

The People of the State of Michigan enact:

211.78m Granting state right of first refusal; election by state not to purchase property; purchase of property by city, village, township, or county; property sale at auction; notice of time and location; procedure; property not previously sold; disposition of sale proceeds; joint sale by 2 or more county treasurers; deed recording; "minimum bid" defined; cancellation of taxes upon transfer or retention of property; foreclosed property defined as facility.

Sec. 78m. (1) Not later than the first Tuesday in July, immediately succeeding the entry of judgment under section 78k vesting absolute title to tax delinquent property in the foreclosing governmental unit, this state is granted the right of first refusal to purchase property at the greater of the minimum bid or its fair market value by paying that amount

to the foreclosing governmental unit if the foreclosing governmental unit is not this state. If this state elects not to purchase the property under its right of first refusal, a city, village, or township may purchase for a public purpose any property located within that city, village, or township set forth in the judgment and subject to sale under this section by payment to the foreclosing governmental unit of the minimum bid. If a city, village, or township does not purchase that property, the county in which that property is located may purchase that property under this section by payment to the foreclosing governmental unit of the minimum bid. If property is purchased by a city, village, township, or county under this subsection, the foreclosing governmental unit shall convey the property to the purchasing city, village, township, or county within 30 days. If property purchased by a city, village, township, or county under this subsection is subsequently sold for an amount in excess of the minimum bid and all costs incurred relating to demolition, renovation, improvements, or infrastructure development, the excess amount shall be returned to the delinquent tax property sales proceeds account for the year in which the property was purchased by the city, village, township, or county or, if this state is the foreclosing governmental unit within a county, to the land reutilization fund created under section 78n. Upon the request of the foreclosing governmental unit, a city, village, township, or county that purchased property under this subsection shall provide to the foreclosing governmental unit without cost information regarding any subsequent sale or transfer of the property. This subsection applies to the purchase of property by this state, a city, village, or township, or a county prior to a sale held under subsection (2).

(2) Subject to subsection (1), beginning on the third Tuesday in July immediately succeeding the entry of the judgment under section 78k vesting absolute title to tax delinquent property in the foreclosing governmental unit and ending on the immediately succeeding first Tuesday in November, the foreclosing governmental unit, or its authorized agent, at the option of the foreclosing governmental unit, shall hold at least 2 property sales at 1 or more convenient locations at which property foreclosed by the judgment entered under section 78k shall be sold by auction sale, which may include an auction sale conducted via an internet website. Notice of the time and location of the sales shall be published not less than 30 days before each sale in a newspaper published and circulated in the county in which the property is located, if there is one. If no newspaper is published in that county, publication shall be made in a newspaper published and circulated in an adjoining county. Each sale shall be completed before the first Tuesday in November immediately succeeding the entry of judgment under section 78k vesting absolute title to the tax delinquent property in the foreclosing governmental unit. Except as provided in subsection (5), property shall be sold to the person bidding the highest amount above the minimum bid. The foreclosing governmental unit may sell parcels individually or may offer 2 or more parcels for sale as a group. The minimum bid for a group of parcels shall equal the sum of the minimum bid for each parcel included in the group. The foreclosing governmental unit may adopt procedures governing the conduct of the sale and may cancel the sale prior to the issuance of a deed under this subsection if authorized under the procedures. The foreclosing governmental unit may require full payment by cash, certified check, or money order at the close of each day's bidding. Not more than 30 days after the date of a sale under this subsection, the foreclosing governmental unit shall convey the property by deed to the person bidding the highest amount above the minimum bid. The deed shall vest fee simple title to the property in the person bidding the highest amount above the minimum bid, unless the foreclosing governmental unit discovers a defect in the foreclosure of the property under sections 78 to 78*l*. If this state is the foreclosing governmental unit within a county, the department of natural resources shall conduct the sale of property under this subsection and subsections (4) and (5) on behalf of this state.

(3) For sales held under subsection (2), after the conclusion of that sale, and prior to any additional sale held under subsection (2), a city, village, or township may purchase any property not previously sold under subsection (1) or (2) by paying the minimum bid to the foreclosing governmental unit. If a city, village, or township does not purchase that property, the county in which that property is located may purchase that property under this section by payment to the foreclosing governmental unit of the minimum bid.

(4) If property is purchased by a city, village, township, or county under subsection (3), the foreclosing governmental unit shall convey the property to the purchasing city, village, or township within 30 days.

(5) All property subject to sale under subsection (2) shall be offered for sale at not less than 2 sales conducted as required by subsection (2). The final sale held under subsection (2) shall be held not less than 28 days after the previous sale under subsection (2). At the final sale held under subsection (2), the sale is subject to the requirements of subsection (2), except that the minimum bid shall not be required. However, the foreclosing governmental unit may establish a reasonable opening bid at the sale to recover the cost of the sale of the parcel or parcels.

(6) On or before December 1 immediately succeeding the date of the sale under subsection (5), a list of all property not previously sold by the foreclosing governmental unit under this section shall be transferred to the clerk of the city, village, or township in which the property is located. The city, village, or township may object in writing to the transfer of 1 or more parcels of property set forth on that list. On or before December 30 immediately succeeding the date of the sale under subsection (5), all property not previously sold by the foreclosing governmental unit under this section shall be transferred to the city, village, or township in which the property is located, except those parcels of property to which the city, village, or township has objected. Property located in both a village and a township may be transferred under this subsection only to a village. The city, village, or township may make the property available under the urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for any other lawful purpose.

(7) If property not previously sold is not transferred to the city, village, or township in which the property is located under subsection (6), the foreclosing governmental unit shall retain possession of that property. If the foreclosing governmental unit retains possession of the property and the foreclosing governmental unit is this state, title to the property shall vest in the land bank fast track authority created under section 15 of the land bank fast track act, 2003 PA 258, MCL 124.765.

(8) A foreclosing governmental unit shall deposit the proceeds from the sale of property under this section into a restricted account designated as the "delinquent tax property sales proceeds for the year _____". The foreclosing governmental unit shall direct the investment of the account. The foreclosing governmental unit shall credit to the account interest and earnings from account investments. Proceeds in that account shall only be used by the foreclosing governmental unit for the following purposes in the following order of priority:

(a) The delinquent tax revolving fund shall be reimbursed for all taxes, interest, and fees on all of the property, whether or not all of the property was sold.

(b) All costs of the sale of property for the year shall be paid.

(c) Any costs of the foreclosure proceedings for the year, including, but not limited to, costs of mailing, publication, personal service, and outside contractors shall be paid.

(d) Any costs for the sale of property or foreclosure proceedings for any prior year that have not been paid or reimbursed from that prior year's delinquent tax property sales proceeds shall be paid.

(e) Any costs incurred by the foreclosing governmental unit in maintaining property foreclosed under section 78k before the sale under this section shall be paid, including costs of any environmental remediation.

(f) If the foreclosing governmental unit is not this state, any of the following:

(*i*) Any costs for the sale of property or foreclosure proceedings for any subsequent year that are not paid or reimbursed from that subsequent year's delinquent tax property sales proceeds shall be paid from any remaining balance in any prior year's delinquent tax property sales proceeds account.

(*ii*) Any costs for the defense of title actions.

(*iii*) Any costs incurred in administering the foreclosure and disposition of property forfeited for delinquent taxes under this act.

(g) If the foreclosing governmental unit is this state, any remaining balance shall be transferred to the land reutilization fund created under section 78n.

(h) In 2008 and each year after 2008, if the foreclosing governmental unit is not this state, not later than June 30 of the second calendar year after foreclosure, the foreclosing governmental unit shall submit a written report to its board of commissioners identifying any remaining balance and any contingent costs of title or other legal claims described in subdivisions (a) through (f). All or a portion of any remaining balance, less any contingent costs of title or other legal claims described in subdivisions (a) through (f), may subsequently be transferred into the general fund of the county by the board of commissioners.

(9) Two or more county treasurers of adjacent counties may elect to hold a joint sale of property as provided in this section. If 2 or more county treasurers elect to hold a joint sale, property may be sold under this section at a location outside of the county in which the property is located. The sale may be conducted by any county treasurer participating in the joint sale. A joint sale held under this subsection may include or be an auction sale conducted via an internet website.

(10) The foreclosing governmental unit shall record a deed for any property transferred under this section with the county register of deeds. The foreclosing governmental unit may charge a fee in excess of the minimum bid and any sale proceeds for the cost of recording a deed under this subsection.

(11) As used in this section, "minimum bid" is the minimum amount established by the foreclosing governmental unit for which property may be sold under this section. The minimum bid shall include all of the following:

(a) All delinquent taxes, interest, penalties, and fees due on the property. If a city, village, or township purchases the property, the minimum bid shall not include any taxes levied by that city, village, or township and any interest, penalties, or fees due on those taxes.

(b) The expenses of administering the sale, including all preparations for the sale. The foreclosing governmental unit shall estimate the cost of preparing for and administering the annual sale for purposes of prorating the cost for each property included in the sale.

(12) For property transferred to this state under subsection (1), a city, village, or township under subsection (6) or retained by a foreclosing governmental unit under subsection (7), all taxes due on the property as of the December 31 following the transfer or retention of the property are canceled effective on that December 31.

(13) For property sold under this section, transferred to this state under subsection (1), a city, village, or township under subsection (6), or retained by a foreclosing governmental unit under subsection (7), all liens for costs of demolition, safety repairs, debris removal, or sewer or water charges due on the property as of the December 31 immediately succeeding

the sale, transfer, or retention of the property are canceled effective on that December 31. This subsection does not apply to liens recorded by the department of environmental quality under this act or the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(14) If property foreclosed under section 78k and held by or under the control of a foreclosing governmental unit is a facility as defined under section 20101(1)(o) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, prior to the sale or transfer of the property under this section, the property is subject to all of the following:

(a) Upon reasonable written notice from the department of environmental quality, the foreclosing governmental unit shall provide access to the department of environmental quality, its employees, contractors, and any other person expressly authorized by the department of environmental quality to conduct response activities at the foreclosed property. Reasonable written notice under this subdivision may include, but is not limited to, notice by electronic mail or facsimile, if the foreclosing governmental unit consents to notice by electronic mail or facsimile prior to the provision of notice by the department of environmental quality.

(b) If requested by the department of environmental quality to protect public health, safety, and welfare or the environment, the foreclosing governmental unit shall grant an easement for access to conduct response activities on the foreclosed property as authorized under chapter 7 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20519.

(c) If requested by the department of environmental quality to protect public health, safety, and welfare or the environment, the foreclosing governmental unit shall place and record deed restrictions on the foreclosed property as authorized under chapter 7 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 to 324.20519.

(d) The department of environmental quality may place an environmental lien on the foreclosed property as authorized under section 20138 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20138.

(15) If property foreclosed under section 78k and held by or under the control of a foreclosing governmental unit is a facility as defined under section 20101(1)(o) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, prior to the sale or transfer of the property under this section, the department of environmental quality shall request and the foreclosing governmental unit shall transfer the property to the state land bank fast track authority created under section 15 of the land bank fast track act, 2003 PA 258, MCL 124.765, if all of the following apply:

(a) The department of environmental quality determines that conditions at a foreclosed property are an acute threat to the public health, safety, and welfare, to the environment, or to other property.

(b) The department of environmental quality proposes to undertake or is undertaking state-funded response activities at the property.

(c) The department of environmental quality determines that the sale, retention, or transfer of the property other than under this subsection would interfere with response activities by the department of environmental quality.

This act is ordered to take immediate effect.

Approved December 28, 2006.

Filed with Secretary of State December 29, 2006.

[No. 499]

(HB 4317)

AN ACT to amend 1973 PA 139, entitled "An act to provide forms of county government; to provide for county managers and county executives and to prescribe their powers and duties; to abolish certain departments, boards, commissions, and authorities; to provide for transfer of certain powers and functions; to prescribe powers of a board of county commissioners and elected officials; to provide organization of administrative functions; to transfer property; to retain ordinances and laws not inconsistent with this act; to provide methods for abolition of a unified form of county government; and to prescribe penalties and provide remedies," by amending section 12 (MCL 45.562).

The People of the State of Michigan enact:

45.562 Officials; powers; functions; manner of election or appointment; term.

Sec. 12. (1) Upon the date an optional unified form of county government becomes effective, the following officials shall exercise the powers and functions as provided by law, unless other powers or functions are delegated to an official by the board of county commissioners:

(a) The sheriff.

(b) The clerk-register or clerk and the register of deeds.

(c) The treasurer.

(d) The prosecuting attorney. If a county employs an attorney under 1941 PA 15, MCL 49.71 to 49.73, the prosecuting attorney shall not act relative to 1941 PA 15, MCL 49.71 to 49.73.

(e) The drain commissioner.

(f) The boards of county road commissioners. Members of the county road commission shall be appointed as provided under section 6 of 1909 PA 283, MCL 224.6. In a county with a population of 1,000,000 or more, the board of county road commissioners shall not exceed 3 members.

(2) The officials named in subsection (1) shall be elected or appointed in the manner and for a term as provided by law.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 500]

(HB 5453)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain

appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 52504 (MCL 324.52504), as added by 2004 PA 125.

The People of the State of Michigan enact:

324.52504 Harvest and sale of timber; deposit of proceeds into forest development fund; report.

Sec. 52504. (1) The department shall harvest timber from the state forest and other state owned lands owned or controlled by the department in compliance with the plan and any plan updates.

(2) Unless otherwise dedicated by law, proceeds from the sale of timber from the state forest and other state owned lands owned or controlled by the department shall be forwarded to the state treasurer for deposit into the forest development fund established pursuant to section 50507.

(3) Not later than December 31 of each year, the department shall submit a report, to the standing committees of the senate and house of representatives with jurisdiction over forestry issues, that includes all of the following:

(a) The total number of acres in the state forest that have been identified by the department as having site conditions that restrain timber sales.

(b) The site conditions applicable to acreage identified under subdivision (a).

(c) The total number of acres identified under subdivision (a) in the previous year's report that are not identified under subdivision (a) in the current report and have been made available for timber sale.

(d) The locations where the acres identified under subdivision (a) and acres as identified under subdivision (c) are located.

(e) A statement of what the department intends to do to remove the particular site conditions identified under subdivision (b).

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State December 29, 2006.

[No. 501]

(SB 162)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe

penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," (MCL 436.1101 to 436.2303) by adding section 521a.

The People of the State of Michigan enact:

436.1521a Public on-premises licenses; issuance to businesses; conditions; commercial investment in redevelopment project area; time period; total investment; number of licenses; requirements; fees; transfer of license prohibited; attempt to secure on-premise escrowed license or quota license; definitions.

Sec. 521a. (1) In order to allow cities to enhance the quality of life for their residents and visitors to their communities, the commission may issue public on-premises licenses in addition to those quota licenses allowed in cities under section 531(1). The licenses under this section shall be issued to businesses that meet 1 of the following conditions:

(a) Are located in a city redevelopment project area meeting the criteria described in subsections (3) and (4) and are engaged in activities determined by the commission to be related to dining, entertainment, or recreation.

(b) Are located in a development district or area that is any of the following:

(*i*) An authority district established under the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830.

(*ii*) A development area established under the corridor improvement authority act, 2005 PA 280, MCL 125.2871 to 125.2898.

(*iii*) A downtown district established under 1975 PA 197, MCL 125.1651 to 125.1681.

(*iv*) A principal shopping district established under 1961 PA 120, MCL 125.981 to 125.990m.

(2) The commission shall not issue a license under subsection (1)(a) unless the applicant fulfills the following in relation to the licensed premises:

(a) Provides the activity described in subsection (1)(a) not less than 5 days per week.

(b) Is open to the public not less than 10 hours per day, 5 days per week.

(c) Presents verification of redevelopment project area status to the commission that shall include the following:

(*i*) A resolution of the governing body of the city establishing its status as a redevelopment project area.

(*ii*) An affidavit from the assessor, as certified by the city clerk, stating the total amount of investment in real and personal property within the redevelopment project area of the city during the preceding 3 years. In the case of an applicant seeking a license under this section within the first license cycle after the effective date of this section, the time period described in this subdivision may be up to 5 years, or 7 years for a city having a population between 80,000 and 85,000 according to the 2000 federal decennial census and the application is submitted within the first 6 months after the effective date of this section.

(*iii*) An affidavit from the assessor, as certified by the city clerk, separately stating the amount of investment money expended for manufacturing, industrial, residential, and commercial development within the redevelopment project area of the city during the preceding 3 years. In the case of an applicant seeking a license under this section within the first license cycle after the effective date of this section, the time period described in this subdivision

may be up to 5 years, or 7 years for a city having a population between 80,000 and 85,000 according to the 2000 federal decennial census and the application is submitted within the first 6 months after the effective date of this section.

(3) Relative to the licenses issued under subsection (1)(a), the amount of commercial investment in the redevelopment project area within the city shall constitute not less than 25% of the total investment in real and personal property in that redevelopment project area as evidenced by an affidavit of the city assessor. This subsection does not prevent the city from realigning the redevelopment project area in the presentment of verification provided for under subsection (2)(c).

(4) In relation to a license issued under subsection (1)(a), an applicant shall be located in a city that meets at least 1 of the investment requirements of subsection (1)(a) during the 3 years preceding the submission of its application, or within the preceding 5 years in the case of an applicant applying during the first license cycle after the effective date of this section. The total investment in real and personal property in the redevelopment project area within the city over the appropriate time period described in this subsection shall be at least 1 of the following:

(a) Not less than $50,000,000.00 in cities having a population of 50,000 or more.

(b) Not less than an amount reflecting $1,000,000.00 per 1,000 people in cities having a population of less than 50,000.

(5) The commission may issue a license under subsection (1)(a) for each monetary threshold described in subsection (4)(a) and (b), and, after reaching the initial threshold, 1 additional license for each major fraction thereof above that original threshold.

(6) The following apply to a license issued under subsection (1)(b):

(a) The amount expended for the rehabilitation or restoration of the building that housed the licensed premises shall be not less than $75,000.00 over a period of the preceding 5 years or a commitment for a capital investment of at least that amount in the building that houses the licensed premises, which must be expended before the issuance of the license.

(b) The total amount of public and private investment in real and personal property within the qualified redevelopment project area shall not be less than $200,000.00 over a period of the preceding 5 years as verified to the commission by means of an affidavit from the assessor, as certified by the clerk of the local governmental unit.

(c) The licensed business is engaged in dining, entertainment, or recreation, is open to the general public, and has a seating capacity of not less than 50 persons.

(7) The commission may issue 1 license for each monetary threshold described in subsection (6)(b), or for each major fraction thereof. The initial enhanced license fee for a license issued under this section is $20,000.00.

(8) The commission shall not transfer a license issued under this section to another location. If the licensee goes out of business, the licensee shall surrender the license to the commission. The governing body of the local governmental unit may approve another applicant within a city redevelopment project area to replace a licensee who has surrendered the license issued under this section provided the new applicant's business meets the requirements of this section but without regard to subsections (2)(c), (3), and (4) or subsection (6)(b).

(9) The individual signing the application for the license shall state and demonstrate that the applicant attempted to secure an appropriate on-premise escrowed license or quota license issued under section 531 and that, to the best of his or her knowledge, an on-premise license or quota license issued under section 531 is not readily available within the local unit of government in which the applicant proposes to operate.

(10) As used in this section:

(a) "City" means a city established under either of the following:

(*i*) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

(*ii*) The fourth class city act, 1895 PA 215, MCL 81.1 to 113.20.

(b) "Escrowed license" means a license in which the rights of the licensee in the license or to the renewal of the license are still in existence and are subject to renewal and activation in the manner provided for in R 436.1107 of the Michigan administrative code.

(c) "Readily available" means available under a standard of economic feasibility, as applied to the specific circumstances of the applicant, that includes, but is not limited to, the following:

(*i*) The fair market value of the license, if determinable.

(*ii*) The size and scope of the proposed operation.

(*iii*) The existence of mandatory contractual restrictions or inclusions attached to the sale of the license.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 163 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved December 28, 2006.

Filed with Secretary of State December 29, 2006.

Compiler's note: Senate Bill No. 163, referred to in enacting section 1, was filed with the Secretary of State December 29, 2006, and became 2006 PA 502, Imd. Eff. Dec. 29, 2006.

[No. 502]

(SB 163)

AN ACT to amend 1998 PA 58, entitled "An act to create a commission for the control of the alcoholic beverage traffic within this state, and to prescribe its powers, duties, and limitations; to provide for powers and duties for certain state departments and agencies; to impose certain taxes for certain purposes; to provide for the control of the alcoholic liquor traffic within this state and to provide for the power to establish state liquor stores; to prohibit the use of certain devices for the dispensing of alcoholic vapor; to provide for the care and treatment of alcoholics; to provide for the incorporation of farmer cooperative wineries and the granting of certain rights and privileges to those cooperatives; to provide for the licensing and taxation of activities regulated under this act and the disposition of the money received under this act; to prescribe liability for retail licensees under certain circumstances and to require security for that liability; to provide procedures, defenses, and remedies regarding violations of this act; to provide for the enforcement and to prescribe penalties for violations of this act; to provide for allocation of certain funds for certain purposes; to provide for the confiscation and disposition of property seized under this act; to provide referenda under certain circumstances; and to repeal acts and parts of acts," by amending section 521 (MCL 436.1521), as amended by 1998 PA 282.