

**SUBSTITUTE FOR
HOUSE BILL NO. 4663**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 36201 and 36202 (MCL 324.36201 and 324.36202),
section 36201 as added by 2000 PA 262 and section 36202 as amended
by 2004 PA 75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36201. As used in this part:

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

7 (b) "Agricultural use" means substantially undeveloped land
8 devoted to the production of plants and animals useful to humans,
9 including forages and sod crops; grains, feed crops, and field

1 crops; dairy and dairy products; poultry and poultry products;
2 livestock, including breeding and grazing of cattle, swine, captive
3 cervidae, and similar animals; berries; herbs; flowers; seeds;
4 grasses; nursery stock; fruits; vegetables; Christmas trees; and
5 other similar uses and activities. Agricultural use includes use in
6 a federal acreage set-aside program, a federal conservation reserve
7 program, or a wetland reserve program. Agricultural use does not
8 include the management and harvesting of a woodlot.

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

11 (d) "Commission" means the commission of agriculture **AND RURAL**
12 **DEVELOPMENT**.

13 (e) "Department" means the department of agriculture **AND RURAL**
14 **DEVELOPMENT**.

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

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

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

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

25 (ii) A farm of 5 acres or more in 1 ownership, but less than 40
26 acres, with 51% or more of the land area devoted to an agricultural
27 use, that has produced a gross annual income from agriculture of

1 \$200.00 per year or more per acre of cleared and tillable land. A
2 farm described in this subparagraph enrolled in a federal acreage
3 set-aside program or a federal conservation reserve program is
4 considered to have produced a gross annual income from agriculture
5 of \$200.00 per year or more per acre of cleared and tillable land.

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

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

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

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

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

24 (l) "Permitted use" means any use expressly authorized within
25 an agriculture conservation easement consistent with the farming
26 operation or that does not adversely affect the productivity of the
27 farmland. Storage, retail or wholesale marketing, or processing of

1 agricultural products is a permitted use in a farming operation if
2 more than 50% of the stored, processed, or merchandised products
3 are produced by the farm operator for at least 3 of the immediately
4 preceding 5 years. Permitted use includes oil and gas exploration
5 and extraction, but does not include other mineral development that
6 is inconsistent with an agricultural use.

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

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

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

16 **(4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR**
17 **AUDITING PURPOSES.**

18 (5) ~~(4)~~ Money in the fund may be expended, upon appropriation,
19 following approval of the board and the commission, as follows:

20 (a) Not more than ~~\$900,000.00~~ **\$1,400,000.00** annually for the
21 administrative costs of the department and the board in
22 implementing this part and part 361. ~~However, if deposits into the~~
23 ~~fund during any given fiscal year exceed \$11,250,000.00, up to 8%~~
24 ~~of the deposits may be expended for administrative costs pursuant~~
25 ~~to this subdivision.~~

26 (b) After expenditures for the administrative costs under
27 subdivision (a), money in the fund may be used to provide grants to

1 local units of government pursuant to section 36203.

2 (c) After expenditures under subdivisions (a) and (b) have
3 been made, if the amount of money remaining in the fund exceeds
4 \$5,000,000.00, money in the fund may be used pursuant to part 361
5 for the purchase of development rights to farmland or the
6 acquisition of agricultural conservation easements.

7 (6) ~~(5)~~ Expenditures of money in the fund as provided in this
8 part are consistent with the state's interest in preserving
9 farmland and are ~~declared to be~~ for an important public purpose.