



# HOUSE BILL No. 5780

May 11, 2000, Introduced by Reps. Howell, Sheltrown, Julian, Rick Johnson, Green, Jelinek, Ehardt, Pappageorge, Hart, Gilbert, Vear and Birkholz and referred to the Committee on Agriculture and Resource Management.

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
by amending sections 36101 and 36111 (MCL 324.36101 and  
324.36111) section 36101 as amended by 1996 PA 233 and section  
36111 as amended by 1996 PA 567, and by adding part 362.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 36101. As used in this part:

2       (a) "Agricultural use" means substantially undeveloped land  
3 devoted to the production of plants and animals useful to humans,  
4 including forages and sod crops; grains, feed crops, and field  
5 crops; dairy and dairy products; poultry and poultry products;  
6 livestock, including breeding and grazing of cattle, swine, cap-  
7 tive cervidae, and similar animals; berries; herbs; flowers;  
8 seeds; grasses; nursery stock; fruits; vegetables; Christmas

1 trees; and other similar uses and activities. The management and  
2 harvesting of a woodlot is not an agricultural use.

3 (B) "CONSERVATION DISTRICT" MEANS A CONSERVATION DISTRICT  
4 ESTABLISHED UNDER PART 93.

5 (C) ~~-(b)-~~ "Development" means an activity that materially  
6 alters or affects the existing conditions or use of any land.

7 (D) ~~-(c)-~~ "Development rights" means the right to construct  
8 a building or structure, to improve land, or the extraction of  
9 minerals incidental to a permitted use or as is set forth in an  
10 instrument recorded under this part.

11 (E) ~~-(d)-~~ "Development rights agreement" means a restrictive  
12 covenant, evidenced by an instrument in which the owner and the  
13 state, for a term of years, agree to jointly hold the right to  
14 develop the land as may be expressly reserved in the instrument,  
15 and that contains a covenant running with the land, for a term of  
16 years, not to develop, except as this right is expressly reserved  
17 in the instrument.

18 (F) ~~-(e)-~~ "Development rights easement" means a grant, by an  
19 instrument, in which the owner relinquishes to the public in per-  
20 petuity or for a term of years the right to develop the land as  
21 may be expressly reserved in the instrument, and that contains a  
22 covenant running with the land, not to develop, except as this  
23 right is expressly reserved in the instrument.

24 (G) ~~-(f)-~~ "Farmland" means 1 or more of the following:

25 (i) A farm of 40 or more acres in 1 ownership, with 51% or  
26 more of the land area devoted to an agricultural use.

1       (ii) A farm of 5 acres or more in 1 ownership, but less than  
2 40 acres, with 51% or more of the land area devoted to an  
3 agricultural use, that has produced a gross annual income from  
4 agriculture of \$200.00 per year or more per acre of cleared and  
5 tillable land. A farm described in this subparagraph enrolled in  
6 a federal acreage set aside program or a federal conservation  
7 reserve program is considered to have produced a gross annual  
8 income from agriculture of \$200.00 per year or more per acre of  
9 cleared and tillable land.

10       (iii) A farm designated by the department of agriculture as  
11 a specialty farm in 1 ownership that has produced a gross annual  
12 income from an agricultural use of \$2,000.00 or more. Specialty  
13 farms include, but are not limited to, greenhouses; equine breed-  
14 ing and grazing; the breeding and grazing of cervidae, pheasants,  
15 and other game animals; bees and bee products; mushrooms; aqua-  
16 culture; and other similar uses and activities.

17       (iv) Parcels of land in 1 ownership that are not contiguous  
18 but which constitute an integral part of a farming operation  
19 being conducted on land otherwise qualifying as farmland may be  
20 included in an application under this part.

21       (H) ~~-(g)-~~ "Local governing body" means 1 of the following:

22       (i) The legislative body of a city or village.

23       (ii) The township board of a township having a zoning ordi-  
24 nance in effect as provided by law.

25       (iii) The county board of commissioners in all other areas.

26       (I) ~~-(h)-~~ "Open space land" means 1 of the following:

1           (i) Lands defined as 1 or more of the following:

2           (A) Any undeveloped site included in a national registry of  
3 historic places or designated as a historic site pursuant to  
4 state or federal law.

5           (B) Riverfront ownership subject to designation under part  
6 305, to the extent that full legal descriptions may be declared  
7 open space under the meaning of this part, if the undeveloped  
8 parcel or government lot parcel or portions of the undeveloped  
9 parcel or government lot parcel as assessed and owned is affected  
10 by that part and lies within 1/4 mile of the river.

11          (C) Undeveloped lands designated as environmental areas  
12 under part 323, including unregulated portions of those lands.

13          (ii) Any other area approved by the local governing body,  
14 the preservation of which area in its present condition would  
15 conserve natural or scenic resources, including the promotion of  
16 the conservation of soils, wetlands, and beaches; the enhancement  
17 of recreation opportunities; the preservation of historic sites;  
18 and idle potential farmland of not less than 40 acres that is  
19 substantially undeveloped and because of its soil, terrain, and  
20 location is capable of being devoted to agricultural uses as  
21 identified by the department of agriculture.

22          (J) ~~-(i)-~~ "Owner" means a person having a freehold estate in  
23 land coupled with possession and enjoyment. If land is subject  
24 to a land contract, owner means the vendee in agreement with the  
25 vendor.

26          (K) ~~-(j)-~~ "Permitted use" means any use contained within a  
27 development rights agreement or a development rights easement

1 consistent with the farming operation or that does not alter the  
2 open space character of the land. Storage, retail or wholesale  
3 marketing, or processing of agricultural products is a permitted  
4 use in a farming operation if more than 50% of the stored, pro-  
5 cessed, or merchandised products are produced by the farm opera-  
6 tor for at least 3 of the immediately preceding 5 years. The  
7 state land use agency shall determine whether a use is a permit-  
8 ted use pursuant to section 36104a.

9 (I) ~~(K)~~ "Person" includes an individual, corporation,  
10 limited liability company, business trust, estate, trust, part-  
11 nership, or association, or 2 or more persons having a joint or  
12 common interest in the land.

13 (M) ~~(I)~~ "Prohibited use" means a use that is not consis-  
14 tent with an agricultural use for farmland subject to a develop-  
15 ment rights agreement or is not consistent with the open space  
16 character of the land for lands subject to a development rights  
17 easement.

18 (N) ~~(M)~~ "Property taxes" means general ad valorem taxes  
19 levied after January 1, 1974, on lands and structures in this  
20 state, including collection fees, but not including special  
21 assessments, penalties, or interest.

22 (O) ~~(N)~~ "Regional planning commission" means a regional  
23 planning commission created pursuant to ~~Act No. 281 of the~~  
24 ~~Public Acts of 1945, being sections 125.11 to 125.25 of the~~  
25 ~~Michigan Compiled Laws 1945 PA 281, MCL 125.11 TO 125.25.~~

26 (P) ~~(O)~~ "Regional planning district" means the planning  
27 and development regions as established by executive directive

1 1968-1, as amended, whose organizational structure is approved by  
2 the regional council.

3 ~~(p) "Soil conservation district" means a district created~~  
4 ~~pursuant to part 93.~~

5 (q) "State income tax act" means the income tax act of 1967,  
6 ~~Act No. 281 of the Public Acts of 1967, being sections 206.1 to~~  
7 ~~206.532 of the Michigan Compiled Laws 1967 PA 281, MCL 206.1 TO~~  
8 206.532, and in effect during the particular year of the refer-  
9 ence to the act.

10 (r) "State land use agency" means the ~~land use agency~~  
11 ~~within the~~ department of ~~natural resources~~ AGRICULTURE.

12 (s) "Substantially undeveloped" means any parcel or area of  
13 land essentially unimproved except for a dwelling, building,  
14 structure, road, or other improvement that is incidental to agri-  
15 cultural and open space uses.

16 (t) "Unique or critical land area" means agricultural or  
17 open space lands identified by the STATE land use agency as an  
18 area that should be preserved.

19 Sec. 36111. (1) A development rights agreement shall be  
20 relinquished by the state at the expiration of the term of the  
21 agreement unless renewed with the consent of the owner of the  
22 land. If the owner of the land has complied with the require-  
23 ments of this part regarding development rights agreements, the  
24 owner is entitled to automatic renewal of the farmland covered by  
25 the agreement upon written request of the owner. A development  
26 rights agreement may be renewed for a term of not less than 7  
27 years. If a development rights agreement is renewed, the state

1 land use agency shall send a copy of the renewal contract to the  
2 local governing body of the local unit of government in which the  
3 farmland is located.

4 (2) A development rights agreement or a portion of the farm-  
5 land covered by a development rights agreement may be relin-  
6 quished as provided in this section and section 36111a. Farmland  
7 may be relinquished by this state before a termination date con-  
8 tained in the instrument under either of the following  
9 circumstances:

10 (a) If approved by the local governing body and the state  
11 land use agency, land containing structures that were present  
12 before the recording of the development rights agreement may be  
13 relinquished from the agreement. Not more than 2 acres may be  
14 relinquished under this subdivision unless additional land area  
15 is needed to encompass all of the buildings located on the  
16 parcel, in which case not more than 5 acres may be relinquished.  
17 If the parcel proposed to be relinquished is less in area than  
18 the minimum parcel size required by local zoning, the parcel may  
19 not be relinquished unless a variance is obtained from the local  
20 zoning board of appeals to allow for the smaller parcel size.

21 (b) If approved by the local governing body and the state  
22 land use agency, land may be relinquished from the agreement for  
23 the construction of a residence by an individual essential to the  
24 operation of the farm as defined in section 36110(5). Not more  
25 than 2 acres may be relinquished under this subdivision. If the  
26 parcel proposed to be relinquished is less in area than the  
27 minimum parcel size required by local zoning, the parcel may not

1 be relinquished unless a variance is obtained from the local  
2 zoning board of appeals to allow for the smaller parcel size.

3       (3) Until April 1, 1997, if an owner who entered into or  
4 renewed a development rights agreement before April 15, 1994  
5 makes a request, in writing, to the state land use agency, to  
6 terminate that development rights agreement with respect to all  
7 or a portion of the farmland covered by the agreement, the state  
8 land use agency shall approve the request and relinquish that  
9 farmland from the development rights agreement. If farmland is  
10 relinquished under this subsection, the state land use agency  
11 shall notify the local governing body of the local unit of gov-  
12 ernment in which the land is located of the relinquishment.

13       (4) If the request for relinquishment of the development  
14 rights agreement is approved, the state land use agency shall  
15 prepare an instrument, subject to subsections (5), (6), (7), and  
16 (8), and record it with the register of deeds of the county in  
17 which the land is situated.

18       (5) If a development rights agreement or a portion of a  
19 development rights agreement is to be relinquished pursuant to  
20 subsection (2) or section 36111a, the state land use agency shall  
21 record a lien against the property formerly subject to the devel-  
22 opment rights agreement for the total amount of the allocated tax  
23 credit of the last 7 years, including the year of termination,  
24 received by an owner for that property under the agreement under  
25 section 36109, attributable to the property formerly subject to  
26 the development rights agreement, plus interest at the rate of 6%



1 per annum simple interest from the time the credit was received  
2 until the lien is placed on the property.

3       (6) If the property being relinquished from the development  
4 rights agreement is less than all of the property subject to that  
5 development rights agreement, the allocated tax credit for the  
6 development rights agreement shall be multiplied by the  
7 property's share of the taxable value of the agreement. As used  
8 in this subsection:

9       (a) "The allocated tax credit" means the amount obtained by  
10 multiplying the owner's total farmland preservation credit  
11 claimed in that year on all agreements by the quotient of the ad  
12 valorem property tax levied in that year on property subject to  
13 the development rights agreement that included the property being  
14 relinquished from the agreement divided by the total property  
15 taxes levied on property subject to any development rights agree-  
16 ment and used in determining the farmland preservation credit in  
17 that year.

18       (b) "The property's share of the taxable value of the  
19 agreement" means the quotient of the taxable value of the prop-  
20 erty being relinquished from the agreement divided by the total  
21 taxable value of property subject to the development rights  
22 agreement that included the property being relinquished from the  
23 agreement. For years before 1995, taxable value means assessed  
24 value.

25       (7) Thirty days before the recording of a lien under this  
26 section, the state land use agency shall notify the owner of the  
27 farmland subject to the development rights agreement of the

1 amount of the lien, including interest, if any. If the lien  
2 amount is paid before 30 days after the owner is notified, the  
3 lien shall not be recorded. The lien may be paid and discharged  
4 at any time and is payable to the state by the owner of record at  
5 the time the land or any portion of it is sold by the owner of  
6 record, or if the land is converted to a use prohibited by the  
7 former development rights agreement. The lien shall be dis-  
8 charged upon renewal or reentry in a development rights agree-  
9 ment, except that a subsequent lien shall not be less than the  
10 lien discharged.

11 (8) Upon the natural termination of the development rights  
12 agreement under subsections (1) or (13), or the termination of  
13 all or a portion of the development rights agreement under sub-  
14 section (3), the state land use agency shall prepare and record a  
15 lien, if any, against the property formerly subject to the devel-  
16 opment rights agreement for the total amount of the allocated tax  
17 credit of the last 7 years, including the year of natural termi-  
18 nation, received by the owner under section 36109, attributable  
19 to the property formerly subject to the development rights  
20 agreement. The lien shall be without interest or penalty and is  
21 payable subject to subsection (7).

22 (9) Upon termination, the state land use agency shall notify  
23 the department of treasury for their records.

24 (10) ~~The~~ UNTIL OCTOBER 1, 2000, THE proceeds from lien  
25 payments made under this part shall be used by the state land use  
26 agency to administer this part ~~for fiscal years 1991-92 and~~  
27 ~~through 1999-2000, to purchase development rights of unique or~~

1 ~~critical land area that does not necessitate direct purchase of~~  
2 ~~the fee interest in the land for which money was appropriated~~  
3 ~~under Act No. 128 of the Public Acts of 1995,~~ and, pursuant to  
4 section 36111b, to purchase development rights on farmland that  
5 does not necessitate direct purchase of the fee interest in the  
6 land. It is the intent of the legislature that if the accumu-  
7 lated proceeds from lien payments received under this part fall  
8 below \$2,000,000.00, then the funds used to administer this part  
9 shall be appropriated from the general fund until the proceeds  
10 from the lien payments received under this part exceed  
11 \$2,000,000.00. However, the amount of lien payments used to  
12 administer this part shall not exceed \$600,000.00 in any fiscal  
13 year. BEGINNING ON OCTOBER 1, 2000, THE PROCEEDS FROM LIEN PAY-  
14 MENTS MADE UNDER THIS PART SHALL BE FORWARDED TO THE STATE TREA-  
15 SURER FOR DEPOSIT IN THE AGRICULTURAL PRESERVATION FUND CREATED  
16 IN SECTION 36202. ON OCTOBER 1, 2000, ALL UNEXPENDED PROCEEDS  
17 FROM LIEN PAYMENTS MADE UNDER THIS PART THAT ARE HELD BY THE  
18 STATE SHALL BE TRANSFERRED TO THE AGRICULTURAL PRESERVATION FUND  
19 CREATED IN SECTION 36202.

20 (11) Upon the relinquishment of all of the farmland under  
21 section 36110(2) or a portion of the farmland under  
22 section 36110(3), the state land use agency shall prepare and  
23 record a lien against the property formerly subject to a develop-  
24 ment rights agreement in an amount calculated as follows:

25 (a) Establishing a term of years by multiplying 7 by a frac-  
26 tion, the numerator of which is the number of years the farmland  
27 was under the development rights agreement, including any

1 extensions, and the denominator of which is the number  
2 representing the term of years of that agreement, including any  
3 extensions.

4 (b) The lien amount equals the total amount of the allocated  
5 tax credit claimed attributable to that development rights agree-  
6 ment in the immediately preceding term of years as determined in  
7 subdivision (a).

8 (12) When a lien is paid under this section, the state land  
9 use agency shall prepare and record a discharge of lien with the  
10 register of deeds in the county in which the land is located.  
11 The discharge of lien shall specifically state that the lien has  
12 been paid in full, that the lien is discharged, that the develop-  
13 ment rights agreement and accompanying contract are terminated,  
14 and that the state has no further interest in the land under that  
15 agreement.

16 (13) An owner of farmland, upon written request to the state  
17 land use agency on or before April 1, 1997, may elect to have the  
18 remaining term of the development rights agreement reduced to 7  
19 years if the farmland has been subject to that development rights  
20 agreement for 10 or more years. If the farmland has not been  
21 subject to a development rights agreement for 10 or more years,  
22 an owner of farmland may, upon written request to the state land  
23 use agency on or before April 1, 1997, elect to have the term of  
24 the development rights agreement reduced to 17 years from the  
25 initial year of enrollment.

26 ~~-(14) Within 60 days of June 5, 1996, the state land use~~  
27 ~~agency shall notify, by first-class mail, all owners of farmland~~

1 ~~that have a development rights agreement in effect as determined~~  
 2 ~~by the state land use agency on June 5, 1996 about all of the~~  
 3 ~~following:~~

4 ~~(a) The ability to terminate an agreement under subsection~~  
 5 ~~(3).~~

6 ~~(b) The ability to reduce the termination agreement under~~  
 7 ~~subsection (13).~~

8 ~~(c) All other significant changes in law contained in the~~  
 9 ~~amendatory act that added this subsection.~~

10 PART 362 AGRICULTURAL PRESERVATION FUND

11 SEC. 36201. AS USED IN THIS PART:

12 (A) "AGRICULTURAL CONSERVATION EASEMENT" MEANS A CONVEYANCE,  
 13 BY A WRITTEN INSTRUMENT, IN WHICH, SUBJECT TO PERMITTED USES, THE  
 14 OWNER RELINQUISHES TO THE PUBLIC IN PERPETUITY HIS OR HER DEVEL-  
 15 OPMENT RIGHTS AND MAKES A COVENANT RUNNING WITH THE LAND NOT TO  
 16 UNDERTAKE DEVELOPMENT.

17 (B) "AGRICULTURAL USE" MEANS SUBSTANTIALLY UNDEVELOPED LAND  
 18 DEVOTED TO THE PRODUCTION OF PLANTS AND ANIMALS USEFUL TO HUMANS,  
 19 INCLUDING FORAGES AND SOD CROPS; GRAINS, FEED CROPS, AND FIELD  
 20 CROPS; DAIRY AND DAIRY PRODUCTS; POULTRY AND POULTRY PRODUCTS;  
 21 LIVESTOCK, INCLUDING BREEDING AND GRAZING OF CATTLE, SWINE, CAP-  
 22 TIVE CERVIDAE, AND SIMILAR ANIMALS; BERRIES; HERBS; FLOWERS;  
 23 SEEDS; GRASSES; NURSERY STOCK; FRUITS; VEGETABLES; CHRISTMAS  
 24 TREES; AND OTHER SIMILAR USES AND ACTIVITIES. AGRICULTURAL USE  
 25 INCLUDES USE IN A FEDERAL ACREAGE SET-ASIDE PROGRAM OR A FEDERAL  
 26 CONSERVATION RESERVE PROGRAM. AGRICULTURAL USE DOES NOT INCLUDE  
 27 THE MANAGEMENT AND HARVESTING OF A WOODLOT.

1 (C) "BOARD" MEANS THE AGRICULTURAL PRESERVATION FUND BOARD  
2 CREATED IN SECTION 36204.

3 (D) "COMMISSION" MEANS THE COMMISSION OF AGRICULTURE.

4 (E) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

5 (F) "DEVELOPMENT" MEANS AN ACTIVITY THAT MATERIALLY ALTERS  
6 OR AFFECTS THE EXISTING CONDITIONS OR USE OF ANY LAND IN A MANNER  
7 THAT IS INCONSISTENT WITH AN AGRICULTURAL USE.

8 (G) "DEVELOPMENT RIGHTS" MEANS AN INTEREST IN LAND THAT  
9 INCLUDES THE RIGHT TO CONSTRUCT A BUILDING OR STRUCTURE, TO  
10 IMPROVE LAND FOR DEVELOPMENT, OR TO DIVIDE A PARCEL FOR DEVELOP-  
11 MENT PURPOSES.

12 (H) "FARMLAND" MEANS 1 OR MORE OF THE FOLLOWING:

13 (i) A FARM OF 40 OR MORE ACRES IN 1 OWNERSHIP, WITH 51% OR  
14 MORE OF THE LAND AREA DEVOTED TO AN AGRICULTURAL USE.

15 (ii) A FARM OF 5 ACRES OR MORE IN 1 OWNERSHIP, BUT LESS THAN  
16 40 ACRES, WITH 51% OR MORE OF THE LAND AREA DEVOTED TO AN AGRI-  
17 CULTURAL USE, THAT HAS PRODUCED A GROSS ANNUAL INCOME FROM AGRI-  
18 CULTURE OF \$200.00 PER YEAR OR MORE PER ACRE OF CLEARED AND TIL-  
19 LABLE LAND. A FARM DESCRIBED IN THIS SUBPARAGRAPH ENROLLED IN A  
20 FEDERAL ACREAGE SET ASIDE PROGRAM OR A FEDERAL CONSERVATION  
21 RESERVE PROGRAM IS CONSIDERED TO HAVE PRODUCED A GROSS ANNUAL  
22 INCOME FROM AGRICULTURE OF \$200.00 PER YEAR OR MORE PER ACRE OF  
23 CLEARED AND TILLABLE LAND.

24 (iii) A FARM DESIGNATED BY THE DEPARTMENT OF AGRICULTURE AS  
25 A SPECIALTY FARM IN 1 OWNERSHIP THAT HAS PRODUCED A GROSS ANNUAL  
26 INCOME OF \$2,000.00 OR MORE FROM AN AGRICULTURAL USE. SPECIALTY  
27 FARMS INCLUDE, BUT ARE NOT LIMITED TO, GREENHOUSES; EQUINE

1 BREEDING AND GRAZING; THE BREEDING AND GRAZING OF CERVIDAE,  
2 PHEASANTS, AND OTHER GAME ANIMALS; BEES AND BEE PRODUCTS; MUSH-  
3 ROOMS; AQUACULTURE; AND OTHER SIMILAR USES AND ACTIVITIES.

4 (iv) PARCELS OF LAND IN 1 OWNERSHIP THAT ARE NOT CONTIGUOUS  
5 BUT WHICH CONSTITUTE AN INTEGRAL PART OF A FARMING OPERATION  
6 BEING CONDUCTED ON LAND OTHERWISE QUALIFYING AS FARMLAND MAY BE  
7 INCLUDED IN AN APPLICATION UNDER THIS PART.

8 (I) "FUND" MEANS THE AGRICULTURAL PRESERVATION FUND CREATED  
9 IN SECTION 36202.

10 (J) "GRANT" MEANS A GRANT FOR THE PURCHASE OF AN AGRICULTURE  
11 CONSERVATION EASEMENT UNDER THIS PART.

12 (K) "OWNER" MEANS A PERSON HAVING A FREEHOLD ESTATE IN LAND  
13 COUPLED WITH POSSESSION AND ENJOYMENT. IF LAND IS SUBJECT TO A  
14 LAND CONTRACT, OWNER MEANS THE VENDEE IN AGREEMENT WITH THE  
15 VENDOR.

16 (l) "PERMITTED USE" MEANS ANY USE EXPRESSLY AUTHORIZED  
17 WITHIN AN AGRICULTURE CONSERVATION EASEMENT CONSISTENT WITH THE  
18 FARMING OPERATION OR THAT DOES NOT ADVERSELY AFFECT THE PRODUC-  
19 TIVITY OF THE FARMLAND. STORAGE, RETAIL OR WHOLESALE MARKETING,  
20 OR PROCESSING OF AGRICULTURAL PRODUCTS IS A PERMITTED USE IN A  
21 FARMING OPERATION IF MORE THAN 50% OF THE STORED, PROCESSED, OR  
22 MERCHANDISED PRODUCTS ARE PRODUCED BY THE FARM OPERATOR FOR AT  
23 LEAST 3 OF THE IMMEDIATELY PRECEDING 5 YEARS. PERMITTED USE  
24 INCLUDES OIL AND GAS EXPLORATION AND EXTRACTION, BUT DOES NOT  
25 INCLUDE OTHER MINERAL DEVELOPMENT THAT IS INCONSISTENT WITH AN  
26 AGRICULTURAL USE.

1        SEC. 36202. (1) THE AGRICULTURAL PRESERVATION FUND IS  
2 CREATED WITHIN THE STATE TREASURY.

3        (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS  
4 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND, INCLUDING GIFTS,  
5 BEQUESTS, AND OTHER DONATIONS. THE STATE TREASURER SHALL DIRECT  
6 THE INVESTMENT OF THE FUND AND SHALL CREDIT TO THE FUND INTEREST  
7 AND EARNINGS FROM FUND INVESTMENTS.

8        (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
9 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

10       (4) MONEY IN THE FUND MAY BE EXPENDED, UPON APPROPRIATION,  
11 FOLLOWING APPROVAL OF THE BOARD AND THE COMMISSION, AS FOLLOWS:

12       (A) NOT MORE THAN \$700,000.00 ANNUALLY FOR THE ADMINISTRA-  
13 TIVE COSTS OF THE DEPARTMENT AND THE BOARD IN IMPLEMENTING THIS  
14 PART AND PART 361. HOWEVER, IF DEPOSITS INTO THE FUND DURING ANY  
15 GIVEN FISCAL YEAR EXCEED \$8,750,000.00, UP TO 8% OF THE DEPOSITS  
16 MAY BE EXPENDED FOR ADMINISTRATIVE COSTS PURSUANT TO THIS  
17 SUBDIVISION.

18       (B) AFTER EXPENDITURES FOR THE ADMINISTRATIVE COSTS UNDER  
19 SUBDIVISION (A), MONEY IN THE FUND MAY BE USED TO PROVIDE GRANTS  
20 TO LOCAL UNITS OF GOVERNMENT PURSUANT TO SECTION 36203.

21       (C) AFTER EXPENDITURES UNDER SUBDIVISIONS (A) AND (B) HAVE  
22 BEEN MADE, IF THE AMOUNT OF MONEY REMAINING IN THE FUND EXCEEDS  
23 \$10,000,000.00, MONEY IN THE FUND MAY BE USED PURSUANT TO  
24 SECTION 36111B FOR THE ACQUISITION OF DEVELOPMENT RIGHTS.

25       (5) EXPENDITURES OF MONEY IN THE FUND AS PROVIDED IN THIS  
26 PART ARE CONSISTENT WITH THE STATE'S INTEREST IN PRESERVING  
27 FARMLAND AND ARE DECLARED TO BE FOR AN IMPORTANT PUBLIC PURPOSE.



1        SEC. 36203. (1) THE DEPARTMENT SHALL ESTABLISH A GRANT  
2 PROGRAM TO PROVIDE GRANTS TO ELIGIBLE LOCAL UNITS OF GOVERNMENT  
3 FOR THE PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS.

4        (2) A GRANT APPLICATION SHALL BE SUBMITTED BY THE LOCAL UNIT  
5 OF GOVERNMENT APPLYING FOR THE GRANT. A LOCAL UNIT OF GOVERNMENT  
6 IS ELIGIBLE TO SUBMIT A GRANT APPLICATION UNDER THIS SECTION IF  
7 BOTH OF THE FOLLOWING REQUIREMENTS HAVE BEEN MET:

8        (A) THE LOCAL UNIT OF GOVERNMENT HAS ADOPTED A DEVELOPMENT  
9 RIGHTS ORDINANCE PROVIDING FOR A PURCHASE OF DEVELOPMENT RIGHTS  
10 PROGRAM PURSUANT TO THE COUNTY ZONING ACT, 1943 PA 183, MCL  
11 125.201 TO 125.240, THE TOWNSHIP ZONING ACT, 1943 PA 184, MCL  
12 125.271 TO 125.310, OR THE CITY AND VILLAGE ZONING ACT, 1921 PA  
13 207, MCL 125.581 TO 125.600, THAT CONTAINS ALL OF THE FOLLOWING:

14        (i) AN APPLICATION PROCEDURE.

15        (ii) THE CRITERIA FOR A SCORING SYSTEM FOR PARCEL SELECTIONS  
16 WITHIN THE LOCAL UNIT OF GOVERNMENT.

17        (iii) A METHOD TO ESTABLISH THE PRICE TO BE PAID FOR DEVEL-  
18 OPMENT RIGHTS, WHICH MAY INCLUDE AN APPRAISAL, BIDDING, OR  
19 FORMULA-BASED PROCESS.

20        (B) THE LOCAL UNIT OF GOVERNMENT HAS ADOPTED, WITHIN THE  
21 LAST 10 YEARS, A COMPREHENSIVE LAND USE PLAN THAT INCLUDES A PLAN  
22 FOR AGRICULTURAL PRESERVATION.

23        (3) AN APPLICATION FOR A GRANT SHALL BE SUBMITTED ON A FORM  
24 PRESCRIBED BY THE DEPARTMENT. THE GRANT APPLICATION SHALL  
25 INCLUDE AT A MINIMUM A LIST OF THE PARCELS PROPOSED FOR ACQUISSI-  
26 TION OF AGRICULTURAL CONSERVATION EASEMENTS, THE SIZE AND  
27 LOCATION OF EACH PARCEL, THE AMOUNT OF LOCAL MATCHING FUNDS, AND

1 THE ESTIMATED ACQUISITION VALUE OF THE AGRICULTURAL CONSERVATION  
2 EASEMENTS.

3 (4) UPON RECEIPT OF GRANT APPLICATIONS PURSUANT TO  
4 SUBSECTION (3), THE DEPARTMENT SHALL FORWARD THOSE GRANT APPLICA-  
5 TIONS TO THE BOARD FOR CONSIDERATION UNDER SECTION 36205.

6 SEC. 36204. (1) THE AGRICULTURAL PRESERVATION FUND BOARD IS  
7 CREATED WITHIN THE DEPARTMENT.

8 (2) THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

9 (A) THE DIRECTOR OF THE DEPARTMENT OR HIS OR HER DESIGNEE.

10 (B) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR  
11 HIS OR HER DESIGNEE.

12 (C) FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR.

13 (D) IN ADDITION TO THE MEMBERS DESCRIBED IN SUBDIVISIONS (A)  
14 TO (C), THE DIRECTOR OF THE DEPARTMENT MAY APPOINT 2 INDIVIDUALS  
15 WITH KNOWLEDGE AND EXPERTISE IN AGRICULTURE OR LAND USE, OR LOCAL  
16 GOVERNMENT, AS NONVOTING MEMBERS.

17 (3) THE MEMBERS FIRST APPOINTED TO THE BOARD SHALL BE  
18 APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS  
19 SECTION.

20 (4) MEMBERS OF THE BOARD APPOINTED UNDER SUBSECTION (2)(C)  
21 AND (D) SHALL SERVE FOR TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS  
22 APPOINTED, WHICHEVER IS LATER. HOWEVER, OF THE MEMBERS FIRST  
23 APPOINTED UNDER SUBSECTION (2)(C), 1 SHALL BE APPOINTED FOR A  
24 TERM OF 2 YEARS, 2 SHALL BE APPOINTED FOR TERMS OF 3 YEARS, AND 2  
25 SHALL BE APPOINTED FOR TERMS OF 4 YEARS.

26 (5) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A  
27 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE

1 BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE  
2 REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

3 (6) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION.  
4 HOWEVER, MEMBERS OF THE BOARD MAY BE REIMBURSED FOR THEIR ACTUAL  
5 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFI-  
6 CIAL DUTIES AS MEMBERS OF THE BOARD.

7 (7) THE BOARD SHALL ANNUALLY ELECT A CHAIRPERSON AND A  
8 VICE-CHAIRPERSON FROM AMONG ITS MEMBERS.

9 (8) THE BOARD MAY REMOVE A MEMBER OF THE BOARD FOR INCOMPE-  
10 TENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR NONFEA-  
11 SANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

12 (9) A VACANCY ON THE BOARD SHALL BE FILLED FOR THE UNEXPIRED  
13 TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

14 SEC. 36205. (1) AN APPLICATION SUBMITTED TO THE BOARD UNDER  
15 SECTION 36203 SHALL BE EVALUATED ACCORDING TO SELECTION CRITERIA  
16 ESTABLISHED BY THE BOARD. THE CRITERIA SHALL PLACE A PRIORITY ON  
17 THE PRESERVATION OF FARMLAND THAT MEETS 1 OR MORE OF THE  
18 FOLLOWING:

19 (A) FARMLAND THAT HAS A PRODUCTIVE CAPACITY SUITED FOR THE  
20 PRODUCTION OF FEED, FOOD, AND FIBER.

21 (B) FARMLAND THAT WOULD COMPLEMENT AND IS PART OF A DOCU-  
22 MENTED, LONG-RANGE EFFORT OR PLAN FOR LAND PRESERVATION BY THE  
23 LOCAL UNIT OF GOVERNMENT IN WHICH THE FARMLAND IS LOCATED.

24 (C) FARMLAND THAT IS LOCATED WITHIN AN AREA THAT COMPLEMENTS  
25 OTHER LAND PROTECTION EFFORTS BY CREATING A BLOCK OF FARMLAND  
26 THAT IS SUBJECT TO AN AGRICULTURAL CONSERVATION EASEMENT UNDER  
27 THIS PART OR A DEVELOPMENT RIGHTS AGREEMENT UNDER PART 361.

1 (D) FARMLAND THAT IS FACED WITH DEVELOPMENT PRESSURE THAT  
2 WILL PERMANENTLY ALTER THE ABILITY FOR THAT FARMLAND TO BE USED  
3 FOR PRODUCTIVE AGRICULTURAL ACTIVITY.

4 (E) FARMLAND IN WHICH A LARGER AMOUNT THAN THE MINIMUM  
5 REQUIRED UNDER SUBSECTION (4) OF MATCHING FUNDS OR A LARGER PER-  
6 CENTAGE OF THE AGRICULTURAL CONSERVATION EASEMENT VALUE IS PRO-  
7 VIDED BY SOURCES OTHER THAN THE FUND.

8 (F) OTHER FACTORS CONSIDERED IMPORTANT BY THE BOARD.

9 (2) AFTER REVIEWING GRANT APPLICATIONS FOR THE ACQUISITION  
10 OF AGRICULTURAL CONSERVATION EASEMENTS AND EVALUATING THEM  
11 ACCORDING TO THE CRITERIA ESTABLISHED IN SUBSECTION (1), THE  
12 BOARD SHALL DETERMINE WHICH GRANTS SHOULD BE APPROVED AND THE  
13 AMOUNT OF THE GRANTS AND SHALL SUBMIT A REPORT CONTAINING THIS  
14 INFORMATION TO THE COMMISSION.

15 (3) A GRANT SHALL NOT EXCEED 75% OF THE PURCHASE PRICE OF AN  
16 AGRICULTURAL CONSERVATION EASEMENT. THE BOARD MAY ESTABLISH A  
17 MAXIMUM AMOUNT PER ACRE THAT MAY BE EXPENDED WITH MONEY FROM THE  
18 FUND FOR THE PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS.

19 (4) A GRANT SHALL REQUIRE THAT AT LEAST 25% OF THE COST OF  
20 ACQUIRING AN AGRICULTURAL CONSERVATION EASEMENT SHALL BE PROVIDED  
21 BY THE APPLICANT OR ANOTHER PERSON.

22 SEC. 36206. (1) UPON APPROVAL BY THE BOARD, THE DEPARTMENT  
23 SHALL DISTRIBUTE THE GRANTS TO THE LOCAL UNITS OF GOVERNMENT  
24 AWARDED THE GRANTS. THE DEPARTMENT SHALL CONDITION THE RECEIPT  
25 OF A GRANT UPON THE DEPARTMENT'S APPROVAL OF THE AGRICULTURAL  
26 CONSERVATION EASEMENTS BEING ACQUIRED.

1       (2) IN REVIEWING PERMITTED USES CONTAINED WITHIN AN  
2 AGRICULTURAL CONSERVATION EASEMENT UNDER SUBSECTION (1), THE  
3 DEPARTMENT SHALL CONSIDER ALL OF THE FOLLOWING:

4       (A) WHETHER THE PERMITTED USES ADVERSELY AFFECT THE PRODUC-  
5 TIVITY OF FARMLAND.

6       (B) WHETHER THE PERMITTED USES MATERIALLY ALTER OR NEGA-  
7 TIVELY AFFECT THE EXISTING CONDITIONS OR USE OF THE LAND.

8       (C) WHETHER THE PERMITTED USES RESULT IN A MATERIAL ALTER-  
9 ATION OF AN EXISTING STRUCTURE TO A NONAGRICULTURAL USE.

10      (D) WHETHER THE PERMITTED USES CONFORM WITH ALL APPLICABLE  
11 FEDERAL, STATE, AND LOCAL LAWS AND ORDINANCES.

12      (3) AN AGRICULTURAL CONSERVATION EASEMENT ACQUIRED UNDER  
13 THIS PART SHALL BE HELD JOINTLY BY THE STATE AND THE LOCAL UNIT  
14 OF GOVERNMENT IN WHICH THE LAND SUBJECT TO THE AGRICULTURAL CON-  
15 SERVATION EASEMENT IS LOCATED. HOWEVER, THE STATE MAY DELEGATE  
16 ENFORCEMENT AUTHORITY OF 1 OR MORE AGRICULTURAL CONSERVATION  
17 EASEMENTS TO THE LOCAL UNITS OF GOVERNMENT IN WHICH THE AGRICUL-  
18 TURAL CONSERVATION EASEMENTS ARE LOCATED.

19      (4) THE DEPARTMENT MAY ACCEPT CONTRIBUTIONS OF ALL OR A POR-  
20 TION OF THE DEVELOPMENT RIGHTS TO 1 OR MORE PARCELS OF LAND AS  
21 PART OF A TRANSACTION FOR THE PURCHASE OF AN AGRICULTURAL CONSER-  
22 VATION EASEMENT.

23      (5) A LOCAL UNIT OF GOVERNMENT THAT PURCHASES AN AGRICUL-  
24 TURAL CONSERVATION EASEMENT WITH MONEY FROM A GRANT MAY PURCHASE  
25 THE AGRICULTURAL CONSERVATION EASEMENT THROUGH AN INSTALLMENT  
26 PURCHASE AGREEMENT UNDER TERMS NEGOTIATED BY THE LOCAL UNIT OF  
27 GOVERNMENT.

1 SEC. 36208. THE DEPARTMENT MAY PROMULGATE RULES TO  
2 IMPLEMENT THIS PART.

3 Enacting section 1. This amendatory act does not take  
4 effect unless all of the following occur:

5 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5779 (request  
6 no. H05309'99 \*\*) of the 90th Legislature is enacted into law.

7 (b) Senate Bill No. 1246 or House Bill No. \_\_\_\_\_ (request  
8 no. 05515'99 \*) of the 90th Legislature is enacted into law.

9 (c) House Joint Resolution R (request no. 06602'00\*) of  
10 the 90th Legislature becomes a part of the state constitution of  
11 1963 as provided in section 1 of article XII of the state consti-  
12 tution of 1963.