(*vi*) Is property owned or under the control of a land bank fast track authority under the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774, whether or not located within a qualified local governmental unit. The sale, lease, or transfer of the property by a land bank fast track authority shall not result in the loss to the property of the status as blighted for purposes of this act.

(*vii*) Is improved real property that has remained vacant for 5 consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.

(*viii*) Any property that has code violations posing a severe and immediate health or safety threat and that has not been substantially rehabilitated within 1 year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

(b) "Qualified local governmental unit" means that term as defined in section 2 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2652.

Effective date.

Enacting section 1. This amendatory act takes effect December 23, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless both of the following occur:

(a) Senate Bill No. 693 of the 93rd Legislature is enacted into law.

(b) Senate Joint Resolution E of the 93rd Legislature becomes part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved September 20, 2006.
Filed with Secretary of State September 21, 2006.

Compiler's note: Senate Bill No. 693, referred to in enacting section 2, was filed with the Secretary of State September 21, 2006, and became 2006 PA 368, Eff. Dec. 23, 2006.

Senate Joint Resolution E, also referred to in enacting section 2, was agreed to by the House of Representatives and the Senate on December 13, 2005, and filed with the Secretary of State on December 15, 2005. The proposed amendment to the constitution was submitted to, and approved by, the electors on November 7, 2006, and became effective December 23, 2006.

[No. 368]

(SB 693)

AN ACT to amend 1911 PA 149, entitled "An act to provide for the acquisition by purchase, condemnation and otherwise by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms "public corporations," "state agencies" and "private property" as used herein," by amending section 3 (MCL 213.23).

The People of the State of Michigan enact:

213.23 Authority to take private property; acquisition by purchase or condemnation; public use; burden of proof on condemning authority; reimbursement; preservation of existing right, grant, or benefit.

Sec. 3. (1) Any public corporation or state agency is authorized to take private property necessary for a public improvement or for the purposes of its incorporation or for public

use and to institute and prosecute proceedings for that purpose. When funds have been appropriated by the legislature to a state agency, a division of a state agency, the office of the governor, or a division of the office of the governor for the purpose of acquiring lands or property for a designated public use, the unit of a state agency to which the appropriation has been made is authorized on behalf of the people of the state of Michigan to acquire the lands or property either by purchase, condemnation, or otherwise. For the purpose of condemnation, the unit of a state agency may proceed under this act.

(2) The taking of private property by a public corporation or a state agency for transfer to a private entity is not a public use unless the proposed use of the property is invested with public attributes sufficient to fairly deem the entity's activity governmental by 1 or more of the following:

(a) A public necessity of the extreme sort exists that requires collective action to acquire property for instrumentalities of commerce, including a public utility or a state or federally regulated common carrier, whose very existence depends on the use of property that can be assembled only through the coordination that central government alone is capable of achieving.

(b) The property or use of the property will remain subject to public oversight and accountability after the transfer of the property and will be devoted to the use of the public, independent from the will of the private entity to which the property is transferred.

(c) The property is selected on facts of independent public significance or concern, including blight, rather than the private interests of the entity to which the property is eventually transferred.

(3) As used in subsection (1), "public use" does not include the taking of private property for the purpose of transfer to a private entity for either general economic development or the enhancement of tax revenue.

(4) In a condemnation action, the burden of proof is on the condemning authority to demonstrate, by the preponderance of the evidence, that the taking of a private property is for a public use, unless the condemnation action involves a taking of private property because the property is blighted, in which case the burden of proof is on the condemning authority to demonstrate, by clear and convincing evidence, that the taking of that property is for a public use.

(5) If private property consisting of an individual's principal residence is taken for public use, the amount of compensation made and determined for that taking shall be not less than 125% of that property's fair market value, in addition to any other reimbursement allowed by law. In order to be eligible for reimbursement under this subsection, the individual's principal residential structure must be actually taken or the amount of the individual's private property taken leaves less property contiguous to the individual's principal residential structure than the minimum lot size if the local governing unit has implemented a minimum lot size by zoning ordinance.

(6) A taking of private property for public use, as allowed under this section, does not include a taking for a public use that is a pretext to confer a private benefit on a known or unknown private entity. For purposes of this subsection, the taking of private property for the purposes of a drain project by a drainage district as allowed under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, does not constitute a pretext to confer a private benefit on a private entity.

(7) Any existing right, grant, or benefit afforded to property owners as of December 22, 2006, whether provided by the state constitution of 1963, by this section or other statute, or otherwise, shall be preserved and shall not be abrogated or impaired by the 2006 amendatory act that added this subsection.

Effective date.

Enacting section 1. This amendatory act takes effect December 23, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless both of the following occur:

(a) House Bill No. 5060 of the 93rd Legislature is enacted into law.

(b) Senate Joint Resolution E of the 93rd Legislature becomes part of the state constitution of 1963 as provided in section 1 of article XII of the state constitution of 1963.

This act is ordered to take immediate effect.
Approved September 20, 2006.
Filed with Secretary of State September 21, 2006.

Compiler's note: House Bill No. 5060, referred to in enacting section 2, was filed with the Secretary of State September 21, 2006, and became 2006 PA 367, Eff. Dec. 23, 2006.

Senate Joint Resolution E, also referred to in enacting section 2, was agreed to by the House of Representatives and the Senate on December 13, 2005, and filed with the Secretary of State December 15, 2005. The proposed amendment to the constitution was submitted to, and approved by, the electors on November 7, 2006, and became effective December 23, 2006.

[No. 369]

(HB 5817)

AN ACT to amend 1965 PA 40, entitled "An act to authorize and require public agencies to pay allowances for the expense of moving personal property from real property acquired for public purposes," by amending section 2 (MCL 213.352), as amended by 1991 PA 21.

The People of the State of Michigan enact:

213.352 Occupant who vacates real property; moving expense for personal property; conditions; "personal property" explained; attorney fees and costs; precedence of federal regulations and procedures.

Sec. 2. (1) An occupant who vacates real property on or after May 15, 1965, pursuant to the provisions of a written agreement to purchase the property or pursuant to the provisions of a written agreement for possession and use of the property or pursuant to the transfer of title to the property in condemnation proceedings, shall be reimbursed by the public agency for the reasonable and necessary moving expense for moving his or her personal property not more than 50 miles, subject to the following conditions:

(a) The maximum payment to an individual or family shall not exceed $5,250.00. The maximum payment to a business, including the operation of a farm, or a nonprofit organization shall not exceed $15,000.00.

(b) An individual or a family may elect to receive a fixed moving allowance, in lieu of actual moving expense, based on a schedule of payments established by the acquiring agency taking into consideration the maximum payment allowed, the number of rooms and other factors.

(c) Instead of any other payment under this act, other state law, or federal law, an occupant of residential property who has a leasehold interest of less than 6 months is entitled to elect a fixed payment of $3,500.00. If the occupant does not elect this fixed payment, the occupant may receive a moving allowance as determined under subdivisions (a) and (b).

(d) Except as provided in section 9 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.59, payment shall not be made to an occupant until after the occupant has vacated the real property unless the payment is required to enable the occupant to relocate.

(2) As used in this section, "personal property" does not include a fixture, whether removable or not.

(3) The court may award reasonable attorney fees and costs to an individual described in subsection (1)(c) who brings a successful action to recover a fixed payment or a moving allowance under subsection (1).

(4) Notwithstanding subsections (1) to (3), if the public agency is complying with applicable federal regulations and procedures regarding moving allowances and relocation requirements, those federal regulations and procedures take precedence over any conflicting provisions in this section.

Effective date.

Enacting section 1. This amendatory act takes effect December 23, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) House Bill No. 5818.

(b) House Bill No. 5819.

This act is ordered to take immediate effect.
Approved September 20, 2006.
Filed with Secretary of State September 21, 2006.

Compiler's note: House Bill No. 5818, referred to in enacting section 2, was filed with the Secretary of State September 21, 2006, and became 2006 PA 370, Eff. Dec. 23, 2006.

House Bill No. 5819, also referred to in enacting section 2, was filed with the Secretary of State September 21, 2006, and became 2006 PA 371, Eff. Dec. 23, 2006.

[No. 370]

(HB 5818)

AN ACT to amend 1980 PA 87, entitled "An act to provide procedures for the condemnation, acquisition, or exercise of eminent domain of real or personal property by public agencies or private agencies; to provide for an agency's entry upon land for certain purposes; to provide for damages; to prescribe remedies; and to repeal certain acts and parts of acts," by amending section 16 (MCL 213.66), as amended by 1996 PA 474.

The People of the State of Michigan enact:

213.66 Witness fees and compensation; reimbursement of owner's attorney fees and other expenses; matters involving relocation of indigent person; "indigent person" defined.

Sec. 16. (1) Except as provided in this section, an ordinary or expert witness in a proceeding under this act shall receive from the agency the reasonable fees and compensation

provided by law for similar services in ordinary civil actions in circuit court, including the reasonable expenses for preparation and trial.

(2) If the property owner, by motion to review necessity or otherwise, successfully challenges the agency's right to acquire the property, or the legal sufficiency of the proceedings, and the court finds the proposed acquisition improper, the court shall order the agency to reimburse the owner for actual reasonable attorney fees and other expenses incurred in defending against the improper acquisition.

(3) If the amount finally determined to be just compensation for the property acquired exceeds the amount of the good faith written offer under section 5, the court shall order reimbursement in whole or in part to the owner by the agency of the owner's reasonable attorney's fees, but not in excess of 1/3 of the amount by which the ultimate award exceeds the agency's written offer as defined by section 5. The reasonableness of the owner's attorney fees shall be determined by the court. If the agency or owner is ordered to pay attorney fees as sanctions under MCR 2.403 or 2.405, those attorney fee sanctions shall be paid to the court as court costs and shall not be paid to the opposing party unless the parties agree otherwise.

(4) If the agency settles a case before entry of a verdict or judgment, it may stipulate to pay reasonable attorney and expert witness fees.

(5) Expert witness fees provided for in this section shall be allowed with respect to an expert whose services were reasonably necessary to allow the owner to prepare for trial. For the purpose of this section, for each element of compensation, each party is limited to 1 expert witness to testify on that element of compensation unless, upon showing of good cause, the court permits additional experts. The agency's liability for expert witness fees shall not be diminished or affected by the failure of the owner to call an expert as a witness if the failure is caused by settlement or other disposition of the case or issue with which the expert is concerned.

(6) Except as provided in subsection (7), an agency is not required to reimburse attorney or expert witness fees attributable to an unsuccessful challenge to necessity or to the validity of the proceedings.

(7) In any matter under this act involving the relocation of an indigent person, other than a proceeding concerning the taking of property for the construction of a government-owned transportation project, the court may award reasonable attorney and expert witness fees attributable to an unsuccessful challenge to necessity or to the validity of the proceedings if the court finds that there was a reasonable and good faith claim that the property was not being taken for a public use. This subsection does not affect the right of an indigent person who successfully challenges the agency's right to acquire the property to recover attorney fees, ordinary or expert witness fees, and other expenses incurred in defending against the improper acquisition, as authorized by subsections (1) to (5). As used in this subsection, "indigent person" means an individual whose annual income is at or below 200% of the federal poverty guidelines published by the United States department of health and human services. This subsection does not apply after December 31, 2007.

Effective date.

Enacting section 1. This amendatory act takes effect December 23, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) House Bill No. 5817.

(b) House Bill No. 5819.

This act is ordered to take immediate effect.
Approved September 20, 2006.
Filed with Secretary of State September 21, 2006.

Compiler's note: House Bill No. 5817, referred to in enacting section 2, was filed with the Secretary of State September 21, 2006, and became 2006 PA 369, Eff. Dec. 23, 2006.

House Bill No. 5819, also referred to in enacting section 2, was filed with the Secretary of State September 21, 2006, and became 2006 PA 371, Eff. Dec. 23, 2006.

[No. 371]

(HB 5819)

AN ACT to amend 1980 PA 87, entitled "An act to provide procedures for the condemnation, acquisition, or exercise of eminent domain of real or personal property by public agencies or private agencies; to provide for an agency's entry upon land for certain purposes; to provide for damages; to prescribe remedies; and to repeal certain acts and parts of acts," by amending section 9 (MCL 213.59), as amended by 1996 PA 474.

The People of the State of Michigan enact:

213.59 Surrender of possession of property to agency; time and terms; enforcement; granting interim possession to private agency; indemnity bond; appeal; liability for damages; repayment as condition of order setting aside determination of public necessity; delay or denial; escrow payment; relocation; "comparable replacement dwelling" defined.

Sec. 9. (1) If a motion for review under section 6 is not filed, upon expiration of the time for filing the motion for review, or, if a motion for review is filed, upon final determination of the motion, the court shall fix the time and terms for surrender of possession of the property to the agency and enforce surrender by appropriate order or other process. The court also may require surrender of possession of the property after the motion for review filed under section 6 has been heard, determined and denied by the circuit court, but before a final determination on appeal, if the agency demonstrates a reasonable need.

(2) If interim possession is granted to a private agency, the court, upon motion of the owner, may order the private agency to file an indemnity bond in an amount determined by the court as necessary to adequately secure just compensation to the owner for the property taken.

(3) If an order granting interim possession is entered, an appeal from the order or any other part of the proceedings shall not act as a stay of the possession order. An agency is liable for damages caused by the possession if its right to possession is denied by the trial court or on appeal.

(4) Repayment of all sums advanced shall be a condition precedent to entry of a final order setting aside a determination of public necessity.

(5) Although the court shall not order possession to be surrendered to the agency before it orders that the escrow be distributed under section 8(1) or (4) or retained under section 8(2), the court shall not delay or deny surrender of possession because of any of the following:

(a) A motion filed pursuant to section 6a, challenging the agency's decision to reserve its rights to bring federal or state cost recovery actions.

(b) A motion challenging the agency's escrow under section 8.

(c) An allegation that the agency should have offered a higher amount for the property.

(d) An allegation that the agency should have included additional property in its good faith written offer.

(e) Any other reason except a challenge to the necessity of the acquisition filed under section 6.

(6) The payment of escrow, as ordered under subsection (5), must be made no later than 30 days before physical dispossession. If there is a dispute after the payment is made, the dispute shall be resolved at an apportionment hearing held before physical dispossession.

(7) The following special provisions apply if the surrender of possession of property pursuant to the transfer of title to the property in condemnation proceedings requires the relocation of the owner or another occupant:

(a) If the surrender or possession of property requires the relocation of any individual who occupies a residential dwelling on the property, the individual shall not be required to move from his or her dwelling unless he or she has had a reasonable opportunity not to exceed 180 days after the payment date of moving expenses or the moving allowance provided under 1965 PA 40, MCL 213.351 to 213.355, to relocate to a comparable replacement dwelling.

(b) However, if the agency is complying with applicable federal regulations and procedures regarding payment of compensation or relocation requirements, those federal regulations and procedures take precedence over any conflicting provisions in this section.

(8) As used in this section, "comparable replacement dwelling" means any dwelling that is all of the following:

(a) Decent, safe, and sanitary.

(b) Adequate in size to accommodate the occupants.

(c) Within the financial means of the individual.

(d) Functionally equivalent.

(e) In an area not subject to unreasonable adverse environmental conditions.

(f) In a location generally not less desirable than the location of the individual's dwelling with respect to public utilities, facilities, services, and the individual's place of employment.

Effective date.

Enacting section 1. This amendatory act takes effect December 23, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) House Bill No. 5817.

(b) House Bill No. 5818.

This act is ordered to take immediate effect.
Approved September 20, 2006.
Filed with Secretary of State September 21, 2006.

Compiler's note: House Bill No. 5817, referred to in enacting section 2, was filed with the Secretary of State September 21, 2006, and became 2006 PA 369, Eff. Dec. 23, 2006.

House Bill No. 5818, also referred to in enacting section 2, was filed with the Secretary of State September 21, 2006, and became 2006 PA 370, Eff. Dec. 23, 2006.

[No. 372]

(SB 453)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," (MCL 206.1 to 206.532) by adding section 272.

The People of the State of Michigan enact:

206.272 Tax credit; amount equal to federal credit; refund.

Sec. 272. (1) For the following tax years that begin after December 31, 2007, a taxpayer may credit against the tax imposed by this act an amount equal to the specified percentages of the credit the taxpayer is allowed to claim as a credit under section 32 of the internal revenue code for a tax year on a return filed under this act for the same tax year:

(a) For tax years that begin after December 31, 2007 and before January 1, 2009, 10%.

(b) For tax years that begin after December 31, 2008, 20%.

(2) If the credit allowed by this section exceeds the tax liability of the taxpayer for the tax year, the state treasurer shall refund the excess to the taxpayer without interest, except as provided in section 30 of 1941 PA 122, MCL 205.30.

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. 1364.

(b) House Bill No. 6213.

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

Compiler's note: Senate Bill No. 1364, referred to in enacting section 1, was filed with the Secretary of State September 22, 2006, and became 2006 PA 375, Eff. Oct. 1, 2006.

House Bill No. 6213, also referred to in enacting section 1, was filed with the Secretary of State September 22, 2006, and became 2006 PA 373, Eff. Oct. 1, 2006.

[No. 373]

(HB 6213)

AN ACT to amend 1964 PA 154, entitled "An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for the administration and enforcement of this act; and to prescribe penalties for the violation of this act," by amending section 14 (MCL 408.394), as amended by 1998 PA 37.

The People of the State of Michigan enact:

408.394 Applicability of act; scope.

Sec. 14. (1) This act does not apply to an employer who is subject to the minimum wage provisions of the fair labor standards act of 1938, 29 USC 201 to 219, unless those federal minimum wage provisions would result in a lower minimum hourly wage than provided in this act. Each of the following applies to an employer who is subject to this act only by application of this subsection:

(a) Section 4a does not apply.

(b) This act does not apply to an employee who is exempt from the minimum wage requirements of the fair labor standards act of 1938, 29 USC 201 to 219.

(2) Notwithstanding subsection (1), an employee shall be paid in accordance with the minimum wage and overtime compensation requirements of sections 4 and 4a if the employee meets either of the following conditions:

(a) Is employed in domestic service employment to provide companionship services as defined in 29 CFR 552.6 for individuals who, because of age or infirmity, are unable to care for themselves and is not a live-in domestic service employee as described in 29 CFR 552.102.

(b) Is employed to provide child care, but is not a live-in domestic service employee as described in 29 CFR 552.102. However, the requirements of sections 4 and 4a do not apply if the employee meets all of the following conditions:

(*i*) Is under the age of 18.

(*ii*) Provides services on a casual basis as described in 29 CFR 552.5.

(*iii*) Provides services that do not regularly exceed 20 hours per week, in the aggregate.

(3) This act does not apply to persons employed in summer camps for not more than 4 months or to employees who are covered under section 14 of the fair labor standards act of 1938, 29 USC 214.

(4) This act does not apply to agricultural fruit growers, pickle growers and tomato growers, or other agricultural employers who traditionally contract for harvesting on a piecework basis, as to those employees used for harvesting, until the board has acquired sufficient data to determine an adequate basis to establish a scale of piecework and determines a scale equivalent to the prevailing minimum wage for that employment. The piece rate scale shall be equivalent to the minimum hourly wage in that, if the payment by unit of production is applied to a worker of average ability and diligence in harvesting a particular commodity, he or she receives an amount not less than the hourly minimum wage.

(5) Notwithstanding any other provision of this act, subsection (1)(a) and (b) and subsection (2) do not deprive an employee or any class of employees of any right that existed on September 30, 2006 to receive overtime compensation or to be paid the minimum wage.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2006.

Conditional effective date.

Enacting section 2. 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. 453.

(b) Senate Bill No. 1364.

This act is ordered to take immediate effect.

Approved September 22, 2006.

Filed with Secretary of State September 22, 2006.

Compiler's note: Senate Bill No. 453, referred to in enacting section 2, was filed with the Secretary of State September 22, 2006, and became 2006 PA 372, Imd. Eff. Sept. 22, 2006.

Senate Bill No. 1364, also referred to in enacting section 2, was filed with the Secretary of State September 22, 2006, and became 2006 PA 375, Eff. Oct. 1, 2006.

[No. 374]

(SB 1234)

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 535 (MCL 750.535), as amended by 2002 PA 720.

The People of the State of Michigan enact:

750.535 Buying, receiving, possessing, concealing, or aiding in concealment of stolen, embezzled, or converted property or motor vehicle; violation; penalty; rebuttable presumption; enhanced sentence based on prior convictions; prohibited defense.

Sec. 535. (1) A person shall not buy, receive, possess, conceal, or aid in the concealment of stolen, embezzled, or converted money, goods, or property knowing, or having reason to know or reason to believe, that the money, goods, or property is stolen, embezzled, or converted.

(2) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $20,000.00 or more.

(b) The property purchased, received, possessed, or concealed has a value of $1,000.00 or more but less than $20,000.00, and the person has 2 or more prior convictions for committing

or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, a person who violates subsection (1) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $1,000.00 or more but less than $20,000.00.

(b) The property purchased, received, possessed, or concealed has a value of $200.00 or more but less than $1,000.00, and the person has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine:

(a) The property purchased, received, possessed, or concealed has a value of $200.00 or more but less than $1,000.00.

(b) The property purchased, received, possessed, or concealed has a value of less than $200.00, and the person has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property purchased, received, possessed, or concealed has a value of less than $200.00, a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00 or 3 times the value of the property purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine.

(6) The values of property purchased, received, possessed, or concealed in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property purchased, received, possessed, or concealed.

(7) A person shall not buy, receive, possess, conceal, or aid in the concealment of a stolen motor vehicle knowing, or having reason to know or reason to believe, that the motor vehicle is stolen, embezzled, or converted. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $10,000.00 or 3 times the value of the motor vehicle purchased, received, possessed, or concealed, whichever is greater, or both imprisonment and a fine. A person who is charged with, convicted of, or punished for a violation of this subsection shall not be convicted of or punished for a violation of another provision of this section arising from the purchase, receipt, possession, concealment, or aiding in the concealment of the same motor vehicle. This subsection does not prohibit the person from being charged, convicted, or punished under any other applicable law.

(8) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court,

without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(9) A person who is a dealer in or collector of merchandise or personal property, or the agent, employee, or representative of a dealer or collector of merchandise or personal property who fails to reasonably inquire whether the person selling or delivering the stolen, embezzled, or converted property to the dealer or collector has a legal right to do so or who buys or receives stolen, embezzled, or converted property that has a registration, serial, or other identifying number altered or obliterated on an external surface of the property, is presumed to have bought or received the property knowing the property is stolen, embezzled, or converted. This presumption is rebuttable.

(10) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(11) It is not a defense to a charge under this section that the property was not stolen, embezzled, or converted property at the time of the violation if the property was explicitly represented to the accused person as being stolen, embezzled, or converted property.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2006.

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

[No. 375]

(SB 1364)

AN ACT to amend 1964 PA 154, entitled "An act to fix minimum wages for employees within this state; to prohibit wage discrimination; to provide for the administration and enforcement of this act; and to prescribe penalties for the violation of this act," by amending section 4b (MCL 408.384b), as added by 1997 PA 1.

The People of the State of Michigan enact:

408.384b Training hourly wage; employee less than 18 years of age; displacement prohibited; violation; fine.

Sec. 4b. (1) An employer may pay a new employee who is less than 20 years of age a training hourly wage of $4.25 for the first 90 days of that employee's employment. The hourly wage authorized under this subsection is in lieu of the minimum hourly wage otherwise prescribed by this act.

(2) Except as provided in subsection (1), the minimum hourly wage for an employee who is less than 18 years of age is 85% of the general minimum hourly wage established in section 4.

(3) An employer shall not displace an employee to hire an individual at the hourly wage authorized under this section. As used in this subsection, "displace" includes termination of employment or any reduction of hours, wages, or employment benefits.

(4) A person who violates subsection (3) is subject to a civil fine of not more than $1,000.00.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2006.

Conditional effective date.

Enacting section 2. 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. 453.

(b) House Bill No. 6213.

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

Compiler's note: Senate Bill No. 453, referred to in enacting section 2, was filed with the Secretary of State September 22, 2006, and became 2006 PA 372, Imd. Eff. Sept. 22, 2006.

House Bill No. 6213, also referred to in enacting section 2, was filed with the Secretary of State September 22, 2006, and became 2006 PA 373, Eff. Oct. 1, 2006.

[No. 376]

(HB 4072)

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 34c (MCL 211.34c), as amended by 2006 PA 278.

The People of the State of Michigan enact:

211.34c Classification of assessable property; tabulation of assessed valuations; transmittal of tabulation and other statistical information; classifications of assessable real and personal property; buildings on leased land as improvements; total usage of parcel which includes more than 1 classification; notice to assessor and protest of assigned classification; decision; petition; arbitration; determination final and binding; appeal by department; construction of section.

Sec. 34c. (1) Not later than the first Monday in March in each year, the assessor shall classify every item of assessable property according to the definitions contained in this section. Following the March board of review, the assessor shall tabulate the total number of items and the valuations as approved by the board of review for each classification and for the totals of real and personal property in the local tax collecting unit. The assessor shall transmit to the county equalization department and to the state tax commission the tabulation of assessed valuations and other statistical information the state tax commission considers necessary to meet the requirements of this act and 1911 PA 44, MCL 209.1 to 209.8.

(2) The classifications of assessable real property are described as follows:

(a) Agricultural real property includes parcels used partially or wholly for agricultural operations, with or without buildings, and parcels assessed to the department of natural resources and valued by the state tax commission. For taxes levied after December 31, 2002, agricultural real property includes buildings on leased land used for agricultural operations. As used in this subdivision, "agricultural operations" means the following:

(*i*) Farming in all its branches, including cultivating soil.

(*ii*) Growing and harvesting any agricultural, horticultural, or floricultural commodity.

(*iii*) Dairying.

(*iv*) Raising livestock, bees, fish, fur-bearing animals, or poultry, including operating a game bird hunting preserve licensed under part 417 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.41701 to 324.41712, and also including farming operations that harvest cervidae on site where not less than 60% of the cervidae were born as part of the farming operation. As used in this subparagraph, "livestock" includes, but is not limited to, cattle, sheep, new world camelids, goats, bison, privately owned cervids, ratites, swine, equine, poultry, aquaculture, and rabbits. Livestock does not include dogs and cats.

(*v*) Raising, breeding, training, leasing, or boarding horses.

(*vi*) Turf and tree farming.

(*vii*) Performing any practices on a farm incident to, or in conjunction with, farming operations. A commercial storage, processing, distribution, marketing, or shipping operation is not part of agricultural operations.

(b) Commercial real property includes the following:

(*i*) Platted or unplatted parcels used for commercial purposes, whether wholesale, retail, or service, with or without buildings.

(*ii*) Parcels used by fraternal societies.

(*iii*) Parcels used as golf courses, boat clubs, ski areas, or apartment buildings with more than 4 units.

(*iv*) For taxes levied after December 31, 2002, buildings on leased land used for commercial purposes.

(c) Developmental real property includes parcels containing more than 5 acres without buildings, or more than 15 acres with a market value in excess of its value in use. Developmental real property may include farm land or open space land adjacent to a population center, or farm land subject to several competing valuation influences.

(d) Industrial real property includes the following:

(*i*) Platted or unplatted parcels used for manufacturing and processing purposes, with or without buildings.

(*ii*) Parcels used for utilities sites for generating plants, pumping stations, switches, substations, compressing stations, warehouses, rights-of-way, flowage land, and storage areas.

(*iii*) Parcels used for removal or processing of gravel, stone, or mineral ores, whether valued by the local assessor or by the state geologist.

(*iv*) For taxes levied after December 31, 2002, buildings on leased land used for industrial purposes.

(*v*) For taxes levied after December 31, 2002, buildings on leased land for utility purposes.

(e) Residential real property includes the following:

(*i*) Platted or unplatted parcels, with or without buildings, and condominium apartments located within or outside a village or city, which are used for, or probably will be used for, residential purposes.

(*ii*) Parcels that are used for, or probably will be used for, recreational purposes, such as lake lots and hunting lands, located in an area used predominantly for recreational purposes.

(*iii*) For taxes levied after December 31, 2002, a home, cottage, or cabin on leased land, and a mobile home that would be assessable as real property under section 2a except that the land on which it is located is not assessable because the land is exempt.

(f) Timber-cutover real property includes parcels that are stocked with forest products of merchantable type and size, cutover forest land with little or no merchantable products, and marsh lands or other barren land. However, when a typical purchase of this type of land is for residential or recreational uses, the classification shall be changed to residential.

(3) The classifications of assessable personal property are described as follows:

(a) Agricultural personal property includes any agricultural equipment and produce not exempt by law.

(b) Commercial personal property includes the following:

(*i*) All equipment, furniture, and fixtures on commercial parcels, and inventories not exempt by law.

(*ii*) All outdoor advertising signs and billboards.

(*iii*) Well drilling rigs and other equipment attached to a transporting vehicle but not designed for operation while the vehicle is moving on the highway.

(*iv*) Unlicensed commercial vehicles or commercial vehicles licensed as special mobile equipment or by temporary permits.

(c) Industrial personal property includes the following:

(*i*) All machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law.

(*ii*) Personal property of mining companies valued by the state geologist.

(d) For taxes levied before January 1, 2003, residential personal property includes a home, cottage, or cabin on leased land, and a mobile home that would be assessable as real property under section 2a except that the land on which it is located is not assessable because the land is exempt.

(e) Utility personal property includes the following:

(*i*) Electric transmission and distribution systems, substation equipment, spare parts, gas distribution systems, and water transmission and distribution systems.

(*ii*) Oil wells and allied equipment such as tanks, gathering lines, field pump units, and buildings.

(*iii*) Inventories not exempt by law.

(*iv*) Gas wells with allied equipment and gathering lines.

(*v*) Oil or gas field equipment stored in the open or in warehouses such as drilling rigs, motors, pipes, and parts.

(*vi*) Gas storage equipment.

(*vii*) Transmission lines of gas or oil transporting companies.

(4) For taxes levied before January 1, 2003, buildings on leased land of any classification are improvements where the owner of the improvement is not the owner of the land or fee, the value of the land is not assessed to the owner of the building, and the improvement has been assessed as personal property pursuant to section 14(6).

(5) If the total usage of a parcel includes more than 1 classification, the assessor shall determine the classification that most significantly influences the total valuation of the parcel.

(6) An owner of any assessable property who disputes the classification of that parcel shall notify the assessor and may protest the assigned classification to the March board of review. An owner or assessor may appeal the decision of the March board of review by filing a petition with the state tax commission not later than June 30 in that tax year. The state tax commission shall arbitrate the petition based on the written petition and the written recommendations of the assessor and the state tax commission staff. An appeal may not be taken from the decision of the state tax commission regarding classification complaint petitions and the state tax commission's determination is final and binding for the year of the petition.

(7) The department of treasury may appeal the classification of any assessable property to the residential and small claims division of the Michigan tax tribunal not later than December 31 in the tax year for which the classification is appealed.

(8) This section shall not be construed to encourage the assessment of property at other than the uniform percentage of true cash value prescribed by this act.

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

[No. 377]

(SB 1267)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof

of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 25b (MCL 257.25b), as added by 2000 PA 82.

The People of the State of Michigan enact:

257.25b "Low-speed vehicle" defined.

Sec. 25b. "Low-speed vehicle" means a self-propelled motor vehicle to which both of the following apply:

(a) The vehicle conforms to the definition of low-speed vehicle under 49 CFR 571.3(b).

(b) The vehicle meets the standard for low-speed vehicles under 49 CFR 571.500.

This act is ordered to take immediate effect.
Approved September 26, 2006.
Filed with Secretary of State September 27, 2006.

[No. 378]

(SB 912)

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 sections 27a and 53b (MCL 211.27a and 211.53b), section 27a as amended by 2005 PA 23 and section 53b as amended by 2006 PA 13, and by adding section 7jj; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

211.7jj[1] Qualified forest property; exemption; affidavit; form; determination; rescission; appeal; denial or modification; placement on tax roll; corrected tax bill; subject to recapture tax; report; definitions.

Sec. 7jj. (1) Except as otherwise limited in this subsection, qualified forest property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, according to the provisions of this section. The amount of qualified forest property in this state that is eligible for the exemption under this section is limited as follows:

(a) In the fiscal year ending September 30, 2008, 300,000 acres.

(b) In the fiscal year ending September 30, 2009, 600,000 acres.

(c) In the fiscal year ending September 30, 2010, 900,000 acres.

(d) In the fiscal year ending September 30, 2011 and each fiscal year thereafter, 1,200,000 acres.

(2) To claim an exemption under subsection (1), the owner of qualified forest property shall file an affidavit claiming the exemption and an approved forest management plan or a certificate provided by a third-party certifying organization with the local tax collecting unit by December 31. An owner may claim an exemption under this section for not more than 320 acres of qualified forest property in each local tax collecting unit. If an exemption is granted under this section for less than 320 acres in a local tax collecting unit, an owner of that property may subsequently claim an exemption for additional property in that local tax collecting unit if that additional property meets the requirements of this section.

(3) The affidavit shall be on a form prescribed by the department of treasury and shall require the person submitting the affidavit to attest that the property for which the exemption is claimed is qualified forest property and will be managed according to the approved forest management plan.

(4) The assessor shall determine if the property is qualified forest property based on a recommendation from the department of natural resources and confirmation that the acreage limitation set forth in subsection (1) has not been reached and if so shall exempt the property from the collection of the tax as provided in subsection (1) until December 31 of the year in which the property is no longer qualified forest property.

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified forest property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of $5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of $1,000.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the general fund of this state.

(6) An owner of property that is qualified forest property on December 31 for which an exemption was not on the tax roll may file an appeal with the July or December board of review under section 53b in the year the exemption was claimed or the immediately succeeding year. An owner of property that is qualified forest property on May 1 for which an exemption was denied by the assessor in the year the affidavit was filed may file an appeal with the July board of review for summer taxes or, if there is not a summer levy of school operating taxes, with the December board of review under section 53b.

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified forest property based on a recommendation from the department of natural resources, the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c. A taxpayer may appeal the assessor's determination to the board of review meeting under section 30. A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal.

(8) If property for which an exemption has been granted under this section is not qualified forest property, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for each tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll.

(9) If property for which an exemption has been granted under this section is converted by a change in use and is no longer qualified forest property, the property is subject to the qualified forest property recapture tax levied under the qualified forest property recapture tax act. An owner of qualified forest property shall inform a prospective buyer of that qualified forest property that the qualified forest property is subject to the recapture tax provided in the qualified forest property recapture tax act, if the qualified forest property is converted by a change in use.

(10) If qualified forest property is exempt under this section, an owner of that qualified forest property shall annually report to the department of natural resources on a form prescribed by the department of natural resources the amount of timber produced on that qualified forest property and whether any buildings or structures have been constructed on the qualified forest property. Beginning in 2008, and every 3 years thereafter, the department of natural resources shall provide to the standing committees of the senate and house of representatives with primary jurisdiction over forestry issues a report that includes all of the following:

(a) The number of acres of qualified forest property in each county.

(b) The amount of timber produced on qualified forest property each year.

(11) As used in this section:

(a) "Approved forest management plan" means 1 of the following:

(*i*) A forest management plan approved by the department of natural resources. An owner of property may submit a proposed forest management plan to the department of natural resources for approval. The proposed forest management plan shall include a statement signed by the owner that he or she agrees to comply with all terms and conditions contained in the approved forest management plan. The department of natural resources may charge a fee of not more than $200.00 for the consideration of each proposed forest management plan submitted. The department of natural resources shall review and either approve or disapprove each proposed forest management plan submitted. If the department of natural resources disapproves a proposed forest management plan, the department of natural resources shall indicate the changes necessary to qualify the proposed forest management plan for approval on subsequent review. At the request of the owner submitting a proposed forest management plan, the department of natural resources may agree to complete a proposed forest management plan. An owner and the department of natural resources may mutually agree to amend a proposed forest management plan or an approved forest

management plan. A forest management plan submitted to the department of natural resources for approval shall not extend beyond a period of 20 years. An owner of property may submit a succeeding proposed forest management plan to the department of natural resources for approval.

(*ii*) A forest management plan certified by a third-party certifying organization.

(b) "Converted by a change in use" means that term as defined in section 2 of the qualified forest property recapture tax act.

(c) "Forest products" includes, but is not limited to, timber and pulpwood-related products.

(d) "Natural resources professional" and "registered forester" mean those terms as defined in section 51101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51101.

(e) "Proposed forest management plan" means a proposed plan for sustainable forest management that includes, but is not limited to, harvesting, planting, and regeneration of forest products on a parcel of property that is prepared by a qualified forester. A proposed forest management plan shall include all of the following:

(*i*) The name and address of each owner of the property.

(*ii*) The legal description and parcel identification number of the property or of the parcel on which the property is located.

(*iii*) A statement of the owner's forest management objectives.

(*iv*) A map, diagram, or aerial photograph that identified both forested and unforested areas of the property, using conventional map symbols indicating the species, size, and density of vegetation and other major features of the property.

(*v*) A description of the forestry practices, including harvesting, thinning, and reforestation, that will be undertaken, specifying the approximate period of time before each is completed.

(*vi*) A description of soil conservation practices that may be necessary to control any soil erosion that may result from the forestry practices described pursuant to subparagraph (*v*).

(*vii*) A proposed forest management plan shall also include a description of activities that may be undertaken for the management of forest resources other than trees, including wildlife habitat, watersheds, and aesthetic features.

(f) "Qualified forest property" means a parcel of real property that meets all of the following conditions as determined by the department of natural resources:

(*i*) Is not less than 20 contiguous acres in size, of which not less than 80% is productive forest capable of producing wood products. Contiguity is not broken by a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the 2 parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. As used in this subparagraph, "productive forest" means real property capable of growing not less than 20 cubic feet of wood per acre per year. However, if property has been considered productive forest, an act of God that negatively affects that property shall not result in that property not being considered productive forest.

(*ii*) Is stocked with forest products.

(*iii*) Has no buildings or structures located on the real property.

(*iv*) Is subject to an approved forest management plan.

(g) "Qualified forester" means natural resources professional, a registered forester, or a conservation district forester.

(h) "Third-party certifying organization" means an independent third-party organization that assesses and evaluates forest management practices according to the standards of a certification program that measures whether forest management practices are consistent with principles of sustainable forestry. Third-party certifying organization includes, but is not limited to, the forest stewardship council and the sustainable forest initiative.

211.27a Property tax assessment; determining taxable value; adjustment; exception; "transfer of ownership" defined; qualified agricultural property; notice of transfer of property; applicability of subsection (10); definitions.

Sec. 27a. (1) Except as otherwise provided in this section, property shall be assessed at 50% of its true cash value under section 3 of article IX of the state constitution of 1963.

(2) Except as otherwise provided in subsection (3), for taxes levied in 1995 and for each year after 1995, the taxable value of each parcel of property is the lesser of the following:

(a) The property's taxable value in the immediately preceding year minus any losses, multiplied by the lesser of 1.05 or the inflation rate, plus all additions. For taxes levied in 1995, the property's taxable value in the immediately preceding year is the property's state equalized valuation in 1994.

(b) The property's current state equalized valuation.

(3) Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer.

(4) If the taxable value of property is adjusted under subsection (3), a subsequent increase in the property's taxable value is subject to the limitation set forth in subsection (2) until a subsequent transfer of ownership occurs. If the taxable value of property is adjusted under subsection (3) and the assessor determines that there had not been a transfer of ownership, the taxable value of the property shall be adjusted at the July or December board of review. Notwithstanding the limitation provided in section 53b(1) on the number of years for which a correction may be made, the July or December board of review may adjust the taxable value of property under this subsection for the current year and for the 3 immediately preceding calendar years. A corrected tax bill shall be issued for each tax year for which the taxable value is adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. For purposes of section 53b, an adjustment under this subsection shall be considered the correction of a clerical error.

(5) Assessment of property, as required in this section and section 27, is inapplicable to the assessment of property subject to the levy of ad valorem taxes within voted tax limitation increases to pay principal and interest on limited tax bonds issued by any governmental unit, including a county, township, community college district, or school district, before January 1, 1964, if the assessment required to be made under this act would be less than the assessment as state equalized prevailing on the property at the time of the issuance of the bonds. This inapplicability shall continue until levy of taxes to pay principal and interest on the bonds is no longer required. The assessment of property required by this act shall be applicable for all other purposes.

(6) As used in this act, "transfer of ownership" means the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which

is substantially equal to the value of the fee interest. Transfer of ownership of property includes, but is not limited to, the following:

(a) A conveyance by deed.

(b) A conveyance by land contract. The taxable value of property conveyed by a land contract executed after December 31, 1994 shall be adjusted under subsection (3) for the calendar year following the year in which the contract is entered into and shall not be subsequently adjusted under subsection (3) when the deed conveying title to the property is recorded in the office of the register of deeds in the county in which the property is located.

(c) A conveyance to a trust after December 31, 1994, except if the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary or beneficiaries are the settlor or the settlor's spouse, or both.

(d) A conveyance by distribution from a trust, except if the distributee is the sole present beneficiary or the spouse of the sole present beneficiary, or both.

(e) A change in the sole present beneficiary or beneficiaries of a trust, except a change that adds or substitutes the spouse of the sole present beneficiary.

(f) A conveyance by distribution under a will or by intestate succession, except if the distributee is the decedent's spouse.

(g) A conveyance by lease if the total duration of the lease, including the initial term and all options for renewal, is more than 35 years or the lease grants the lessee a bargain purchase option. As used in this subdivision, "bargain purchase option" means the right to purchase the property at the termination of the lease for not more than 80% of the property's projected true cash value at the termination of the lease. After December 31, 1994, the taxable value of property conveyed by a lease with a total duration of more than 35 years or with a bargain purchase option shall be adjusted under subsection (3) for the calendar year following the year in which the lease is entered into. This subdivision does not apply to personal property except buildings described in section 14(6) and personal property described in section 8(h), (i), and (j). This subdivision does not apply to that portion of the property not subject to the leasehold interest conveyed.

(h) A conveyance of an ownership interest in a corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity if the ownership interest conveyed is more than 50% of the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity. Unless notification is provided under subsection (10), the corporation, partnership, sole proprietorship, limited liability company, limited liability partnership, or other legal entity shall notify the assessing officer on a form provided by the state tax commission not more than 45 days after a conveyance of an ownership interest that constitutes a transfer of ownership under this subdivision.

(i) A transfer of property held as a tenancy in common, except that portion of the property not subject to the ownership interest conveyed.

(j) A conveyance of an ownership interest in a cooperative housing corporation, except that portion of the property not subject to the ownership interest conveyed.

(7) Transfer of ownership does not include the following:

(a) The transfer of property from 1 spouse to the other spouse or from a decedent to a surviving spouse.

(b) A transfer from a husband, a wife, or a husband and wife creating or disjoining a tenancy by the entireties in the grantors or the grantor and his or her spouse.

(c) A transfer of that portion of property subject to a life estate or life lease retained by the transferor, until expiration or termination of the life estate or life lease. That portion of property transferred that is not subject to a life lease shall be adjusted under subsection (3).

(d) A transfer through foreclosure or forfeiture of a recorded instrument under chapter 31, 32, or 57 of the revised judicature act of 1961, 1961 PA 236, MCL 600.3101 to 600.3280 and MCL 600.5701 to 600.5759, or through deed or conveyance in lieu of a foreclosure or forfeiture, until the mortgagee or land contract vendor subsequently transfers the property. If a mortgagee does not transfer the property within 1 year of the expiration of any applicable redemption period, the property shall be adjusted under subsection (3).

(e) A transfer by redemption by the person to whom taxes are assessed of property previously sold for delinquent taxes.

(f) A conveyance to a trust if the settlor or the settlor's spouse, or both, conveys the property to the trust and the sole present beneficiary of the trust is the settlor or the settlor's spouse, or both.

(g) A transfer pursuant to a judgment or order of a court of record making or ordering a transfer, unless a specific monetary consideration is specified or ordered by the court for the transfer.

(h) A transfer creating or terminating a joint tenancy between 2 or more persons if at least 1 of the persons was an original owner of the property before the joint tenancy was initially created and, if the property is held as a joint tenancy at the time of conveyance, at least 1 of the persons was a joint tenant when the joint tenancy was initially created and that person has remained a joint tenant since the joint tenancy was initially created. A joint owner at the time of the last transfer of ownership of the property is an original owner of the property. For purposes of this subdivision, a person is an original owner of property owned by that person's spouse.

(i) A transfer for security or an assignment or discharge of a security interest.

(j) A transfer of real property or other ownership interests among members of an affiliated group. As used in this subsection, "affiliated group" means 1 or more corporations connected by stock ownership to a common parent corporation. Upon request by the state tax commission, a corporation shall furnish proof within 45 days that a transfer meets the requirements of this subdivision. A corporation that fails to comply with a request by the state tax commission under this subdivision is subject to a fine of $200.00.

(k) Normal public trading of shares of stock or other ownership interests that, over any period of time, cumulatively represent more than 50% of the total ownership interest in a corporation or other legal entity and are traded in multiple transactions involving unrelated individuals, institutions, or other legal entities.

(*l*) A transfer of real property or other ownership interests among corporations, partnerships, limited liability companies, limited liability partnerships, or other legal entities if the entities involved are commonly controlled. Upon request by the state tax commission, a corporation, partnership, limited liability company, limited liability partnership, or other legal entity shall furnish proof within 45 days that a transfer meets the requirements of this subdivision. A corporation, partnership, limited liability company, limited liability partnership, or other legal entity that fails to comply with a request by the state tax commission under this subdivision is subject to a fine of $200.00.

(m) A direct or indirect transfer of real property or other ownership interests resulting from a transaction that qualifies as a tax-free reorganization under section 368 of the internal revenue code, 26 USC 368. Upon request by the state tax commission, a property owner shall furnish proof within 45 days that a transfer meets the requirements of this subdivision.

A property owner who fails to comply with a request by the state tax commission under this subdivision is subject to a fine of $200.00.

(n) A transfer of qualified agricultural property, if the person to whom the qualified agricultural property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified agricultural property is located and with the register of deeds for the county in which the qualified agricultural property is located attesting that the qualified agricultural property shall remain qualified agricultural property. The affidavit under this subdivision shall be in a form prescribed by the department of treasury. An owner of qualified agricultural property shall inform a prospective buyer of that qualified agricultural property that the qualified agricultural property is subject to the recapture tax provided in the agricultural property recapture act, 2000 PA 261, MCL 211.1001 to 211.1007, if the qualified agricultural property is converted by a change in use. If property ceases to be qualified agricultural property at any time after being transferred, all of the following shall occur:

(*i*) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified agricultural property.

(*ii*) The property is subject to the recapture tax provided for under the agricultural property recapture act, 2000 PA 261, MCL 211.1001 to 211.1007.

(o) A transfer of qualified forest property, if the person to whom the qualified forest property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified forest property is located and with the register of deeds for the county in which the qualified forest property is located attesting that the qualified forest property shall remain qualified forest property. The affidavit under this subdivision shall be in a form prescribed by the department of treasury. An owner of qualified forest property shall inform a prospective buyer of that qualified forest property that the qualified forest property is subject to the recapture tax provided in the qualified forest property recapture tax act, if the qualified forest property is converted by a change in use. If property ceases to be qualified forest property at any time after being transferred, all of the following shall occur:

(*i*) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified forest property.

(*ii*) The property is subject to the recapture tax provided for under the qualified forest property recapture tax act.

(8) If all of the following conditions are satisfied, the local tax collecting unit shall revise the taxable value of qualified agricultural property taxable on the tax roll in the possession of that local tax collecting unit to the taxable value that qualified agricultural property would have had if there had been no transfer of ownership of that qualified agricultural property since December 31, 1999 and there had been no adjustment of that qualified agricultural property's taxable value under subsection (3) since December 31, 1999:

(a) The qualified agricultural property was qualified agricultural property for taxes levied in 1999 and each year after 1999.

(b) The owner of the qualified agricultural property files an affidavit with the assessor of the local tax collecting unit under subsection (7)(n).

(9) If the taxable value of qualified agricultural property is adjusted under subsection (8), the owner of that qualified agricultural property shall not be entitled to a refund for any property taxes collected under this act on that qualified agricultural property before the adjustment under subsection (8).

(10) The register of deeds of the county where deeds or other title documents are recorded shall notify the assessing officer of the appropriate local taxing unit not less than once each month of any recorded transaction involving the ownership of property and shall make any recorded deeds or other title documents available to that county's tax or equalization department. Unless notification is provided under subsection (6), the buyer, grantee, or other transferee of the property shall notify the appropriate assessing office in the local unit of government in which the property is located of the transfer of ownership of the property within 45 days of the transfer of ownership, on a form prescribed by the state tax commission that states the parties to the transfer, the date of the transfer, the actual consideration for the transfer, and the property's parcel identification number or legal description. Forms filed in the assessing office of a local unit of government under this subsection shall be made available to the county tax or equalization department for the county in which that local unit of government is located. This subsection does not apply to personal property except buildings described in section 14(6) and personal property described in section 8(h), (i), and (j).

(11) As used in this section:

(a) "Additions" means that term as defined in section 34d.

(b) "Beneficial use" means the right to possession, use, and enjoyment of property, limited only by encumbrances, easements, and restrictions of record.

(c) "Converted by a change in use" means that term as defined in the agricultural property recapture act, 2000 PA 261, MCL 211.1001 to 211.1007.

(d) "Inflation rate" means that term as defined in section 34d.

(e) "Losses" means that term as defined in section 34d.

(f) "Qualified agricultural property" means that term as defined in section 7dd.

(g) "Qualified forest property" means that term as defined in section 7jj.

211.53b Qualified error; verification, approval, and affidavit; correction of records; rebate; notice and payment; initiation of action; actions of board of review; exemption; appeal; "qualified error" defined.

Sec. 53b. (1) If there has been a qualified error, the qualified error shall be verified by the local assessing officer and approved by the board of review at a meeting held for the purposes of this section on Tuesday following the second Monday in December and, for summer property taxes, on Tuesday following the third Monday in July. If there is not a levy of summer property taxes, the board of review may meet for the purposes of this section on Tuesday following the third Monday in July. If approved, the board of review shall file an affidavit within 30 days relative to the qualified error with the proper officials and all affected official records shall be corrected. If the qualified error results in an overpayment or underpayment, the rebate, including any interest paid, shall be made to the taxpayer or the taxpayer shall be notified and payment made within 30 days of the notice. A rebate shall be without interest. The treasurer in possession of the appropriate tax roll may deduct the rebate from the appropriate tax collecting unit's subsequent distribution of taxes. The treasurer in possession of the appropriate tax roll shall bill to the appropriate tax collecting unit the tax collecting unit's share of taxes rebated. Except as otherwise provided in subsection (6) and section 27(a)4, a correction under this subsection may be made in the year in which the qualified error was made or in the following year only.

(2) Action pursuant to this section may be initiated by the taxpayer or the assessing officer.

(3) The board of review meeting in July and December shall meet only for the purpose described in subsection (1) and to hear appeals provided for in sections 7u, 7cc, 7ee, and 7jj. If an exemption under section 7u is approved, the board of review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected. If an appeal under section 7cc, 7ee, or 7jj results in a determination that an overpayment has been made, the board of review shall file an affidavit and a rebate shall be made at the times and in the manner provided in subsection (1). Except as otherwise provided in sections 7cc, 7ee, and 7jj, a correction under this subsection shall be made for the year in which the appeal is made only. If the board of review grants an exemption or provides a rebate for property under section 7cc, 7ee, or 7jj as provided in this subsection, the board of review shall require the owner to execute the affidavit provided for in section 7cc, 7ee, or 7jj and shall forward a copy of any section 7cc affidavits to the department of treasury.

(4) If an exemption under section 7cc is granted by the board of review under this section, the provisions of section 7cc apply. If an exemption under section 7cc is not granted by the board of review under this section, the owner may appeal that decision in writing to the department of treasury within 35 days of the board of review's denial and the appeal shall be conducted as provided in section 7cc(8).

(5) An owner or assessor may appeal a decision of the board of review under this section regarding an exemption under section 7ee or 7jj to the residential and small claims division of the Michigan tax tribunal. An owner is not required to pay the amount of tax in dispute in order to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest and penalties, if any, shall accrue and be computed based on interest and penalties that would have accrued from the date the taxes were originally levied as if there had not been an exemption.

(6) A correction under this section that grants a principal residence exemption pursuant to section 7cc may be made for the year in which the appeal was filed and the 3 immediately preceding tax years.

(7) As used in this section, "qualified error" means 1 or more of the following:

(a) A clerical error relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes.

(b) A mutual mistake of fact.

(c) An adjustment under section 27a(4) or an exemption under section 7hh(3)(b).

(d) For board of review determinations in 2006 through 2009, 1 or more of the following:

(*i*) An error of measurement or calculation of the physical dimensions or components of the real property being assessed.

(*ii*) An error of omission or inclusion of a part of the real property being assessed.

(*iii*) An error regarding the correct taxable status of the real property being assessed.

(*iv*) An error made by the taxpayer in preparing the statement of assessable personal property under section 19.

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. 913.

(b) Senate Bill No. 914.

Repeal of MCL 324.51301 to 324.51312.

Enacting section 2. Part 513 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51301 to 324.51312, is repealed effective September 1, 2007.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

Compiler's note: Sec. 7jj, as added by 2006 PA 378, is compiled at MCL 211.7jj[1] to distinguish it from another Sec. 7jj deriving from 2006 PA 326.

Senate Bill No. 913, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 379, Imd. Eff. Sept. 27, 2006.

Senate Bill No. 914, also referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 380, Imd. Eff. Sept. 27, 2006.

[No. 379]

(SB 913)

AN ACT to impose a state recapture tax on the change in use of certain qualified forest property; to provide for the administration of the recapture tax; to prescribe the powers and duties of certain state and local officers; to provide for the collection and distribution of the recapture tax; and to prescribe penalties and provide remedies.

The People of the State of Michigan enact:

211.1031 Short title.

Sec. 1. This act shall be known and may be cited as the "qualified forest property recapture tax act".

211.1032 Definitions.

Sec. 2. As used in this act:

(a) "Benefit period" means the period in years between the date of the first exempt transfer and the conversion by a change in use, not to exceed the 10 years immediately preceding the year in which the qualified forest property is converted by a change in use.

(b) "Benefit received on that property" means the sum of the number of mills levied in the local tax collecting unit on the qualified forest property in each year of the benefit period, multiplied by the difference in each year of the benefit period between the true cash taxable value of the property and the property's taxable value as determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

(c) "Converted by a change in use" means that due to a change in use the property is no longer qualified forest property as determined by the assessor of the local tax collecting unit based on a recommendation from the department of natural resources.

(d) "Exempt transfer" means a conveyance of property that is not a transfer of ownership pursuant to section 27a(7)(o) of the general property tax act, 1893 PA 206, MCL 211.27a.

(e) "Forest products" means that term as defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj.

(f) "Person" means an individual, partnership, corporation, limited liability company, association, governmental entity, or other legal entity.

(g) "Qualified forest property" means that term as defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj.

(h) "Recapture tax" means the qualified forest property recapture tax imposed under this act.

(i) "Treasurer" means the state treasurer.

(j) "True cash taxable value" means the taxable value the property would have had if section 27a(7)(o) of the general property tax act, 1893 PA 206, MCL 211.27a, were not in effect.

211.1033 Qualified forest property recapture tax; imposition.

Sec. 3. (1) Beginning January 1, 2007, the qualified forest property recapture tax provided under section 4 is imposed as provided in this section if the property is converted by a change in use after December 31, 2006.

(2) The recapture tax is the obligation of the person who owned the property at the time the property was converted by a change in use. If a recapture tax is imposed on the owner of the property under this subsection, the recapture tax is a lien on the property subject to the recapture tax until paid. If the recapture tax is not paid within 90 days of the date the property was converted by a change in use, the treasurer may bring a civil action against the owner of the property as of the date the property was converted by a change in use. If the recapture tax remains unpaid on the March 1 in the year immediately succeeding the year in which the property is converted by a change in use, the property on which the recapture tax is due shall be returned as delinquent to the county treasurer of the county in which the property is located. Property returned as delinquent under this section, and upon which the recapture tax, interest, penalties, and fees remain unpaid after the property is returned as delinquent to the county treasurer, is subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in sections 78 to 79a of the general property tax act, 1893 PA 206, MCL 211.78 to 211.79a.

211.1034 Recapture tax; rate.

Sec. 4. The recapture tax under this act shall be imposed at the following rate:

(a) If the property is converted by a change in use and there have not been 1 or more harvests of forest products on that property consistent with the approved forest management plan, the recapture tax shall be calculated in the following manner:

(*i*) Multiply the property's state equalized valuation at the time the property is converted by a change in use by the total millage rate levied by all taxing units in the local tax collecting unit in which the property is located.

(*ii*) Multiply the product of the calculation under subparagraph (*i*) by 7.

(*iii*) Multiply the product of the calculation under subparagraph (*ii*) by 2.

(b) If the property is converted by a change in use and there have been 1 or more harvests of forest products on that property consistent with the approved forest management plan, the recapture tax shall be calculated in the following manner:

(*i*) Multiply the property's state equalized valuation at the time the property is converted by a change in use by the total millage rate levied by all taxing units in the local tax collecting unit in which the property is located.

(*ii*) Multiply the product of the calculation under subparagraph (*i*) by 7.

(c) In addition to the recapture tax calculated under subdivision (a) or (b), if property is converted by a change in use and the taxable value of the property was not adjusted under section 27a(3) of the general property tax act, 1893 PA 206, MCL 211.27a, after a transfer of ownership of the property due to the provisions of section 27a(7)(o) of the general property tax act, 1893 PA 206, MCL 211.27a, the recapture tax shall include the benefit received on that property.

211.1035 Recapture tax; collection; notification; credit to general fund.

Sec. 5. (1) The recapture tax shall be collected by the treasurer.

(2) The assessor of the local tax collecting unit shall notify the treasurer of the date the property is converted by a change in use.

(3) The treasurer shall credit the proceeds of the recapture tax collected under this act to the general fund of this state.

211.1036 Administration of act.

Sec. 6. This act shall be administered by the department of treasury under 1941 PA 122, MCL 205.1 to 205.31.

Conditional effective date.

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

(a) Senate Bill No. 912.

(b) Senate Bill No. 914.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

Compiler's note: Senate Bill No. 912, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 378, Imd. Eff. Sept. 27, 2006.

Senate Bill No. 914, also referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 380, Imd. Eff. Sept. 27, 2006.

[No. 380]

(SB 914)

AN ACT to amend 1976 PA 451, entitled "An act to provide a system of public instruction and elementary and secondary schools; to revise, consolidate, and clarify the laws relating to elementary and secondary education; to provide for the organization, regulation, and maintenance of schools, school districts, public school academies, intermediate school districts, and other public school entities; to prescribe rights, powers, duties, and privileges of schools, school districts, public school academies, intermediate school districts, and other public school entities; to provide for the regulation of school teachers and certain other school employees; to provide for school elections and to prescribe powers and duties with respect thereto; to provide for the levy and collection of taxes; to provide for the borrowing of money and issuance of bonds and other evidences of indebtedness; to establish a fund and provide for expenditures from that fund; to provide for and prescribe the powers and duties of certain state departments, the state board of education, and certain other boards and officials; to provide for licensure of boarding schools; to prescribe penalties; and to repeal acts and parts of acts," by amending section 1211 (MCL 380.1211), as amended by 2003 PA 126.

The People of the State of Michigan enact:

380.1211 Mills levied for school operating purposes; limitation; reduction of mills from which homestead and qualified agricultural property are exempt; effect of insufficient mills allowed to be levied under subsection (1); additional mills; number of mills school district may levy after 1994; approval by school electors; excess tax revenue; shortfall; allocation under property tax limitation act; definitions.

Sec. 1211. (1) Except as otherwise provided in this section and section 1211c, the board of a school district shall levy not more than 18 mills for school operating purposes or the number of mills levied in 1993 for school operating purposes, whichever is less. A principal residence, qualified agricultural property, and qualified forest property are exempt from the mills levied under this subsection except for the number of mills by which that exemption is reduced under this subsection. The board of a school district with a foundation allowance calculated under section 20 of the state school aid act of 1979, MCL 388.1620, for the 1994-95 state fiscal year of more than $6,500.00, may reduce the number of mills from which a principal residence and qualified agricultural property are exempted under this subsection by up to the number of mills, as certified under section 1211a, required to be levied on a principal residence and qualified agricultural property for the school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for the state fiscal year ending in 1995, and the board also may levy in 1994 or a succeeding year that number of mills for school operating purposes on a principal residence, qualified agricultural property, and qualified forest property.

(2) Subject to subsection (3), if the department of treasury determines that the maximum number of mills allowed to be levied under subsection (1) on all classes of property is not sufficient for a school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for that school fiscal year, the board of the school district may levy in 1994 or a succeeding year additional mills uniformly on all property up to the number of mills required for the school district's combined state and local revenue per membership pupil for the school fiscal year ending in 1995 to be equal to the school district's foundation allowance for the state fiscal year ending in 1995.

(3) After 1994, the number of mills a school district may levy under this section on any class of property shall not exceed the lesser of the number of mills the school district is certified by the department of treasury under section 1211a to levy on that class of property under this section in 1994 or the number of mills required to be levied on that class of property under this section to ensure that the increase from the immediately preceding state fiscal year in the school district's combined state and local revenue per membership pupil, calculated as if the school district had levied the maximum number of mills the school district was allowed to levy under this section regardless of the number of mills the school district actually levied, does not exceed the lesser of the dollar amount of the increase in the basic foundation allowance under section 20 of the state school aid act of 1979, MCL 388.1620, from the immediately preceding state fiscal year or the percentage increase in the general price level in the immediately preceding calendar year. If the number of mills a school district is allowed to levy under this section in a year after 1994 is less than the number of mills the school district was allowed to levy under this section in the immediately preceding year, any reduction required by this subsection in the school district's millage rate shall be calculated by first reducing the number of mills the school district is allowed to levy under subsection (2) and then increasing the number of mills from which a principal residence, qualified agricultural property, and qualified forest property are exempted under subsection (1).

(4) Millage levied under this section must be approved by the school electors. For the purposes of this section, millage approved by the school electors before January 1, 1994 for which the authorization has not expired is considered to be approved by the school electors.

(5) If a school district levies millage for school operating purposes that is in excess of the limits of this section, the amount of the resulting excess tax revenue shall be deducted from the school district's next regular tax levy.

(6) If a school district levies millage for school operating purposes that is less than the limits of this section, the board of the school district may levy at the school district's next regular tax levy an additional number of mills not to exceed the additional millage needed to make up the shortfall.

(7) A school district shall not levy mills allocated under the property tax limitation act, 1933 PA 62, MCL 211.201 to 211.217a, other than mills allocated to a school district of the first class for payment to a public library commission under section 11(4) of the property tax limitation act, 1933 PA 62, MCL 211.211, after 1993.

(8) As used in this section:

(a) "Combined state and local revenue per membership pupil" means that term as defined in section 20 of the state school aid act of 1979, MCL 388.1620.

(b) "Foundation allowance" means a school district's foundation allowance as calculated under section 20 of the state school aid act of 1979, MCL 388.1620.

(c) "General price level" means that term as defined in section 33 of article IX of the state constitution of 1963.

(d) "Membership" means that term as defined in section 6 of the state school aid act of 1979, MCL 388.1606.

(e) "Owner", "person", "principal residence", and "qualified agricultural property" mean those terms as defined in section 7dd of the general property tax act, 1893 PA 206, MCL 211.7dd.

(f) "Qualified forest property" means that term as defined in section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj.

(g) "School operating purposes" includes expenditures for furniture and equipment, for alterations necessary to maintain school facilities in a safe and sanitary condition, for funding the cost of energy conservation improvements in school facilities, for deficiencies in operating expenses for the preceding year, and for paying the operating allowance due from the school district to a joint high school district in which the school district is a participating school district under former part 3a. Taxes levied for school operating purposes do not include any of the following:

(*i*) Taxes levied by a school district for operating a community college under part 25.

(*ii*) Taxes levied under section 1212.

(*iii*) Taxes levied under section 1356 for eliminating an operating deficit.

(*iv*) Taxes levied for operation of a library under section 1451 or for operation of a library established pursuant to 1913 PA 261, MCL 397.261 to 397.262, that were not included in the operating millage reported by the district to the department as of April 1, 1993. However, a district may report to the department not later than April 1, 1994 the number of mills it levied in 1993 for a purpose described in this subparagraph that the school district does not want considered as operating millage and then that number of mills is excluded under this section from taxes levied for school operating purposes.

(*v*) Taxes paid by a school district of the first class to a public library commission pursuant to section 11(4) of the property tax limitation act, 1933 PA 62, MCL 211.211.

(*vi*) Taxes levied under former section 1512 for operation of a community swimming pool. In addition, if a school district included the millage it levied in 1993 for operation of a community swimming pool as part of its operating millage reported to the department for 1993, the school district may report to the department not later than June 17, 1994 the number of mills it levied in 1993 for operation of a community swimming pool that the school district does not want considered as operating millage and then that number of mills is excluded under this section from taxes levied for school operating purposes.

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. 912.

(b) Senate Bill No. 913.

This act is ordered to take immediate effect.
Approved September 26, 2006.
Filed with Secretary of State September 27, 2006.

Compiler's note: Senate Bill No. 912, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 378, Imd. Eff. Sept. 27, 2006.

Senate Bill No. 913, also referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 379, Imd. Eff. Sept. 27, 2006.

[No. 381]

(SB 917)

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 part 512.

The People of the State of Michigan enact:

PART 512

SUSTAINABLE FOREST CONSERVATION EASEMENT TAX INCENTIVES

324.51201 Owner of commercial forestland subject to sustainable forest conservation easement; specific tax; application for sustainable forest conservation easement tax incentives; form; information; cutting or removing forest products; violation; penalty; definitions.

Sec. 51201. (1) Notwithstanding section 51105, an owner of commercial forestland that is subject to a sustainable forest conservation easement is subject to an annual specific tax equal to the annual specific tax levied under section 51105 less 15 cents per acre. The specific

tax described in this section shall be administered, collected, and distributed in the same manner as the specific tax levied in section 51105.

(2) An application for sustainable forest conservation easement tax incentives described in this part shall be submitted on a form prescribed by the department. The application shall be postmarked or delivered to the department not later than April 1 to be eligible for approval for the following tax year. In addition to any information that the department may reasonably require by rule, the applicant shall provide all of the following to the department:

(a) A nonrefundable application fee in the amount of $2.00 per acre or fraction of an acre, but not less than $200.00 and not more than $1,000.00. The department shall remit the application fee to the state treasurer for deposit into the commercial forest fund under section 51112.

(b) A copy of the conservation easement covering the forestland.

(3) The owner of commercial forestlands subject to a sustainable forest conservation easement is entitled to cut or remove forest products on his or her commercial forestlands if the owner complies with part 511 and the requirements of the sustainable forest conservation easement.

(4) If commercial forestland subject to a sustainable forest conservation easement is used in violation of this part or the sustainable forest conservation easement, the owner in addition to any other penalties provided by law shall pay a penalty, per acre, for each year in which the violation occurs equal to the difference between the specific tax paid under this part and the specific tax that would otherwise be paid under part 511. The specific tax collected under this part shall be paid to the township treasurer in which the commercial forestland is located. The penalty shall be distributed by the township treasurer in the same manner as the specific tax is distributed.

(5) As used in this part:

(a) "Commercial forestland" means commercial forestland that is enrolled under part 511.

(b) "Department" means the department of natural resources.

(c) "Forestland" means that term as defined in part 511.

(d) "Sustainable forest conservation easement" means a conservation easement described in section 2140 on commercial forestland that is approved by the department and meets all of the following:

(*i*) Is an easement granted in perpetuity to this state, a political subdivision of this state, or a charitable organization described in section 501(c)(3) of the internal revenue code, 26 USC 501, that also meets the requirements of section 170(h)(3) of the internal revenue code, 26 USC 170.

(*ii*) Covers commercial forestland of 40 or more acres in size.

(*iii*) Provides that the forestland subject to the conservation easement or the manager of the forestland subject to the conservation easement is and continues to be certified under a sustainable forestry certification program that uses independent third party auditors and that is recognized by the department.

(*iv*) Provides that the forestland subject to the conservation easement provides for the nonmotorized recreational use of the forestland by members of the public.

This act is ordered to take immediate effect.
Approved September 26, 2006.
Filed with Secretary of State September 27, 2006.

[No. 382]

(HB 5454)

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 sections 51105, 51106, 51108, and 51116 (MCL 324.51105, 324.51106, 324.51108, and 324.51116), section 51105 as amended by 1996 PA 451 and sections 51106, 51108, and 51116 as added by 1995 PA 57.

The People of the State of Michigan enact:

324.51105 Commercial forests not subject to ad valorem general property tax; specific tax; removal from land descriptions list; separate roll; collection; return and sale for nonpayment of taxes; valuation prohibited; lands not considered in connection with equalization distribution of sums collected; distribution; commercial forestland located in renaissance zone.

Sec. 51105. (1) Commercial forests are not subject to the ad valorem general property tax after the date the township supervisor is notified by the department that the land is a commercial forest, except taxes as previously levied. Except as otherwise provided in part 512 and as provided in subsection (5), commercial forests are subject to an annual specific tax as follows:

(a) Until December 31, 2006, $1.10 per acre.

(b) Beginning January 1, 2007 through December 31, 2011, $1.20 per acre.

(c) Beginning January 1, 2012 and every 5 years after that date, the amount of the annual specific tax under this section shall be increased by 5 cents per acre.

(2) The supervisor of the township shall remove from the list of land descriptions assessed and taxed under the ad valorem general property tax the land descriptions certified to him or her by the department as being commercial forests and shall enter those land descriptions on a roll separate from lands assessed and taxed by the ad valorem general property tax and shall spread against these commercial forests the specific tax provided by this section.

(3) The township treasurer shall collect the specific tax at the same time and in the same manner as ad valorem general property taxes are collected and this tax is subject to the same collection charges levied for the collection of ad valorem property taxes. Commercial forests are subject to return and sale for nonpayment of taxes in the same manner, at the same time, and under the same penalties as lands returned and sold for nonpayment of taxes levied under the ad valorem general property tax laws. A valuation shall not be determined for descriptions listed as commercial forests and these lands shall not be considered by the county board of commissioners or by the state board of equalization in connection with county or state equalization for ad valorem property taxation purposes.

(4) Except as provided in section 51109(2), all sums collected pursuant to this section shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township.

(5) Commercial forestland located in a renaissance zone under the Michigan renaissance zone act, 1996 PA 376, MCL 125.2681 to 125.2696, is exempt from the annual specific tax levied under this section to the extent and for the duration provided pursuant to that act.

324.51106 Acreage as commercial forest; certifying to state treasurer; payment to county treasurer; distribution of remaining funds.

Sec. 51106. (1) On December 1 of each year, the department shall certify to the state treasurer the number of acres that are commercial forestlands in each county and the state treasurer shall transmit to the treasurer of each county in which these commercial forests are located a warrant on the state treasurer for an amount equal to the following for commercial forest in the county:

(a) Until December 31, 2011, $1.20 per acre.

(b) Beginning January 1, 2012 and every 5 years after that date, the amount of the annual payment under this section shall be increased by 5 cents per acre.

(2) From the payments received under subsection (1), the county treasurer of each county shall distribute an amount equal to 25 cents per acre for each acre of commercial forest in the county in the same proportions between the various funds as the ad valorem general property tax is distributed by the township treasurers in each township. Except as provided by section 51109(2), the county treasurer of each county shall distribute the remainder of the funds received under this section in the same manner and in the same proportion as ad valorem taxes collected under the ad valorem general property tax.

324.51108 Withdrawal of land as commercial forest; application; fee; penalty; disposition; distribution; notice to applicant, township supervisor, and register of deeds; filing list of withdrawn lands.

Sec. 51108. (1) An owner of a commercial forest may withdraw his or her land, in whole or in part, from the operation of this part upon application to the department and payment of the withdrawal application fee and penalty, as provided in this section.

(2) Except as otherwise provided by this section, upon application to the department to withdraw commercial forestland from the operation of this part, the applicant shall forward to the department a withdrawal application fee in the amount of $1.00 per acre with a minimum withdrawal application fee of $200.00 per application and a maximum withdrawal application fee of $1,000.00 per application.

(3) Except as otherwise provided in this section, an application to withdraw commercial forestland from the operation of this part shall be granted upon the payment to the township treasurer in which the commercial forestland is located of a penalty. Except as provided in subsection (4), the withdrawal penalty shall be calculated in the following manner:

(a) Multiply the number of acres of commercial forestland withdrawn from the operation of this part by the average value per acre for comparable property acquired within the last 10 years under subpart 14 of part 21, as determined by the state tax commission under section 2153.

(b) Multiply the product of the calculation in subdivision (a) by the total millage rate levied by all taxing units in the local tax collecting unit in which the property is located.

(c) Multiply the product of the calculation in subdivision (b) by the number of years, to a maximum of 7 years, in which the property withdrawn from the operation of this part has been designated as commercial forestland under this part.

(4) For a period of 1 year after the effective date of the 2006 amendments to this section, the withdrawal penalty is as follows:

(a) Subject to subdivision (b), the withdrawal penalty that was in effect immediately prior to the effective date of the 2006 amendments to this section.

(b) If all of the following occur, an owner of commercial forestland is not subject to a withdrawal penalty:

(*i*) An owner of commercial forestland withdraws his or her land from the operation of this part as provided in this section.

(*ii*) The former commercial forestland is placed on the assessment roll in the local tax collecting unit in which the former commercial forestland is located.

(*iii*) The owner of the former commercial forestland claims and is granted an exemption from the tax levied by a local school district for school operating purposes under section 7jj of the general property tax act, 1893 PA 206, MCL 211.7jj.

(5) An application to withdraw commercial forestland from the operation of this part that meets 1 or more of the following requirements shall be granted without payment of the withdrawal application fee or penalty under this section:

(a) Commercial forestland that has been donated to a public body for public use prior to withdrawal.

(b) Commercial forestland that has been exchanged for property belonging to a public body if the property received is designated as a commercial forest as determined by the department.

(c) Commercial forestland that has been condemned for public use.

(6) The department shall remit the withdrawal application fee paid pursuant to subsection (2) to the state treasurer for deposit into the fund. The penalty received by the township treasurer under subsection (3) shall be distributed by the township treasurer in the same proportions to the various funds as the ad valorem general property tax is allocated in the township, except as provided by section 51109(2).

(7) If an application to withdraw commercial forestland is granted, the department shall immediately notify the applicant, the supervisor of the township, and the register of deeds of the county in which the lands are located of the action and shall file with those officials a list of the lands withdrawn.

324.51116 Removal of designation; declassification; notice; recording; fee.

Sec. 51116. If, after providing notice and an opportunity for a hearing, the department determines that a commercial forest was used in violation of this part, that the owner failed to pay the specific tax pursuant to section 51105, that the owner failed to report to the department pursuant to section 51111, that minerals were removed in violation of section 51113, or, after an owner certifies to the department that a forest management plan has been prepared and is in effect, that the owner failed to plant, harvest, or remove forest products in compliance with the owner's forest management plan, then the department shall remove the commercial forest designation for the commercial forest, serve a notice of declassification of the lands upon the owner, and record a copy of the declassification in the office of the register of deeds of the county in which the lands are located. Upon declassification, the land is subject to the ad valorem general property tax. Within 30 days after the service of the declassification notice on the owner, the owner shall pay both of the following:

(a) A fee equal to the withdrawal application fee described in section 51108 to the department for deposit into the fund.

(b) An amount equal to the penalty described in section 51108 to the township treasurer of the township in which the land is located to be distributed, except as provided in section 51109(2), in the same proportions to the various funds as the ad valorem general property tax is allocated in the township.

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) House Bill No. 5455.

(b) Senate Bill No. 912.

(c) Senate Bill No. 917.

This act is ordered to take immediate effect.
Approved September 26, 2006.
Filed with Secretary of State September 27, 2006.

Compiler's note: The bills referred to in enacting section 1 were enacted into law as follows:
House Bill No. 5455 was filed with the Secretary of State September 27, 2006, and became 2006 PA 383, Imd. Eff. Sept. 27, 2006.
Senate Bill No. 912 was filed with the Secretary of State September 27, 2006, and became 2006 PA 378, Imd. Eff. Sept. 27, 2006.
Senate Bill No. 917 was filed with the Secretary of State September 27, 2006, and became 2006 PA 381, Imd. Eff. Sept. 27, 2006.

[No. 383]

(HB 5455)

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 sections 51101, 51103, 51112, and 51113 (MCL 324.51101, 324.51103, 324.51112, and 324.51113), as added by 1995 PA 57; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.51101 Definitions.

Sec. 51101. As used in this part:

(a) "Ad valorem general property tax" means taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

(b) "Commercial forest" or "commercial forestland" means forestland that is determined to be a commercial forest under section 51103.

(c) "Declassify" or "declassification" means the removal of the commercial forest designation pursuant to section 51116.

(d) "Forestland" means a tract of land that may include nonproductive land that is intermixed with productive land that is an integral part of a managed forest and that meets all the following:

(*i*) Does not have material natural resources other than those resources suitable for forest growth or the potential for forest growth.

(*ii*) Is not used for agricultural, mineral extraction except as provided in section 51113, grazing, industrial, developed recreational, residential, resort, commercial, or developmental purposes.

(*iii*) The owner agrees to develop, maintain, and actively manage the land as a commercial forest through planting, natural reproduction, or other silvicultural practices.

(e) "Forest management plan" means a written plan prepared and signed by a registered forester or a natural resources professional that prescribes measures to optimize production, utilization, and regeneration of forest resources. The forest management plan shall include schedules and timetables for the various silvicultural practices used on commercial forestlands, including, but not limited to, timber harvesting and regeneration.

(f) "Fund" means the commercial forest fund created under section 51112.

(g) "Natural resources professional" means a person who is acknowledged by the department as having the education, knowledge, experience, and skills to identify, schedule, and implement appropriate forest management practices needed to achieve the purposes of this part on land subject to or to be subject to this part.

(h) "Owner" means a person who holds title to the surface estate of forestland subject to this part. However, if land is purchased on a land contract, the owner includes the person who holds the land contract vendee's interest and does not include the person who holds the land contract vendor's interest.

(i) "Personal use" means use for any noncommercial purpose.

(j) "Registered forester" means a person registered under article 21 of the occupational code, 1980 PA 299, MCL 339.2101 to 339.2108.

(k) "Silvicultural practices" means the management and manipulation of forest vegetation for the protection, growth, and enhancement of forest products.

324.51103 Commercial forest; application for determination; "contiguous" defined; requirements for eligibility; application form; postmark or delivery date; contents; brochure; notification; preparation of forest management plan.

Sec. 51103. (1) The owner of at least 40 contiguous acres or a survey unit consisting of 1/4 of 1/4 of a section of forestland located within this state may apply to the department to have that forestland determined to be a commercial forest under this part. For purposes of this subsection, "contiguous" means land that touches at any point. Even if portions of commercial forestland are contiguous only at a point, the privilege of hunting and fishing shall not be denied for any portion of the land as provided in section 51113. The existence of a public or private road, a railroad, or a utility right-of-way that separates any part of the land does not make the land noncontiguous.

(2) To be eligible for determination as a commercial forest, forestland shall be capable of all of the following:

(a) Producing not less than 20 cubic feet per acre per year of forest growth upon maturity.

(b) Producing tree species that have economic or commercial value.

(c) Producing a commercial stand of timber within a reasonable period of time.

(3) An application for classification as commercial forest shall be submitted on a form prescribed by the department. The application shall be postmarked or delivered not later than April 1 to be eligible for approval as commercial forest for the following tax year. In

addition to any information that the department may reasonably require by rule, the applicant shall provide all of the following to the department:

(a) A nonrefundable application fee in the amount of $1.00 per acre or fraction of an acre, but not less than $200.00 and not more than $1,000.00. The department shall remit the application fee to the state treasurer for deposit into the fund.

(b) A legal description and the amount of acreage considered for determination as a commercial forest.

(c) A statement certifying that a forest management plan covering the forestland has been prepared and is in effect.

(d) A statement certifying that the owner of the forestland owns the timber rights to the timber standing on the forestland.

(4) The department shall prepare and distribute to any person desiring to apply for classification of forestland as commercial forest under this part a brochure that lists and explains, in simple, nontechnical terms, all of the following:

(a) The application, hearing, determination, declassification, and prosecution process.

(b) The requirements of the forest management plan.

(5) Not later than 3 months after the effective date of the 2006 amendatory act that amended this section, the department shall notify each county and township and all owners of forestland that is classified as commercial forest under this part of the amendments to this part that were enacted in 2006.

(6) If an applicant is unable to secure the services of a registered forester or a natural resources professional to prepare a forest management plan, the department upon request shall prepare the forest management plan on behalf of the owner of the forestland and charge the owner a forest management plan fee not to exceed the actual cost of preparing the forest management plan.

(7) After an owner certifies to the department that a forest management plan has been prepared and is in effect, a violation of that forest management plan is a violation of this part.

324.51112 Commercial forest fund.

Sec. 51112. (1) The commercial forest fund is created within the state treasury.

(2) The state treasurer shall deposit the money collected from the following sources into the fund:

(a) The application fee and forest management plan fee pursuant to section 51103.

(b) The withdrawal application fee pursuant to section 51108.

(c) The fee described in section 51116(1)(a).

(d) An amount equal to 10 cents for each acre of land enrolled under this part as certified by the department, to be appropriated each fiscal year from the general fund.

(e) Any restitution ordered by a court payable to this state for a violation of this part.

(3) In addition to the revenues described in subsection (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.

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

(5) The department shall expend the money from the fund, upon appropriation, for enforcement, administration, and monitoring of compliance with part 512 and this part and rules promulgated under this part.

324.51113 Prohibited use of land by owner; exception; exploration for minerals; removal of commercial mineral deposits, sand and gravel, and oil and gas.

Sec. 51113. (1) Except as provided in this section, the owner of a commercial forest shall not use that land in a manner that is prejudicial to its development as a commercial forest, use the land for agricultural, mineral extraction except as provided in this section, grazing, industrial, developed recreational, residential, resort, commercial, or developmental purposes, or deny the general public the privilege of hunting and fishing on commercial forestland unless the land is closed to hunting or fishing, or both, by order of the department or by an act of the legislature.

(2) Exploration for minerals shall be permitted on land listed under this part. Except as provided in subsections (3) and (4), before the removal of any commercial mineral deposits, the owner shall withdraw the portion of the commercial forestland directly affected by the removal pursuant to section 51108. The withdrawal of commercial forestland due to mineral removal as provided in this section and section 51108 shall not cause the remaining portion of the commercial forestland to be withdrawn due to insufficient acreage of the remaining commercial forestland.

(3) Upon application to and approval by the department, sand and gravel may be removed from the commercial forest without affecting the land's status as a commercial forest. The department shall approve an application to remove sand and gravel deposits only if the removal site is not greater than 5 acres, excluding access to the removal site, and the sand and gravel are to be utilized by 1 or more of the following:

(a) The owner of a commercial forest for personal use if the owner of the commercial forest is also the owner of the sand and gravel deposits.

(b) The owner of the sand and gravel deposits for his or her personal use or for sale to the owner of the commercial forest for personal use, if the owner of the commercial forest is not also the owner of the sand and gravel deposits.

(c) This state, a local unit of government, or a county road commission, for governmental use.

(4) Upon application to and approval by the department, deposits of oil and gas may be removed from the commercial forest without affecting the land's status as a commercial forest.

Repeal of MCL 324.51107.

Enacting section 1. Section 51107 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.51107, is repealed.

Conditional effective date.

Enacting section 2. 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. 917.

(b) House Bill No. 5454.

This act is ordered to take immediate effect.
Approved September 26, 2006.
Filed with Secretary of State September 27, 2006.

Compiler's note: Senate Bill No. 917, referred to in enacting section 2, was filed with the Secretary of State September 27, 2006, and became 2006 PA 381, Imd. Eff. Sept. 27, 2006.

House Bill No. 5454, also referred to in enacting section 2, was filed with the Secretary of State September 27, 2006, and became 2006 PA 382, Imd. Eff. Sept. 27, 2006.

[No. 384]

(SB 1290)

AN ACT to provide for the certification of driver education providers; to prescribe certain record-keeping and program requirements for driver education providers; to provide for the certification of driver education instructors; to prescribe the powers and duties of certain persons and departments; to prescribe certain fees; to establish a fund in the state treasury; to prescribe remedies, sanctions, and penalties; and to rescind administrative rules.

The People of the State of Michigan enact:

256.621 Short title.

Sec. 1. This act shall be known and may be cited as the "driver education provider and instructor act".

256.623 Definitions; A to D.

Sec. 3. As used in this act:

(a) "Adult driver training" means instruction that is provided to a person 18 years of age or older in the operation of a motor vehicle, other than a commercial motor vehicle as defined in section 7a of the Michigan vehicle code, 1949 PA 300, MCL 257.7a.

(b) "Behind-the-wheel instruction" means instruction in which a student is in control of a motor vehicle on a public street or highway in real and varied traffic situations and a driver education instructor is the only other occupant in the front passenger seating area with the student.

(c) "Classroom instruction" means that part of a driver education course that occurs in a classroom environment that enables a student to learn through varied instructional methods, under the direct guidance of a driver education instructor.

(d) "Conviction" means a conviction for a crime or attempted crime whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state.

(e) "Coordinated segment 1 driver education course" means a segment 1 course provided by 2 or more certified driver education providers in the use of auxiliary aids and services as that term is defined in the Americans with disabilities act of 1990, 42 USCA 12102.

(f) "Curriculum" means a written plan that guides the instruction given in a driver education course and includes performance objectives, a content outline, detailed learning activities, and assessment tools.

(g) "Designated representative or coordinator" means the individual that a driver education provider employs, enlists, or appoints, or contracts with to supervise, manage, and administer the day-to-day responsibilities of the provider's driver education school operation. Often this individual is an owner, partner, officer, or director of the driver education provider.

(h) "Driver education course" means a program of study offered by a certified driver education provider, which enables a student to acquire the basic knowledge, skill, and attitude necessary to operate a motor vehicle upon a highway transportation system.

(i) "Driver education course certificate of completion" means a written or electronic authorization issued by a certified driver education provider to a student who has successfully completed segment 1 or segment 2 of a driver education course offered by the provider.

(j) "Driver education instructor" means a person who the secretary of state certifies has met the instructor qualifications of this act to instruct a student in a driver education course.

(k) "Driver education instructor certificate" means a written or electronic authorization issued by the secretary of state to indicate that a person has met the instructor qualifications of this act to instruct a student in a driver education course.

256.625 Definitions; D to M.

Sec. 5. As used in this act:

(a) "Driver education instructor preparation program" means a program of driver education instructor preparation courses offered by a college or university or by a person approved by the secretary of state.

(b) Except as otherwise provided in this act, "driver education instructor preparation courses" means the courses that are required to obtain a driver education instructor certificate.

(c) "Driver education provider" or "provider" means a person who meets the requirements in subparagraph (*i*), if not excluded under subparagraph (*ii*), as follows:

(*i*) Maintains or obtains the facilities and certified instructors to give instruction in the driving of a motor vehicle or maintains or obtains the facilities and certified instructors to prepare an applicant for an exam given by the secretary of state for a license as defined in section 25 of the Michigan vehicle code, 1949 PA 300, MCL 257.25, or a vehicle indorsement issued under former section 312e of the Michigan vehicle code, 1949 PA 300.

(*ii*) Driver education provider does not include a person who provides instruction as follows:

(A) Only for the benefit of its employees if that instruction is not open to the public.

(B) In the driving or operating of a motorcycle as defined in section 31 of the Michigan vehicle code, 1949 PA 300, MCL 257.31, or the preparing of an applicant for an exam given by the secretary of state for a motorcycle indorsement issued under section 312a of the Michigan vehicle code, 1949 PA 300, MCL 257.312a.

(C) On an unpaid, casual basis to a relative or friend.

(d) "Driver education provider certificate" means a written or electronic authorization issued by the secretary of state to indicate that a person has met the driver education provider qualifications of this act.

(e) "Educational institution" means a public school, nonpublic school, or public school academy as those terms are defined in section 5 of the revised school code, 1976 PA 451, MCL 380.5; a consortium that is defined to mean a partnership, association, or alliance of 2 or more school districts in a common venture; a community college, a 4-year college, a university, or any other body of higher education.

(f) "Established office location" means a building that meets all of the following requirements:

(*i*) Is of a permanent nature where the provider's communications and notices are received.

(*ii*) Is heated, lighted, and ventilated and contains appropriate space to properly store and preserve the information, records, or other documents required to be maintained under this act.

(*iii*) Complies with applicable zoning and municipal requirements.

(g) "Governmental agency" means an agency of the federal government, a state government, a county, city, village, or township, or a combination of any of these entities.

(h) "Graduated driver license" means a license issued by the secretary of state under section 310e of the Michigan vehicle code, 1949 PA 300, MCL 257.310e.

(i) "Multiple vehicle driving facility" means that part of a driver education course that enables the driver education instructor, from a position outside the vehicle, and using electronic or oral communication, to teach and supervise several students simultaneously, each of whom is operating a vehicle at an off-street facility specifically designed for that type of instruction.

256.627 Definitions; P to T.

Sec. 7. As used in this act:

(a) "Performance objective" means a certain level of knowledge and skill a student is expected to acquire to successfully complete a driver education course.

(b) "Person" means an individual, partnership, corporation, association, limited liability company, educational institution, governmental agency or other legal or commercial entity, and their legal successors.

(c) "Practicum" means classroom and behind-the-wheel instruction in a driver education course under the direction of an instructor employed, enlisted, or appointed by a college or university or by a person approved by the secretary of state and a cooperating instructor, providing practical application of theory and experience for a student in an approved driver education instructor preparation program. As used in this subdivision, "cooperating instructor" means a driver education instructor approved by the secretary of state to participate in a practicum course to mentor an uncertified driver education instructor in the practicum.

(d) "Professional development requirements" means training prescribed by the secretary of state to update the instructional knowledge and skill of a driver education instructor.

(e) "Revocation" means the termination of a driver education provider's certification or a driver education instructor's certification.

(f) "Segment 1" means a teen driver education course that meets the requirements in section 37 of this act.

(g) "Segment 2" means a teen driver education course that meets the requirements in section 39 of this act.

(h) "Simulator device training" means that part of a driver education course where a driver education instructor uses interactive simulator units and programs to reproduce driving situations likely to occur in actual driving on a street and the student is required to evaluate risk, make decisions, and respond to the situations presented.

(i) "Suspension" means the temporary withdrawal of a person's certification to engage or offer to engage in activities as a driver education provider or a driver education instructor during the period of suspension.

(j) "Teen driver training" means driver training instruction provided through a segment 1 or segment 2 driver education course that allows a person 17 years of age or less to apply for a level 1 or level 2 graduated driver license.

(k) "Truck driver training" means instruction that is provided to operate a commercial motor vehicle as that term is defined in section 7a of the Michigan vehicle code, 1949 PA 300, MCL 257.7a.

256.629 Driver education provider certificate; application; classifications; investigation; eligibility requirements; evidence; bond or renewal certificate; stipulation of agreement to service of process; applicability of subsection (3); classroom facility; liability insurance; multiple driving facility; orientation and education program; fees.

Sec. 9. (1) A person may apply to the secretary of state for a driver education provider certificate in 1 or more of the following classifications:

(a) Adult driver training.

(b) Teen driver training.

(c) Truck driver training.

(2) The secretary of state shall not grant an original driver education provider certificate under this act until an investigation is made of the applicant's qualification.

(3) Except as provided in this act, an applicant must do or submit evidence that he or she has done or will do, as applicable, all of the following to be eligible to receive a driver education provider certificate:

(a) Submit a properly completed application signed by the applicant.

(b) Maintain an established office location.

(c) Maintain classroom facilities in a public or commercial setting.

(d) Maintain the surety bond required under this section.

(e) Require each of their designated representatives or coordinators to complete a criminal history check as described in section 29.

(f) Provide the name and address of each designated representative or coordinator of the applicant, if applicable.

(g) Provide the name, address, date of birth, and social security number of each owner or partner and, if a corporation, of each of the principal officers.

(h) Provide a statement of the previous history, record, and associations of the applicant and of each owner, partner, officer, director, and designated representative or coordinator. The statement shall be sufficient to establish to the satisfaction of the secretary of state the business reputation and character of the applicant.

(i) Provide a statement indicating whether the applicant or its designated representative or coordinator has ever applied for a driver education provider certificate in this state or any other state, and the result of that application.

(j) Provide a statement indicating whether the applicant or its designated representative or coordinator has ever been denied a driver education provider certificate or has ever been the holder of a certificate that was suspended or revoked.

(k) If the applicant is a corporation or partnership, provide a statement indicating whether a partner, employee, officer, director, or its designated representative or coordinator has ever been denied a driver education provider certificate or has ever been the holder of a certificate that was suspended or revoked.

(*l*) Certify that the applicant or another person named on the application is not acting as the alter ego of any other person or persons in seeking the certificate. For the purpose of this subdivision, "alter ego" means a person who acts for and on behalf of, or in the place of, another person for purposes of obtaining a driver education provider certificate.

(m) Affirm that the established office location meets all applicable zoning and municipal requirements.

(n) Obtain written or electronic verification from the state fire marshal or his or her representative that the proposed classroom facilities have been inspected and approved by the state fire marshal or his or her representative according to state and local building code and public occupancy requirements.

(o) Obtain written or electronic verification from an insurer that the applicant maintains or will maintain bodily injury and property damage liability insurance on each motor vehicle used in a driver education course.

(p) Except as otherwise provided in this subdivision, submit a nonrefundable application processing fee with each application for a separate established place of business where records will be maintained as follows:

(*i*) $225.00 for a driver education provider who offers adult or teen driver training.

(*ii*) $360.00 for a driver education provider who offers truck driver training.

(*iii*) A fee is not required for an additional location that is used for the sole purpose of conducting classroom instruction and at which records are not maintained, enrollments are not made, and staff is not ordinarily assigned, except for the purpose of conducting classroom instruction.

(q) Provide a statement indicating whether the applicant will use a multiple vehicle driving facility in a driver education course. If a facility will be used, both of the following apply:

(*i*) The statement shall include a detailed description of the facility as determined necessary by the secretary of state and its address.

(*ii*) A multiple vehicle driving facility review and approval fee of $125.00 shall accompany the applicant's application for a driver education provider certificate.

(r) Provide other information and documents as prescribed by the secretary of state necessary to determine whether the applicant meets the requirements of this act.

(4) An application for an original driver education provider certificate shall include a properly executed surety bond or renewal certificate with the application. If a renewal certificate is used, the bond is considered renewed for each succeeding year in the same amount and with the same effect as an original bond. The bond or certificate shall be maintained continuously without interruption to protect the contractual rights of students. The bond or certificate of an adult or teen driver education provider with 999 or fewer students in a calendar year shall be in the principal sum of $20,000.00 with good and sufficient surety to be approved by the secretary of state. The bond or certificate of an adult or teen driver education provider with 1,000 or more students in a calendar year shall be in the principal sum of $40,000.00 with good and sufficient surety to be approved by the secretary of state. The bond or certificate of a truck driver education provider shall be in the principal sum of $50,000.00 with good and sufficient surety to be approved by the secretary of state. The bond shall indemnify or reimburse a student, financing agency, or governmental agency for monetary loss caused through fraud, cheating, or misrepresentation in the conduct of the driver education provider's business where the fraud, cheating, or misrepresentation was made by the provider or by an employee, agent, instructor, or salesperson of the provider. The surety shall make indemnification or reimbursement for a monetary loss only after judgment based on fraud, cheating, or misrepresentation has been entered in a court of record against the provider. The aggregate liability of the surety shall not exceed the sum of the bond. The surety on the bond may cancel the bond by giving 30 days' written or electronic notice to the secretary of state and after giving notice is not liable for a breach of condition occurring after the effective date of the cancellation.

(5) A driver education provider who offers adult driver training, teen driver training, and truck driver training shall furnish a separate bond for each driver education provider certificate issued by the secretary of state to the applicant. When the secretary of state receives written or electronic notice that a driver education provider's surety bond required under subsection (4) or insurance coverage required under subsection (10) has been canceled, the secretary of state shall notify the provider that the provider's certificate shall be automatically canceled unless the secretary of state receives a new surety bond or a new insurance certificate within 30 days or less. If the provider fails to submit a new surety bond or insurance certificate to the secretary of state within 30 days or less, the secretary of state may automatically cancel the provider's certificate. A driver education provider who changes or terminates the provider's surety bond or the insurance coverage before the expiration date of the bond or insurance coverage shall immediately furnish the secretary of state with written or electronic notice as prescribed by the secretary of state of that change or termination and proof of a new bond or insurance coverage.

(6) As a condition precedent to the granting of a certificate, an applicant shall file with the secretary of state, on a form prescribed by the secretary of state, an irrevocable written or electronic stipulation. The stipulation shall be signed by the applicant and state that the applicant agrees that legal process affecting the applicant, served on the secretary of state against the applicant or the applicant's successor in interest for a violation of this act, a rule promulgated under this act, or an order issued under this act, has the same effect as if personally served on the applicant. This appointment remains in force as long as the provider has any outstanding liability within this state under this act.

(7) Subsections (3)(d), (g), and (p) and (4) do not apply to an educational institution or a governmental agency.

(8) Subsection (3)(c) does not apply to a classroom location currently in use that was approved by the secretary of state in writing before the effective date of this act.

(9) A classroom facility may not be located in a person's residence or a structure attached or adjacent to the person's residence unless the classroom facility was used and approved by the secretary of state in writing before the effective date of this act.

(10) A driver education provider shall maintain bodily injury and property damage liability insurance on a motor vehicle used in driver education course instruction. The insurance shall insure the liability of the driver education provider, the driver education instructors, and a person taking instruction in the amount of $100,000.00 for bodily injury to or the death of 1 person in 1 accident, and, subject to the limit for 1 person; $300,000.00 for bodily injury to or the death of 2 or more persons in 1 accident; and $50,000.00 for damage to the property of others in 1 accident. The insurer shall be authorized to do insurance business in this state. The insurer shall not cancel the insurance before its expiration date unless it gives the secretary of state written or electronic notice as prescribed by the secretary of state of the insurer's intent to cancel the insurance at least 30 days before the cancellation.

(11) The secretary of state shall review and, in writing, approve or deny the use of a multiple vehicle driving facility under this act as determined necessary by the secretary of state. The secretary of state shall approve a facility only if it meets criteria prescribed by the secretary of state. The secretary of state shall perform an on-site inspection of a multiple vehicle driving facility as determined necessary by the secretary of state.

(12) The secretary of state may develop and prescribe an orientation and education program that a person must complete before the secretary of state issues that person an original driver education provider certificate under section 13.

(13) Nonrefundable application processing and multiple vehicle driving facility review and approval fees collected under this section shall be deposited into the driver education provider and instructor fund created in section 83.

256.631 Renewal application; criminal history check; effect of expired certificate; review and approval or denial of multiple vehicle driving facility; fees.

Sec. 11. (1) A certified driver education provider may apply for the renewal of a driver education provider certificate. The renewal application shall be submitted to the secretary of state every other year in a format and as prescribed by the secretary of state. A renewal application shall include all of the following:

(a) A properly completed application signed by the applicant.

(b) A nonrefundable application processing fee as follows:

(*i*) $225.00 for a driver education provider who offers adult or teen driver training.

(*ii*) $360.00 for a driver education provider who offers truck driver training.

(c) If applicable, either of the following:

(*i*) A certification that the applicant has used a multiple vehicle driving facility in a driver education course and that the facility has not been altered or changed since the secretary of state inspected that facility after the effective date of this act. A nonrefundable multiple vehicle driving facility review and approval fee of $75.00 shall accompany the applicant's application for a renewal of its driver education provider certificate.

(*ii*) A statement that the applicant will use a multiple vehicle driving facility in a driver education course, a detailed description of the facility as determined necessary by the secretary of state, and its address. A multiple vehicle driving facility review and approval fee of $125.00 shall accompany the applicant's application for a renewal of its driver education provider certificate.

(d) Other information and documents prescribed by the secretary of state as needed to determine whether the applicant meets the requirements of this act.

(2) The designated representative or coordinator of a certified driver education provider shall complete a criminal history check as described in section 29 to the satisfaction of the secretary of state every 4 years on an application to renew the driver education provider's certificate.

(3) If the secretary of state receives a properly completed renewal application before the applicant's driver education provider's current certificate expires, the certificate continues in full force and effect until the secretary of state either approves or denies the renewal application. If the secretary of state does not receive a properly completed renewal application before the driver education provider certificate expires, the driver education provider shall not offer to engage or engage in the activity of a driver education provider until the secretary of state issues the holder of the expired certificate an original or renewal driver education provider certificate as provided in this act.

(4) The secretary of state shall not issue a renewal certificate more than 30 days after a driver education provider certificate expires unless the provider has submitted a properly completed renewal application within 30 days after the certificate's expiration date. A provider that applies for a certificate renewal later than 30 days after the certificate expires shall apply to the secretary of state for an original driver education provider certificate.

(5) The secretary of state shall review and, in writing, approve or deny the use of a multiple vehicle driving facility under this act as determined necessary by the secretary of state. The secretary of state may only approve a facility that meets criteria prescribed

by the secretary of state. The secretary of state shall perform an on-site inspection of a multiple vehicle driving facility as determined necessary by the secretary of state.

(6) Subsection (1)(b) does not apply to an educational institution or a governmental agency.

(7) Nonrefundable application processing and multiple vehicle driving facility review and approval fees collected under this section shall be deposited into the driver education provider and instructor fund created under section 83.

256.633 Original or renewal driver education provider certificate; issuance; identifying number; classification; validity; duration; transfer or assignment prohibited.

Sec. 13. (1) The secretary of state may issue an original or renewal driver education provider certificate if the secretary of state is satisfied the applicant meets the requirements for that certificate under this act. The secretary of state may assign an identifying number to a driver education provider and put that number on the provider's certificate. The secretary of state may indicate the adult, teen, or truck driver training classification applicable on the driver education provider's certificate.

(2) A driver education provider certificate issued under this act is valid for 2 years. The original expiration date is exactly 2 years from the date the secretary of state issues the provider an original certificate. A provider's renewal certificate expires 2 years after its issuance on the same day and month that the original certificate expired.

(3) A person licensed as a driver training school by the secretary of state under former 1974 PA 369 or who has been approved for segment 1 and segment 2 driver education course performance objectives under former 1974 PA 369, and who submits an original driver education provider certificate application in accordance with this act to the secretary of state on or before June 1, 2007, may provide driver education instruction in accordance with this act while the secretary of state processes the application. If an application is received after June 1, 2007, the driver education provider shall not provide instruction until the secretary of state processes the application and issues the certificate. The certificate expires exactly 2 years from the date of issuance.

(4) A person shall not transfer or assign a driver education provider certificate to another person, and any purported transfer or assignment is not effective.

256.635 Change in owner, partner, officer, director, or designated representative or coordinator; change in address; notification; duties of person who stops operating as driver education provider; noncompliance as misdemeanor; penalty.

Sec. 15. (1) A driver education provider shall immediately notify the secretary of state in a manner prescribed by the secretary of state of a change in an owner, partner, officer, director, or the designated representative or coordinator of the provider. Immediately upon notifying the secretary of state, the provider shall also submit a request to the department of state police for a criminal history check as described in section 29 of the changed owner, partner, officer, director, or the designated representative or coordinator of the provider.

(2) A driver education provider shall immediately notify the secretary of state in a manner prescribed by the secretary of state of a change of address for the established office location or the classroom facilities of the provider. The provider shall also submit with that address change notification any information, record, report, or other document prescribed by the secretary of state or required under this act.

(3) A person who stops operating as a driver education provider or no longer qualifies as a certified driver education provider shall immediately in a format prescribed by the secretary of state do all of the following:

(a) Return the certificate issued under section 13 to the secretary of state.

(b) Prepare a final inventory listing each segment 1 or segment 2 driver education course certificate of completion that the secretary of state issued to the provider during the past year.

(c) Return to the secretary of state each segment 1 or segment 2 driver education course certificate of completion in the provider's possession that the provider did not issue to a student.

(d) Inform the secretary of state of the location where the information, records, or other documents that the provider is required to maintain under this act will be stored for no less than 4 years after the provider stops operating as a driver education provider or fails to qualify for certification as a provider.

(4) A person who fails to immediately comply with subsection (3)(a), (b), or (c) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $2,000.00, or both.

256.637 Driver education instructor certificate; classification; investigation; evidence; stipulation of agreement to service of process; photograph of applicant; expiration; misdemeanor; penalty; completion of orientation and education program; preparation courses.

Sec. 17. (1) A person may apply to the secretary of state for a driver education instructor certificate in 1 or more of the following classifications:

(a) Adult driver training.

(b) Teen driver training.

(c) Truck driver training.

(2) The secretary of state shall not issue an original driver education instructor certificate under this act until an investigation is made of the applicant's qualification under this act.

(3) The secretary of state may issue a person a driver education instructor certificate if the person presents satisfactory evidence to the secretary of state in a format and as prescribed by the secretary of state that the person meets all of the following requirements:

(a) Submits a properly completed application signed by the applicant.

(b) Is not less than 21 years of age on the date of application.

(c) Provides the applicant's driver license number.

(d) Possesses a valid driver license that has been in continuous effect for not less than 5 years immediately preceding the application.

(e) Provides a statement indicating whether the applicant has ever applied for a driver education instructor certificate in this state or any other state, and the result of that application.

(f) Provides a statement indicating whether the applicant has ever been the holder of a driver education instructor certificate that was revoked or suspended, in this state or any other state.

(g) Completes a criminal history check as described in section 29 to the satisfaction of the secretary of state.

(h) Certifies that the applicant does not have a pending criminal matter or an outstanding arrest, warrant, or conviction since submitting a request for a criminal history check under section 29.

(i) Submits a nonrefundable application processing fee of $45.00.

(j) Submits a certified medical examination report that is not older than 90 days and that is prepared by a physician, a physician's assistant, or a certified nurse practitioner licensed to practice in this state or in the applicant's state of residence. The report shall include a statement by the person that certified the report that the applicant is medically qualified to operate a motor vehicle and to train others to operate a motor vehicle.

(k) Until December 31, 2007, for an original application for a driver education instructor certificate for teen driver training, submits an official transcript from an approved college or university that currently offers driver education instructor preparation programs. Beginning January 1, 2008, for an original application for a driver education instructor certificate for teen or adult driver training, submits an official transcript from an approved college, university, or person to verify the completion of the driver education instructor preparation courses required under the driver education instructor preparation program described in section 23. Except for a driver education instructor issued a temporary approval under the driver education and training schools act, 1974 PA 369, MCL 256.601 to 256.612, an applicant approved as a driver education instructor by the secretary of state before December 31, 2007 is considered to have complied with this transcript requirement.

(*l*) An applicant who is not a resident of this state shall submit an up-to-date certified driving record from the applicant's state of residence to the secretary of state. The applicant shall agree in writing or electronically as prescribed by the secretary of state to submit an up-to-date certified driving record every 60 days for as long as the applicant is not a resident of this state.

(m) Other information and documents prescribed by the secretary of state to determine an applicant's qualifications for certification under this section.

(4) As a condition precedent to the granting of a certificate, an applicant shall file with the secretary of state, on a form prescribed by the secretary of state, an irrevocable written or electronic stipulation. The stipulation shall be signed by the applicant and state the applicant agrees that legal process affecting the applicant, served on the secretary of state against the applicant or the applicant's successor in interest for a violation of this act, a rule promulgated under this act, or an order issued under this act, has the same effect as if personally served on the applicant. This appointment remains in force as long as the applicant has any outstanding liability within this state under this act.

(5) The secretary of state may require an applicant to submit a photograph of the applicant, may prescribe the size and format of the photograph, and may include a reproduction of the photograph on the driver education instructor certificate. The secretary of state may receive the applicant's written or electronic permission to use the image of the applicant captured and retained under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, on the driver education instructor certificate.

(6) A person licensed as a driver training school instructor by the secretary of state or who has been approved as an instructor for segment 1 and segment 2 driver education performance objectives under former 1974 PA 369, and who submits an original driver education instructor certificate application in accordance with this act to the secretary of state on or before June 1, 2007, may provide driver education instruction in accordance with this act while the secretary of state processes the application. If an application is received after June 1, 2007, the driver education provider shall not provide instruction until the secretary of state processes the application and issues the certificate. The certificate expires exactly 2 years from the date of issuance.