

Act No. 262
Public Acts of 2000
Approved by the Governor
June 29, 2000
Filed with the Secretary of State
June 29, 2000
EFFECTIVE DATE: June 29, 2000

**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

**Introduced by Reps. Howell, Sheltroun, Julian, Rick Johnson, Green, Jelinek, Ehardt, Pappageorge,
Hart, Gilbert, Vear and Birkholz**

ENROLLED HOUSE BILL No. 5780

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, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending sections 36101, 36111, and 36111b (MCL 324.36101, 324.36111, and 324.36111b), section 36101 as amended and section 36111b as added 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:

Sec. 36101. As used in this part:

(a) "Agricultural conservation easement" means a conveyance, by a written instrument, in which, subject to permitted uses, the owner relinquishes to the public in perpetuity his or her development rights and makes a covenant running with the land not to undertake development.

(b) "Agricultural use" means the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. Agricultural use does not include the management and harvesting of a woodlot.

(c) "Conservation district board" means that term as defined in section 9301.

(d) "Development" means an activity that materially alters or affects the existing conditions or use of any land.

(e) "Development rights" means an interest in land that includes the right to construct a building or structure, to improve land for development, to divide a parcel for development, or to extract minerals incidental to a permitted use or as is set forth in an instrument recorded under this part.

(f) "Development rights agreement" means a restrictive covenant, evidenced by an instrument in which the owner and the state, for a term of years, agree to jointly hold the right to undertake development of the land, and that contains a covenant running with the land, for a term of years, not to undertake development, subject to permitted uses.

(g) "Development rights easement" means a grant, by an instrument, in which the owner relinquishes to the public in perpetuity or for a term of years the right to undertake development of the land, and that contains a covenant running with the land, not to undertake development, subject to permitted uses.

(h) "Farmland" means 1 or more of the following:

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

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

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

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

(i) "Local governing body" means 1 of the following:

(i) With respect to farmland or open space land that is located in a city or village, the legislative body of the city or village.

(ii) With respect to farmland or open space land that is not located in a city or village but that is located in a township having a zoning ordinance in effect as provided by law, the township board of the township.

(iii) With respect to farmland or open space land that is not described in subparagraph (i) or (ii), the county board of commissioners.

(j) "Open space land" means 1 of the following:

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

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

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

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

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

(k) "Owner" means a person having a freehold estate in land coupled with possession and enjoyment. If land is subject to a land contract, owner means the vendee in agreement with the vendor.

(l) "Permitted use" means any use expressly authorized within a development rights agreement, development rights easement, or agriculture conservation easement that is consistent with the farming operation or that does not alter the open space character of the land. Storage, retail or wholesale marketing, or processing of agricultural products is a permitted use in a farming operation if more than 50% of the stored, processed, or merchandised products are produced by the farm operator for at least 3 of the immediately preceding 5 years. The state land use agency shall determine whether a use is a permitted use pursuant to section 36104a.

(m) "Person" includes an individual, corporation, limited liability company, business trust, estate, trust, partnership, or association, or 2 or more persons having a joint or common interest in land.

(n) "Planning commission" means a planning commission created by the local governing body under 1945 PA 282, MCL 125.101 to 125.107, 1959 PA 168, MCL 125.321 to 125.333, or 1931 PA 285, MCL 125.31 to 125.45, as applicable.

(o) "Prohibited use" means a use that is not consistent with an agricultural use for farmland subject to a development rights agreement or is not consistent with the open space character of the land for lands subject to a development rights easement.

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

(q) "Regional planning commission" means a regional planning commission created pursuant to 1945 PA 281, MCL 125.11 to 125.25.

(r) "Regional planning district" means the planning and development regions as established by executive directive 1968-1, as amended, whose organizational structure is approved by the regional council.

(s) "State income tax act" means the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532, and in effect during the particular year of the reference to the act.

(t) "State land use agency" means the department of agriculture.

(u) "Substantially undeveloped" means any parcel or area of land essentially unimproved except for a dwelling, building, structure, road, or other improvement that is incidental to agricultural and open space uses.

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

Sec. 36111. (1) A development rights agreement shall be relinquished by the state at the expiration of the term of the agreement unless renewed with the consent of the owner of the land. If the owner of the land has complied with the requirements of this part regarding development rights agreements, the owner is entitled to automatic renewal of the farmland covered by the agreement upon written request of the owner. A development rights agreement may be renewed for a term of not less than 7 years. If a development rights agreement is renewed, the state land use agency shall send a copy of the renewal contract to the local governing body of the local unit of government in which the farmland is located.

(2) A development rights agreement or a portion of the farmland covered by a development rights agreement may be relinquished as provided in this section and section 36111a. Farmland may be relinquished by this state before a termination date contained in the instrument under either of the following circumstances:

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

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

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

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

(5) If a development rights agreement or a portion of a development rights agreement is to be relinquished pursuant to subsection (2) or section 36111a, the state land use agency shall record a lien against the property formerly subject to the development rights agreement for the total amount of the allocated tax credit of the last 7 years, including the year of termination, received by an owner for that property under the agreement under section 36109, attributable to the property formerly subject to the development rights agreement, plus interest at the rate of 6% per annum simple interest from the time the credit was received until the lien is placed on the property.

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

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

(b) "The property's share of the taxable value of the agreement" means the quotient of the taxable value of the property being relinquished from the agreement divided by the total taxable value of property subject to the development rights agreement that included the property being relinquished from the agreement. For years before 1995, taxable value means assessed value.

(7) Thirty days before the recording of a lien under this section, the state land use agency shall notify the owner of the farmland subject to the development rights agreement of the amount of the lien, including interest, if any. If the lien amount is paid before 30 days after the owner is notified, the lien shall not be recorded. The lien may be paid and discharged at any time and is payable to the state by the owner of record at the time the land or any portion of it is sold by the owner of record, or if the land is converted to a use prohibited by the former development rights agreement. The lien shall be discharged upon renewal or reentry in a development rights agreement, except that a subsequent lien shall not be less than the lien discharged.

(8) Upon the natural termination of the development rights agreement under subsections (1) or (13), or the termination of all or a portion of the development rights agreement under subsection (3), the state land use agency shall prepare and record a lien, if any, against the property formerly subject to the development rights agreement for the total amount of the allocated tax credit of the last 7 years, including the year of natural termination, received by the owner under section 36109, attributable to the property formerly subject to the development rights agreement. The lien shall be without interest or penalty and is payable subject to subsection (7).

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

(10) Until October 1, 2000, the proceeds from lien payments made under this part shall be used by the state land use agency to administer this part and, pursuant to section 36111b, to purchase development rights on farmland that does not necessitate direct purchase of the fee interest in the land. Beginning on October 1, 2000, the unappropriated proceeds from lien payments made under this part shall be forwarded to the state treasurer for deposit in the agricultural preservation fund created in section 36202. On October 1, 2000, all unexpended proceeds from lien payments made under this part that are held by the state shall be transferred to the agricultural preservation fund created in section 36202.

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

(a) Establishing a term of years by multiplying 7 by a fraction, the numerator of which is the number of years the farmland was under the development rights agreement, including any extensions, and the denominator of which is the number representing the term of years of that agreement, including any extensions.

(b) The lien amount equals the total amount of the allocated tax credit claimed attributable to that development rights agreement in the immediately preceding term of years as determined in subdivision (a).

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

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

Sec. 36111b. (1) An application submitted under section 36111(10) for purchase of development rights or acquisition of agricultural conservation easements shall be evaluated and ranked according to selection criteria and a scoring system approved by the commission of agriculture. In developing a point system for selecting the parcels for purchase of development rights or the acquisition of agricultural conservation easements, the department of agriculture shall seek the assistance of the department of natural resources, Michigan state university, the United States department of agriculture-natural resources conservation service, and other appropriate professional and industry organizations. The selection criteria shall give consideration to the quality and physical characteristics of the parcel as well as surrounding land uses and threat of development.

(2) The department of agriculture shall prepare a notification to those individuals whose farmland development rights agreements are expiring in the year of application or expiring 1 year after the year of application. The notice shall be completed not less than 90 days before an application deadline set by the department of agriculture and shall include written information and details regarding the program. Applications for the purchase of development rights or the acquisition of agricultural conservation easements shall be submitted to the department of agriculture by the owner of that land and must include written support by the local governing body.

(3) In developing a scoring system, points shall be given to farmland that meets 1 or more of the following criteria, with subdivision (a) given priority over subdivisions (b) to (e):

(a) Productive capacity of farmland suited for the production of feed, food, and fiber, including, but not limited to, prime or unique farmland or farmland of local importance, as defined by the United States department of agriculture-natural resources conservation service.

(b) Lands that are enrolled under this act.

(c) Prime agricultural lands that are faced with development pressure that will permanently alter the ability for that land to be used for productive agricultural activity.

(d) Parcels that would complement and are part of a documented, long-range effort or plan for land preservation by the local governing body.

(e) Parcels with available matching funds from the local governing body, private organizations, or other sources.

(4) For purposes of subsections (7) and (8), the value of development rights in the purchase of development rights or the acquisition of agricultural conservation easements shall be determined by subtracting the current fair market value of the property without the development rights from the current fair market value of the property with all development rights.

(5) The director of the department of agriculture shall approve individual parcels for the purchase of development rights or the acquisition of agricultural conservation easements based upon the adopted selection criteria and scoring process. The commission of agriculture shall approve a method to establish the price to be paid for the purchase of development rights or the acquisition of agricultural conservation easements, such as via appraisal, bidding, or a formula-based process and shall establish the maximum price to be paid on a per purchase basis from the lien fund. The director of the department of agriculture, after negotiations with the landowner, shall approve the price to be paid for purchase of development rights or the acquisition of the agricultural conservation easements. Proper releases from mortgage holders and lienholders must be obtained and executed to ensure that all development rights are purchased free and clear of all encumbrances.

(6) The department may purchase the agricultural conservation easement through an installment purchase agreement under terms negotiated by the department.

(7) An agricultural conservation easement shall include appropriate provisions for the protection of the farmland and other unique and critical benefits. An agricultural conservation easement may be terminated if the land, as determined by the commission of agriculture, meets 1 or more of the criteria described in section 3611a(1)(a) to (d). An agricultural conservation easement or portion of an agricultural conservation easement shall not be terminated unless approved by the local governing body and the commission of natural resources and the commission of agriculture. If an agricultural conservation easement is terminated, the current fair market value of the development rights, at the time of termination, shall be paid to the state land use agency. Any payment received by the state land use agency under this part shall be used to acquire agricultural conservation easements on additional farmland under section 3611(10).

(8) Whenever a public entity, authority, or political subdivision exercises the power of eminent domain and condemns land enrolled under this act, the value of the land shall include the value of development rights covered by development rights agreements or agricultural conservation easements. If the development rights have been purchased or agricultural conservation easements have been acquired under section 3611(10), the value of the development rights at the time of condemnation shall be paid to the state land use agency and any payment received by the state land use agency shall be used to acquire agricultural conservation easements on additional land under section 3611(10).

PART 362 AGRICULTURAL PRESERVATION FUND

Sec. 36201. As used in this part:

(a) "Agricultural conservation easement" means a conveyance, by a written instrument, in which, subject to permitted uses, the owner relinquishes to the public in perpetuity his or her development rights and makes a covenant running with the land not to undertake development.

(b) "Agricultural use" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program, a federal conservation reserve program, or a wetland reserve program. Agricultural use does not include the management and harvesting of a woodlot.

(c) "Board" means the agricultural preservation fund board created in section 36204.

(d) "Commission" means the commission of agriculture.

(e) "Department" means the department of agriculture.

(f) "Development" means an activity that materially alters or affects the existing conditions or use of any land in a manner that is inconsistent with an agricultural use.

(g) "Development rights" means an interest in land that includes the right to construct a building or structure, to improve land for development, or to divide a parcel for development purposes.

(h) "Farmland" means 1 or more of the following:

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

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

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

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

(i) "Fund" means the agricultural preservation fund created in section 36202.

(j) "Grant" means a grant for the purchase of an agriculture conservation easement under this part.

(k) "Owner" means a person having a freehold estate in land coupled with possession and enjoyment. If land is subject to a land contract, owner means the vendee in agreement with the vendor.

(l) "Permitted use" means any use expressly authorized within an agriculture conservation easement consistent with the farming operation or that does not adversely affect the productivity of the farmland. Storage, retail or wholesale marketing, or processing of agricultural products is a permitted use in a farming operation if more than 50% of the stored, processed, or merchandised products are produced by the farm operator for at least 3 of the immediately preceding 5 years. Permitted use includes oil and gas exploration and extraction, but does not include other mineral development that is inconsistent with an agricultural use.

Sec. 36202. (1) The agricultural preservation fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including federal funds, other state revenues, gifts, bequests, and other donations. The state treasurer shall direct the investment of the fund and shall credit to the fund interest and earnings from fund investments.

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

(4) Money in the fund may be expended, upon appropriation, following approval of the board and the commission, as follows:

(a) Not more than \$700,000.00 annually for the administrative costs of the department and the board in implementing this part and part 361. However, if deposits into the fund during any given fiscal year exceed \$8,750,000.00, up to 8% of the deposits may be expended for administrative costs pursuant to this subdivision.

(b) After expenditures for the administrative costs under subdivision (a), money in the fund may be used to provide grants to local units of government pursuant to section 36203.

(c) After expenditures under subdivisions (a) and (b) have been made, if the amount of money remaining in the fund exceeds \$5,000,000.00, money in the fund may be used pursuant to section 36111b for the purchase of development rights or the acquisition of agricultural conservation easements.

(5) Expenditures of money in the fund as provided in this part are consistent with the state's interest in preserving farmland and are declared to be for an important public purpose.

Sec. 36203. (1) The department shall establish a grant program to provide grants to eligible local units of government for the purchase of agricultural conservation easements.

(2) A grant application shall be submitted by the local unit of government applying for the grant. A local unit of government is eligible to submit a grant application under this section if both of the following requirements have been met:

(a) The local unit of government has adopted a development rights ordinance providing for a purchase of development rights program pursuant to the county zoning act, 1943 PA 183, MCL 125.201 to 125.240, the township zoning act, 1943 PA 184, MCL 125.271 to 125.310, or the city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600, that contains all of the following:

(i) An application procedure.

(ii) The criteria for a scoring system for parcel selections within the local unit of government.

(iii) A method to establish the price to be paid for development rights, which may include an appraisal, bidding, or formula-based process.

(b) The local unit of government has adopted, within the last 10 years, a comprehensive land use plan that includes a plan for agricultural preservation or the local unit of government is included within a regional plan that was prepared within the last 10 years that includes a plan for agricultural preservation.

(3) An application for a grant shall be submitted on a form prescribed by the department. The grant application shall include at a minimum a list of the parcels proposed for acquisition of agricultural conservation easements, the size and location of each parcel, the amount of local matching funds, and the estimated acquisition value of the agricultural conservation easements.

(4) Upon receipt of grant applications pursuant to subsection (3), the department shall forward those grant applications to the board for consideration under section 36205.

Sec. 36204. (1) The agricultural preservation fund board is created within the department.

(2) The board shall consist of the following members:

(a) The director of the department or his or her designee.

(b) The director of the department of natural resources or his or her designee.

(c) Five individuals appointed by the governor as follows:

(i) Two individuals representing agricultural interests.

(ii) One individual representing conservation interests.

(iii) One individual representing development interests.

(iv) One individual representing the general public.

(d) In addition to the members described in subdivisions (a) to (c), the director of the department may appoint 2 individuals with knowledge and expertise in agriculture or land use, or local government, as nonvoting members.

(3) The members first appointed to the board shall be appointed within 60 days after the effective date of this section.

(4) Members of the board appointed under subsection (2)(c) and (d) shall serve for terms of 4 years or until a successor is appointed, whichever is later. However, of the members first appointed under subsection (2)(c), 1 shall be appointed for a term of 2 years, 2 shall be appointed for terms of 3 years, and 2 shall be appointed for terms of 4 years.

(5) A majority of the members of the board constitute a quorum for the transaction of business at a meeting of the board. A majority of the members present and serving are required for official action of the board.

(6) Members of the board shall serve without compensation. However, members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

(7) The board shall annually elect a chairperson and a vice-chairperson from among its members.

(8) The board may remove a member of the board for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(9) A vacancy on the board shall be filled for the unexpired term in the same manner as the original appointment.

Sec. 36205. (1) An application submitted to the board under section 36203 shall be evaluated according to selection criteria established by the board. The criteria shall place a priority on the acquisition of agricultural conservation easements on farmland that meets 1 or more of the following:

(a) Farmland that has a productive capacity suited for the production of feed, food, and fiber.

(b) Farmland that would complement and is part of a documented, long-range effort or plan for land preservation by the local unit of government in which the farmland is located.

(c) Farmland that is located within an area that complements other land protection efforts by creating a block of farmland that is subject to an agricultural conservation easement under this part or part 361, or a development rights agreement under part 361, or in which development rights have been acquired under part 361.

(d) Farmland in which a greater portion of matching funds or a larger percentage of the agricultural conservation easement value is provided by a local unit of government or sources other than the fund.

(e) Other factors considered important by the board.

(2) After reviewing grant applications for the acquisition of agricultural conservation easements and evaluating them according to the criteria established in subsection (1), the board shall determine which grants should be awarded and the amount of the grants. Upon making its determination, the board shall notify the department and shall submit a report containing this information to the commission.

(3) The board may establish a maximum amount per acre that may be expended with money from the fund for the purchase of agricultural conservation easements.

(4) A grant shall require that a portion of the cost of acquiring an agricultural conservation easement shall be provided by the applicant or another person.

Sec. 36206. (1) After the board determines which grants should be awarded, and the amount of the grants, the department shall distribute the grants to the local units of government awarded the grants. The department shall condition the receipt of a grant upon the department's approval of the agricultural conservation easements being acquired.

(2) In reviewing permitted uses contained within an agricultural conservation easement under subsection (1), the department shall consider all of the following:

- (a) Whether the permitted uses adversely affect the productivity of farmland.
- (b) Whether the permitted uses materially alter or negatively affect the existing conditions or use of the land.
- (c) Whether the permitted uses result in a material alteration of an existing structure to a nonagricultural use.
- (d) Whether the permitted uses conform with all applicable federal, state, and local laws and ordinances.

(3) The department may accept contributions of all or a portion of the development rights to 1 or more parcels of land, including a conservation easement or a historic preservation easement as defined in section 2140, as part of a transaction for the purchase of an agricultural conservation easement.

(4) A local unit of government that purchases an agricultural conservation easement with money from a grant may purchase the agricultural conservation easement through an installment purchase agreement under terms negotiated by the local unit of government.

(5) An agricultural conservation easement acquired under this part shall be held jointly by the state and the local unit of government in which the land subject to the agricultural conservation easement is located. However, the state may delegate enforcement authority of 1 or more agricultural conservation easements to the local units of government in which the agricultural conservation easements are located.

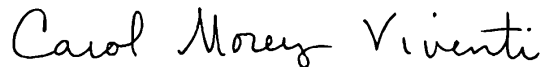
(6) An agricultural conservation easement acquired under this part may be transferred to the owner of the property subject to the agricultural conservation easement if the state and the local unit of government holding the agricultural conservation easement agree to the transfer and the terms of the transfer.

Sec. 36207. The department may promulgate rules to implement this part.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.