

HOUSE BILL No. 6336

November 10, 2004, Introduced by Rep. Kolb and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
(MCL 600.101 to 600.9947) by adding chapter 80A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER 80A.

LAND USE COURT

Sec. 8051. (1) The land use court is created and is a court
of record.

(2) The land use court shall be located in 1 or more counties
as determined by the supreme court.

(3) The land use court shall maintain its staff and support
services at the seat of government.

(4) The land use court shall be funded from annual
appropriations to the supreme court.

Sec. 8053. (1) The supreme court shall assign to the land

1 use court persons who have been elected to and served as judges
2 in this state and who have requested to be considered for that
3 assignment. In making assignments to the land use court, the
4 supreme court shall consider a person's experience in presiding
5 over actions involving land use in this state. The supreme court
6 shall endeavor to reflect the ethnic and racial diversity of the
7 state population and the statewide judicial bench when making the
8 assignments under this subsection.

9 (2) The total number of judges assigned to the land use court
10 shall reasonably reflect the caseload of the land use court.

11 (3) The duration of a judge's assignment to the land use
12 court shall be at least 3 years.

13 (4) The county clerk of the county in which the land use
14 court sits shall be the clerk for the land use court. The land
15 use court clerk shall deputize staff designated by the supreme
16 court to receive all pleadings filed in the land use court.

17 (5) The Michigan judicial institute shall provide appropriate
18 training for judges who are assigned as judges of the land use
19 court.

20 Sec. 8055. (1) The land use court has concurrent
21 jurisdiction over land use disputes in which the amount in
22 controversy exceeds \$25,000.00.

23 (2) An action that involves a land use dispute may be
24 maintained in the land use court although it also involves claims
25 that are not land use disputes.

26 (3) For purposes of this section, "land use dispute" means an
27 action or dispute that is primarily concerned with land use or

1 zoning issues.

2 Sec. 8057. (1) An action may be filed in the land use court
3 by filing a complaint with the clerk of the land use court.

4 (2) Practice and procedure in the land use court, the form
5 and manner of pleadings, and the manner of service of process
6 shall be in accordance with special rules for the land use court
7 adopted by the supreme court.

8 Sec. 8059. Before a civil action is filed in the land use
9 court, the party bringing the action shall pay a filing fee in
10 the amount of \$200.00. Each month the clerk of the land use
11 court shall deposit with the state treasurer all fees collected,
12 securing and filing a receipt for all the fees deposited.

13 Sec. 8061. (1) A defendant in an action commenced in the
14 land use court, a plaintiff against whom a counterclaim is filed
15 in that action, or any party added by motion of the original
16 parties as a plaintiff, defendant, or third-party defendant, may
17 cause the entire case to be transferred to the circuit court in a
18 county in which venue is proper by filing a notice of transfer
19 with the clerk of the land use court within 28 days after the
20 date on which the party was served with the pleading that gives
21 it the right to transfer.

22 (2) Within 14 days after the filing of an answer to a
23 complaint or a motion by a defendant for summary disposition,
24 whichever is earlier, the judge to whom the case has been
25 assigned shall make a determination, based solely upon the
26 complaint and answer or the motion, whether the case is primarily
27 a land use dispute. If the judge determines that it is not, the

1 court shall notify the plaintiff of that decision, and the
2 plaintiff has 14 days after service of the court's notification
3 to transfer the case to the circuit court in a county in which
4 venue is proper. If the plaintiff does not transfer the case to
5 the circuit court, the judge of the land use court shall do so.
6 Subject to subsection (3), if the judge determines that it is
7 primarily a land use dispute, the case shall proceed in the land
8 use court.

9 (3) If, at the time of or after the filing of the defendant's
10 answer or motion for summary disposition, parties or claims are
11 added or deleted, the judge to whom the case is assigned, not
12 later than 14 days after the answer or motion is filed, shall
13 again make a determination, based solely upon the pleadings as
14 they then exist, whether the case is then primarily a land use
15 dispute. If the judge determines that it is not, the court shall
16 notify the plaintiff of that decision, and the plaintiff has 14
17 days after service of the court's notification to transfer the
18 case to the circuit court in a county in which venue is proper.
19 If the plaintiff does not transfer the case to the circuit court,
20 the judge of the land use court shall do so. If the judge
21 determines that it is primarily a land use dispute, the case
22 shall proceed in the land use court. However, if parties or
23 claims are later added or deleted, the procedures in this
24 subsection apply again.

25 (4) Any determination by a judge of the land use court made
26 under subsections (2) and (3) is final and may not be reviewed or
27 altered by the circuit court to which a case is transferred.

1 (5) If a defendant in an action commenced in the land use
2 court, a plaintiff against whom a counterclaim is filed in such
3 an action, or any party added by motion of the original parties
4 as a plaintiff, defendant, or third-party defendant transfers the
5 action to the circuit court as provided in subsection (1), or the
6 judge determines under subsection (2) or (3) that the case is not
7 primarily a land use dispute and the case is transferred to the
8 circuit court, the clerk of the land use court shall forward to
9 the circuit court, as a filing fee, a portion of the filing fee
10 paid at the commencement of the action in the land use court that
11 is equal to the filing fee otherwise required in the circuit
12 court.

13 Sec. 8063. Unless a party removes an action filed in the
14 land use court to the circuit court pursuant to section 8061, all
15 parties to an action in the land use court shall be considered to
16 have waived the right to trial by jury.

17 Sec. 8065. The land use court has the same power to subpoena
18 witnesses and require the production of books, papers, records,
19 documents, electronic documents, and any other evidence and to
20 punish for contempt as the circuit court has. The judge and
21 clerk of the land use court may administer oaths and affirmations
22 and take acknowledgments of instruments by electronic means. An
23 oath or affirmation taken from a person located outside of this
24 state and pursuant to the laws of the jurisdiction in which the
25 person is located shall be considered to be an oath or
26 affirmation authorized by the laws of this state.

27 Sec. 8067. An action in the land use court shall be heard by

1 the judge without a jury. The court may grant a new trial upon
2 the same terms and under the same conditions and for the same
3 reasons as prevail in the case of the circuit court of this
4 state, in a case heard by a judge without a jury.

5 Sec. 8069. (1) An appeal from the land use court shall be to
6 the court of appeals, as prescribed by supreme court rules.

7 (2) The clerk of the land use court shall immediately furnish
8 the parties to every action with notice of entry of any final
9 order or judgment. The time within which an appeal as of right
10 may be taken shall be governed by supreme court rules.

11 Sec. 8071. The supreme court shall provide by rule for an
12 alternative dispute resolution for matters before the land use
13 court.

14 Sec. 8073. Not later than October 1, 2008, the state court
15 administrator shall submit a written report to the legislature on
16 the operation of the land use court. The report shall include
17 the state court administrator's recommendations, if any, for
18 expanding the jurisdiction of the land use court over other
19 matters.

20 Sec. 8075. (1) A legislative oversight committee on the land
21 use court is created. The committee shall consist of 3 members
22 of the house of representatives appointed by the speaker of the
23 house of representatives, 1 of whom shall not be a member of the
24 majority party, and 3 members of the senate appointed by the
25 majority leader of the senate, 1 of whom shall not be a member of
26 the majority party. Members shall be appointed or removed in the
27 same manner as members of standing committees are appointed or

1 removed in each house. Vacancies shall be filled in the same
2 manner as original appointments. Members of the committee may be
3 reimbursed for expenses incurred in the administration of their
4 duties.

5 (2) Annually the committee shall elect from its membership a
6 chairperson and alternate chairperson, who shall be from
7 different houses, with the first chairperson being from the house
8 of representatives. The position of chairperson shall alternate
9 between the senate and the house of representatives.

10 (3) The business that the committee performs shall be
11 conducted at a public meeting of the committee held in compliance
12 with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.
13 Public notice of the time, date, and place of the meeting shall
14 be given in the manner required by that act.

15 (4) Special meetings of the committee shall be held on call
16 of the chairperson or a majority of the committee. The committee
17 shall prescribe rules for its own procedure. A majority of the
18 committee constitutes a quorum. Any recommendation of the
19 committee requires the concurrence of a majority of its
20 membership. As used in this subsection, "majority" means at
21 least 2 of the 3 members appointed by the speaker of the house
22 and at least 2 of the 3 members appointed by the majority leader
23 of the senate.

24 (5) The committee shall do all of the following for the
25 period beginning January 1, 2005 and ending December 31, 2008:

26 (a) Monitor the development of the land use court.

27 (b) Consider and respond to court rules proposed or adopted

1 by the supreme court.

2 (c) In cooperation with the state court administrative
3 office, determine if further legislation is needed to facilitate
4 the implementation of the land use court or to expand the
5 jurisdiction of the land use court.

6 (6) The committee shall report, in writing, to the
7 chairpersons of the standing committees of the senate and the
8 house of representatives having jurisdiction over legislation
9 pertaining to the judiciary, on the topics listed in subsection
10 (5)(a) to (c), and may accompany the report with proposed bills
11 to implement its recommendations.