

SUBSTITUTE FOR
HOUSE BILL NO. 5013

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 82.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 82 CONSERVATION PRACTICES

2 SEC. 8201. AS USED IN THIS PART:

3 (A) "CONSERVATION EASEMENT" MEANS THAT TERM AS IT IS DEFINED
4 IN SECTION 2140.

5 (B) "CONSERVATION PLAN" MEANS A PLAN APPROVED BY THE DEPART-
6 MENT FOR ALL OR A PORTION OF A PARCEL OF LAND THAT SPECIFIES THE
7 CONSERVATION PRACTICES TO BE UNDERTAKEN AND INCLUDES A SCHEDULE
8 FOR IMPLEMENTATION.

9 (C) "CONSERVATION PRACTICES" MEANS PRACTICES, VOLUNTARILY
10 IMPLEMENTED BY THE LANDOWNER, THAT PROTECT AND CONSERVE WATER

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1 QUALITY, SOIL, NATURAL FEATURES, WILDLIFE, OR OTHER NATURAL
2 RESOURCES AND THAT MEET 1 OR MORE OF THE FOLLOWING:

3 (i) THE PRACTICES COMPLY WITH UNITED STATES NATURAL RESOURCE
4 CONSERVATION SERVICE STANDARDS AND SPECIFICATIONS AS APPROVED BY
5 THE DEPARTMENT.

6 (ii) THE PRACTICES ARE PROVIDED IN RULES PROMULGATED BY THE
7 DEPARTMENT UNDER THIS PART.

8 (iii) THE PRACTICES HAVE BEEN APPROVED BY THE COMMISSION OF
9 AGRICULTURE.

10 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE OR ITS
11 AUTHORIZED REPRESENTATIVES.

12 (E) "FUND" MEANS THE AGRICULTURE POLLUTION PREVENTION FUND
13 CREATED IN SECTION 8206.

14 (F) "VERIFICATION" OR "VERIFY" MEANS A DETERMINATION BY THE
15 DEPARTMENT THAT 1 OR MORE CONSERVATION PRACTICES HAVE BEEN ESTAB-
16 LISHED AND ARE BEING MAINTAINED IN ACCORDANCE WITH A CONSERVATION
17 PLAN.

18 SEC. 8202. (1) THE DEPARTMENT MAY ESTABLISH CONSERVATION
19 PROGRAMS DESIGNED TO ENCOURAGE THE VOLUNTARY USE OF CONSERVATION
20 PRACTICES IN THE STATE.

21 (2) IN IMPLEMENTING THE CONSERVATION PROGRAMS ESTABLISHED
22 UNDER THIS PART, THE DEPARTMENT, IN COORDINATION WITH THE DEPART-
23 MENTS OF NATURAL RESOURCES AND ENVIRONMENTAL QUALITY, MAY DO 1 OR
24 MORE OF THE FOLLOWING:

25 (A) ENTER INTO CONTRACTS WITH 1 OR MORE PERSONS FOR THE
26 IMPLEMENTATION OF CONSERVATION PRACTICES ON HIS OR HER LAND.

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1 (B) ENTER INTO CONTRACTS OR OTHER AGREEMENTS WITH 1 OR MORE
2 PERSONS TO ADMINISTER OR PROMOTE CONSERVATION PROGRAMS, OR TO
3 IMPLEMENT CONSERVATION PRACTICES.

4 (C) PROVIDE PAYMENTS, FINANCIAL INCENTIVES, OR, UPON VERIFI-
5 CATION OF THE IMPLEMENTATION OF CONSERVATION PRACTICES, REIM-
6 BURSEMENT FOR RENTAL PAYMENTS OR FOR COSTS OF CONSERVATION PRAC-
7 TICE IMPLEMENTATION, OR BOTH.

8 (D) PROMOTE THE USE OF CONSERVATION PRACTICES.

9 (E) RECOGNIZE AND PROVIDE AWARDS FOR PERSONS WHO HAVE IMPL-
10 MENTED CONSERVATION PRACTICES.

11 (F) MONITOR AND VERIFY COMPLIANCE WITH CONSERVATION PLANS.

12 (G) ENFORCE CONTRACTS OR OTHER AGREEMENTS ENTERED INTO UNDER
13 THIS PART.

14 (H) TERMINATE CONTRACTS OR OTHER AGREEMENTS ENTERED INTO
15 UNDER THIS PART IN ACCORD WITH TERMS ESTABLISHED IN THE CONTRACT
16 OR OTHER AGREEMENT.

17 (3) IN CARRYING OUT ITS RESPONSIBILITIES UNDER THIS PART,
18 THE DEPARTMENT SHALL COORDINATE WITH THE DEPARTMENTS OF NATURAL
19 RESOURCES AND ENVIRONMENTAL QUALITY AND OTHER APPLICABLE
20 PARTNERS.

21 SEC. 8203. (1) AS PART OF A CONSERVATION PROGRAM ESTAB-
22 LISHED UNDER THIS PART, THE DEPARTMENT MAY PROVIDE FOR CONSERVA-
23 TION PRACTICE VERIFICATION. CONSERVATION PRACTICE VERIFICATION
24 MAY BE GRANTED TO A PERSON IF ALL OF THE FOLLOWING CONDITIONS ARE
25 MET:

26 (A) THE PERSON HAS SUBMITTED A CONSERVATION PLAN IN
27 COMPLIANCE WITH REQUIREMENTS OF THE DEPARTMENT.

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1 (B) THE PERSON HAS ESTABLISHED AND IS MAINTAINING ALL
2 CONSERVATION PRACTICES PROVIDED FOR IN THE CONSERVATION PLAN,
3 ACCORDING TO THE PLAN SCHEDULE.

4 (C) THE PERSON HAS AGREED TO ALLOW THE DEPARTMENT, AFTER
5 GIVING PRIOR NOTICE TO THE LANDOWNER, TO CONDUCT INSPECTIONS OF
6 THE APPLICABLE LAND AND FACILITIES.

7 (D) THE DEPARTMENT HAS CONDUCTED AN ON-SITE INSPECTION OF
8 THE CONSERVATION PRACTICES AND HAS DETERMINED THAT THE PERSON HAS
9 ESTABLISHED AND IS MAINTAINING ALL CONSERVATION PRACTICES PRO-
10 VIDED FOR IN THE CONSERVATION PLAN, ACCORDING TO THE PLAN
11 SCHEDULE.

12 (2) IF THE DEPARTMENT DETERMINES AT ANY TIME THAT THE CON-
13 SERVATION PRACTICES PROVIDED IN A CONSERVATION PLAN HAVE NOT BEEN
14 ESTABLISHED OR ARE NOT BEING MAINTAINED, THE DEPARTMENT MAY
15 REVOKE A PERSON'S CONSERVATION PRACTICE VERIFICATION.

16 (3) IF A PERSON'S CONSERVATION PRACTICE VERIFICATION IS
17 REVOKED, THE PERSON MAY BE SUBJECT TO PENALTIES AND REPAYMENT OF
18 ALL OR A PORTION OF THE PAYMENTS, FINANCIAL INCENTIVES, LAND
19 RENTAL PAYMENTS, AND REIMBURSEMENT OF COSTS PAID FOR IMPLEMENTA-
20 TION OF THE CONSERVATION PRACTICE ACCORDING TO THE TERMS OF THE
21 CONTRACT.

22 SEC. 8204. (1) THE DEPARTMENT MAY PURCHASE OR OTHERWISE
23 ACQUIRE CONSERVATION EASEMENTS IN ACCORDANCE WITH SUBPART 11 OF
24 PART 21. A CONSERVATION EASEMENT PURCHASED OR OTHERWISE ACQUIRED
25 UNDER THIS SECTION MAY CONTAIN PROVISIONS FOR THE ALLOWABLE OR
26 REQUIRED USE OF THE LAND SUBJECT TO THE CONSERVATION EASEMENT,
27 IMPLEMENTATION OF CONSERVATION PRACTICES ON THE LAND, MAINTENANCE

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1 OF THE CONSERVATION PRACTICES, OPPORTUNITIES FOR INSPECTION OF
2 THE LAND, PENALTIES FOR NONCOMPLIANCE WITH THE TERMS OF THE CON-
3 SERVATION EASEMENT, TERMINATION OF THE EASEMENT, AND OTHER TERMS
4 AGREED TO BY THE DEPARTMENT.

5 (2) IF THE DEPARTMENT PURCHASES OR ACQUIRES A CONSERVATION
6 EASEMENT UNDER THIS SECTION, THE DEPARTMENT SHALL RECORD THAT
7 CONSERVATION EASEMENT WITH THE REGISTER OF DEEDS FOR THE COUNTY
8 IN WHICH THE LAND SUBJECT TO THE CONSERVATION EASEMENT IS
9 LOCATED. IF THAT CONSERVATION EASEMENT IS SUBSEQUENTLY TERMI-
10 NATED, THE DEPARTMENT SHALL RECORD A NOTICE OF THAT TERMINATION
11 WITH THE REGISTER OF DEEDS FOR THE COUNTY IN WHICH THE LAND
12 SUBJECT TO THE CONSERVATION EASEMENT IS LOCATED.

13 (3) THE DEPARTMENT MAY ENTER INTO CONTRACTS WITH 1 OR MORE
14 PERSONS TO MONITOR AND ENFORCE THE TERMS OF CONSERVATION EASE-
15 MENTS PURCHASED OR ACQUIRED UNDER SUBSECTION (1).

16 SEC. 8205. ANY MONEY RECOVERED BY THE DEPARTMENT UNDER THIS
17 PART, INCLUDING, BUT NOT LIMITED TO, MONEY PAID TO THE DEPARTMENT
18 DUE TO THE TERMINATION OF A CONTRACT, AGREEMENT, OR CONSERVATION
19 EASEMENT, SHALL BE DEPOSITED INTO THE FUND.

20 SEC. 8206. (1) THE AGRICULTURE POLLUTION PREVENTION FUND IS
21 CREATED IN THE STATE TREASURY.

22 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
23 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND, INCLUDING STATE AND
24 FEDERAL REVENUES, GIFTS, BEQUESTS, AND OTHER DONATIONS. THE
25 STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND AND SHALL
26 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

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1 (3) MONEY IN THE FUND OR IN ANY ACCOUNT WITHIN THE FUND AT
2 THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND OR ACCOUNT
3 AND SHALL NOT LAPSE TO THE GENERAL FUND.

4 (4) MONEY IN THE FUND SHALL BE EXPENDED, UPON APPROPRIATION,
5 ONLY FOR 1 OR MORE OF THE FOLLOWING:

6 (A) FOR PAYMENTS, FINANCIAL INCENTIVES, OR REIMBURSEMENT FOR
7 RENTAL PAYMENTS FOR THE IMPLEMENTATION OF CONSERVATION
8 PRACTICES.

9 (B) FOR PAYMENTS REQUIRED UNDER CONTRACTS ENTERED INTO UNDER
10 THIS PART.

11 (C) FOR THE PURCHASE OF CONSERVATION EASEMENTS.

12 (D) FOR MONITORING AND ENFORCEMENT OF CONSERVATION
13 EASEMENTS.

14 (E) FOR AWARDS TO PARTICIPANTS IN CONSERVATION PROGRAMS
15 ESTABLISHED BY THE DEPARTMENT UNDER THIS PART.

16 (F) FOR THE PROMOTION OF CONSERVATION PROGRAMS ESTABLISHED
17 BY THE DEPARTMENT UNDER THIS PART.

18 (G) NOT MORE THAN 20% OF THE ANNUAL APPROPRIATIONS FROM THE
19 FUND FOR THE ADMINISTRATIVE COSTS OF THE DEPARTMENT IN IMPLEMENT-
20 ING THIS PART. AS USED IN THIS SUBDIVISION, ADMINISTRATIVE COSTS
21 INCLUDE, BUT ARE NOT LIMITED TO, COSTS INCURRED IN DOING 1 OR
22 MORE OF THE FOLLOWING:

23 (i) DEVELOPING AND IMPLEMENTING CONSERVATION PROGRAMS.

24 (ii) MANAGING PAYMENTS AND FINANCIAL INCENTIVES.

25 (iii) MONITORING AND VERIFYING THE IMPLEMENTATION OF CONSER-
26 VATION PRACTICES AND ENFORCING CONTRACTS OR AGREEMENTS CONCERNING
27 CONSERVATION PRACTICES.

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1 (iv) COORDINATING CONSERVATION PROGRAMS WITH THE UNITED
2 STATES DEPARTMENT OF AGRICULTURE AND OTHER STATE AGENCIES WITH
3 JURISDICTION OVER CONSERVATION PROGRAMS.

4 (5) THE DEPARTMENT SHALL ANNUALLY PREPARE AND SUBMIT TO THE
5 STANDING COMMITTEES OF THE SENATE AND HOUSE OF REPRESENTATIVES
6 WITH JURISDICTION OVER ISSUES RELATED TO AGRICULTURE AND THE
7 SENATE AND HOUSE OF REPRESENTATIVES APPROPRIATIONS COMMITTEES A
8 REPORT THAT INCLUDES ALL OF THE FOLLOWING:

9 (A) THE AMOUNT OF MONEY RECEIVED BY THE FUND DURING THE PRE-
10 VIOUS FISCAL YEAR.

11 (B) THE EXPENDITURES OF MONEY FROM THE FUND DURING THE PRE-
12 VIOUS FISCAL YEAR BROKEN DOWN BY THE CATEGORIES LISTED IN
13 SUBSECTION (4)(A) TO (G).

14 (C) THE BALANCE OF THE FUND ON THE DATE OF THE REPORT.

15 (D) THE NUMBER OF ACRES IN WHICH CONSERVATION PRACTICES HAVE
16 BEEN IMPLEMENTED.

17 (E) THE NUMBER OF ACRES IN WHICH CONSERVATION EASEMENTS HAVE
18 BEEN PURCHASED OR ACQUIRED.

19 SEC. 8207. ANY INFORMATION VOLUNTARILY PROVIDED BY A PERSON
20 IN CONNECTION WITH THE DEVELOPMENT, IMPLEMENTATION, OR VERIFICA-
21 TION OF A CONSERVATION PLAN OR CONSERVATION PRACTICES UNDER THIS
22 PART IS CONFIDENTIAL, IS EXEMPT FROM DISCLOSURE UNDER THE FREEDOM
23 OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, AND IS NOT
24 OPEN TO PUBLIC INSPECTION WITHOUT THE PERSON'S CONSENT. ANY SUCH
25 INFORMATION THAT IS RELEASED TO A LEGISLATIVE BODY SHALL NOT CON-
26 TAIN INFORMATION THAT IDENTIFIES A SPECIFIC PERSON. THE
27 EXEMPTION PROVIDED IN THIS SECTION DOES NOT EXTEND TO ANY

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1 DOCUMENTS, COMMUNICATION, DATA, REPORTS, OR OTHER INFORMATION
2 REQUIRED TO BE COLLECTED, MAINTAINED, OR MADE AVAILABLE OR
3 REPORTED TO A REGULATORY AGENCY OR ANY OTHER PERSON BY STATUTE,
4 RULE, ORDINANCE, PERMIT, ORDER, CONSENT AGREEMENT, OR AS OTHER-
5 WISE PROVIDED BY LAW.

6 SEC. 8208. THE DEPARTMENT MAY PROMULGATE RULES TO IMPLEMENT
7 THIS PART.