

SENATE BILL No. 699

January 13, 2016, Introduced by Senators COLBECK, NOFS and HORN and referred to the Committee on Transportation.

A bill to amend 1846 RS 66, entitled

"Of estates in dower, by the curtesy, and general provisions concerning real estate,"

(MCL 554.131 to 554.139) by adding section 40.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 40. (1) THE OWNER OF REAL PROPERTY HAS EXCLUSIVE CONTROL
2 OF THE IMMEDIATE REACHES ABOVE THE SURFACE OF THE PROPERTY. THE
3 RIGHT TO CONTROL UNDER THIS SUBSECTION INCLUDES THE RIGHT TO USE
4 THE IMMEDIATE REACHES FOR COMMERCIAL PURPOSES.

5 (2) THE OWNER OF REAL PROPERTY MAY GRANT ANOTHER PERSON
6 PERMISSION TO ENTER INTO THE IMMEDIATE REACHES ABOVE THE SURFACE OF
7 THE PROPERTY. THE GRANT OF PERMISSION TO 1 PERSON IS NOT A GRANT OF
8 PERMISSION TO ANY OTHER PERSON.

9 (3) AN AGENCY, EMPLOYEE, OR AGENT OF THIS STATE OR A UNIT OF
10 LOCAL GOVERNMENT MAY ENTER INTO THE IMMEDIATE REACHES ABOVE REAL

1 PROPERTY WITHOUT THE PERMISSION OF THE OWNER OF THE PROPERTY IF THE
2 ENTRY IS IN ACCORDANCE WITH A PROPERLY ISSUED WARRANT OR OCCURS
3 UNDER EXIGENT CIRCUMSTANCES THAT PRECLUDED OBTAINING A WARRANT.

4 (4) THIS SECTION DOES NOT AFFECT THE FOLLOWING:

5 (A) ANY RIGHTS TO USE THE IMMEDIATE REACHES ABOVE THE SURFACE
6 OF THE PROPERTY FOR AVIATION AS EXERCISED OR ALLOWED UNDER THE LAW
7 OF THE UNITED STATES OR THIS STATE.

8 (B) ANY ORDINANCE OF A LOCAL UNIT OF GOVERNMENT IN WHICH THE
9 PROPERTY IS LOCATED THAT RELATES TO THE IMMEDIATE REACHES ABOVE THE
10 SURFACE OF THE PROPERTY.

11 (C) ANY RESTRICTION ON THE CONSTRUCTION OF STRUCTURES ON THE
12 PROPERTY, INCLUDING, BUT NOT LIMITED TO, AERIAL TOWERS, UNDER A
13 STATUTE, RULE, OR REGULATION OF THIS STATE OR THE UNITED STATES.

14 (D) THE RIGHTS OF THE OWNER OF THE REAL PROPERTY TO CONTROL
15 THE ATMOSPHERE OR AIRSPACE ABOVE THE IMMEDIATE REACHES ABOVE THE
16 SURFACE OF THE PROPERTY.

17 (5) AS USED IN THIS SECTION:

18 (A) "IMMEDIATE REACHES ABOVE THE SURFACE OF THE PROPERTY"
19 MEANS THE 300 FEET OF ATMOSPHERE OR AIRSPACE IMMEDIATELY ABOVE THE
20 SURFACE OF THE PROPERTY.

21 (B) "OWNER OF REAL PROPERTY" MEANS A PERSON THAT HAS AN ESTATE
22 OF INHERITANCE OR AN ESTATE FOR LIFE IN THE REAL PROPERTY.

23 (C) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
24 ASSOCIATION, OR OTHER LEGAL ENTITY, OTHER THAN A GOVERNMENTAL
25 ENTITY.

26 Enacting section 1. This amendatory act takes effect 90 days
27 after the date it is enacted into law.

1 Enacting section 2. This amendatory act does not take effect
2 unless Senate Bill No. 700
3 of the 98th Legislature is enacted into law.