

SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 5780

A bill to amend 1994 PA 451, entitled  
"Natural resources and environmental protection act,"  
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:**

1       Sec. 36101. 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 DEVEL-  
5 OPMENT RIGHTS AND MAKES A COVENANT RUNNING WITH THE LAND NOT TO  
6 UNDERTAKE DEVELOPMENT.

7       (B) ~~—(a)—~~ "Agricultural use" means ~~—substantially~~  
8 ~~undeveloped land devoted to~~ the production of plants and animals

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1 useful to humans, including forages and sod crops; grains, feed  
2 crops, and field crops; dairy and dairy products; poultry and  
3 poultry products; livestock, including breeding and grazing of  
4 cattle, swine, captive cervidae, and similar animals; berries;  
5 herbs; flowers; seeds; grasses; nursery stock; fruits; vegeta-  
6 bles; Christmas trees; and other similar uses and activities.

7 ~~The~~ AGRICULTURAL USE INCLUDES USE IN A FEDERAL ACREAGE  
8 SET-ASIDE PROGRAM OR A FEDERAL CONSERVATION RESERVE PROGRAM.

9 AGRICULTURAL USE DOES NOT INCLUDE THE management and harvesting  
10 of a woodlot. ~~is not an agricultural use under this act.~~

11 (C) "CONSERVATION DISTRICT BOARD" MEANS THAT TERM AS DEFINED  
12 IN SECTION 9301.

13 (D) ~~(b)~~ "Development" means an activity that materially  
14 alters or affects the existing conditions or use of any land.

15 (E) ~~(c)~~ "Development rights" means AN INTEREST IN LAND  
16 THAT INCLUDES the right to construct a building or structure, to  
17 improve land FOR DEVELOPMENT, TO DIVIDE A PARCEL FOR DEVELOPMENT,  
18 or ~~the extraction of~~ TO EXTRACT minerals incidental to a per-  
19 mitted use or as is set forth in an instrument recorded under  
20 this part.

21 (F) ~~(d)~~ "Development rights agreement" means a restrictive  
22 covenant, evidenced by an instrument in which the owner and the  
23 state, for a term of years, agree to jointly hold the right to  
24 ~~develop~~ UNDERTAKE DEVELOPMENT OF the land, ~~as may be expressly~~  
25 ~~reserved in the instrument,~~ and that contains a covenant running  
26 with the land, for a term of years, not to ~~develop, except as~~

1 ~~this right is expressly reserved in the instrument~~ UNDERTAKE  
2 DEVELOPMENT, SUBJECT TO PERMITTED USES.

3 (G) ~~(e)~~ "Development rights easement" means a grant, by an  
4 instrument, in which the owner relinquishes to the public in per-  
5 petuity or for a term of years the right to ~~develop~~ UNDERTAKE  
6 DEVELOPMENT OF the land, ~~as may be expressly reserved in the~~  
7 ~~instrument,~~ and that contains a covenant running with the land,  
8 not to ~~develop, except as this right is expressly reserved in~~  
9 ~~the instrument~~ UNDERTAKE DEVELOPMENT, SUBJECT TO PERMITTED  
10 USES.

11 (H) ~~(f)~~ "Farmland" means 1 or more of the following:

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

14 (ii) A farm of 5 acres or more in 1 ownership, but less than  
15 40 acres, with 51% or more of the land area devoted to an agri-  
16 cultural use, that has produced a gross annual income from agri-  
17 culture of \$200.00 per year or more per acre of cleared and til-  
18 lable land. A farm described in this subparagraph enrolled in a  
19 federal acreage set aside program or a federal conservation  
20 reserve program is considered to have produced a gross annual  
21 income from agriculture of \$200.00 per year or more per acre of  
22 cleared and tillable land.

23 (iii) A farm designated by the department of agriculture as  
24 a specialty farm in 1 ownership that has produced a gross annual  
25 income from an agricultural use of \$2,000.00 or more. Specialty  
26 farms include, but are not limited to, greenhouses; equine  
27 breeding and grazing; the breeding and grazing of cervidae,

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1 pheasants, and other game animals; bees and bee products;  
2 mushrooms; aquaculture; and other similar uses and activities.

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

7 (I) ~~(g)~~ "Local governing body" means 1 of the following:

8 (i) ~~The~~ WITH RESPECT TO FARMLAND OR OPEN SPACE LAND THAT  
9 IS LOCATED IN A CITY OR VILLAGE, THE legislative body of ~~a~~ THE  
10 city or village.

11 (ii) ~~The township board of~~ WITH RESPECT TO FARMLAND OR  
12 OPEN SPACE LAND THAT IS NOT LOCATED IN A CITY OR VILLAGE BUT THAT  
13 IS LOCATED IN a township having a zoning ordinance in effect as  
14 provided by law, THE TOWNSHIP BOARD OF THE TOWNSHIP.

15 (iii) ~~The~~ WITH RESPECT TO FARMLAND OR OPEN SPACE LAND THAT  
16 IS NOT DESCRIBED IN SUBPARAGRAPH (i) OR (ii), THE county board of  
17 commissioners. ~~in all other areas.~~

18 (J) ~~(h)~~ "Open space land" means 1 of the following:

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

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

23 (B) Riverfront ownership subject to designation under part  
24 305, to the extent that full legal descriptions may be declared  
25 open space under the meaning of this part, if the undeveloped  
26 parcel or government lot parcel or portions of the undeveloped

1 parcel or government lot parcel as assessed and owned is affected  
2 by that part and lies within 1/4 mile of the river.

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

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

14 (K) ~~-(i)-~~ "Owner" means a person having a freehold estate in  
15 land coupled with possession and enjoyment. If land is subject  
16 to a land contract, owner means the vendee in agreement with the  
17 vendor.

18 (l) ~~-(j)-~~ "Permitted use" means any use ~~contained~~  
19 EXPRESSLY AUTHORIZED within a development rights agreement, ~~or~~  
20 ~~a~~ development rights easement, OR AGRICULTURE CONSERVATION EASE-  
21 MENT THAT IS consistent with the farming operation or that does  
22 not alter the open space character of the land. Storage, retail  
23 or wholesale marketing, or processing of agricultural products is  
24 a permitted use in a farming operation if more than 50% of the  
25 stored, processed, or merchandised products are produced by the  
26 farm operator for at least 3 of the immediately preceding 5

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1 years. The state land use agency shall determine whether a use  
2 is a permitted use pursuant to section 36104a.

3 (M) ~~-(k)-~~ "Person" includes an individual, corporation,  
4 limited liability company, business trust, estate, trust, part-  
5 nership, or association, or 2 or more persons having a joint or  
6 common interest in ~~the~~ land.

7 (N) "PLANNING COMMISSION" MEANS A PLANNING COMMISSION CRE-  
8 ATED BY THE LOCAL GOVERNING BODY UNDER 1945 PA 282, MCL 125.101  
9 TO 125.107, 1959 PA 168, MCL 125.321 TO 125.333, OR 1931 PA 285,  
10 MCL 125.31 TO 125.45, AS APPLICABLE.

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

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

20 (Q) ~~-(n)-~~ "Regional planning commission" means a regional  
21 planning commission created pursuant to ~~Act No. 281 of the~~  
22 ~~Public Acts of 1945, being sections 125.11 to 125.25 of the~~  
23 ~~Michigan Compiled Laws~~ 1945 PA 281, MCL 125.11 TO 125.25.

24 (R) ~~-(o)-~~ "Regional planning district" means the planning  
25 and development regions as established by executive directive  
26 1968-1, as amended, whose organizational structure is approved by  
27 the regional council.

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

3       (S) ~~(q)~~ "State income tax act" means the income tax act of  
4 1967, ~~Act No. 281 of the Public Acts of 1967, being sections~~  
5 ~~206.1 to 206.532 of the Michigan Compiled Laws 1967 PA 281,~~  
6 MCL 206.1 TO 206.532, and in effect during the particular year of  
7 the reference to the act.

8       (T) ~~(r)~~ "State land use agency" means the ~~land use agency~~  
9 ~~within the department of natural resources~~ AGRICULTURE.

10       (U) ~~(s)~~ "Substantially undeveloped" means any parcel or  
11 area of land essentially unimproved except for a dwelling, build-  
12 ing, structure, road, or other improvement that is incidental to  
13 agricultural and open space uses.

14       (V) ~~(t)~~ "Unique or critical land area" means agricultural  
15 or open space lands identified by the land use agency as an area  
16 that should be preserved.

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

1 local governing body of the local unit of government in which the  
2 farmland is located.

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

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

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



1 relinquished unless a variance is obtained from the local zoning  
2 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 UNAPPROPRIATED PROCEEDS  
14 FROM LIEN PAYMENTS MADE UNDER THIS PART SHALL BE FORWARDED TO THE  
15 STATE TREASURER FOR DEPOSIT IN THE AGRICULTURAL PRESERVATION FUND  
16 CREATED IN SECTION 36202. ON OCTOBER 1, 2000, ALL UNEXPENDED  
17 PROCEEDS FROM LIEN PAYMENTS MADE UNDER THIS PART THAT ARE HELD BY  
18 THE STATE SHALL BE TRANSFERRED TO THE AGRICULTURAL PRESERVATION  
19 FUND 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 Sec. 36111b. (1) An application submitted under section  
11 36111(10) for PURCHASE OF development rights OR acquisition OF  
12 AGRICULTURAL CONSERVATION EASEMENTS shall be evaluated and ranked  
13 according to selection criteria and a scoring system approved  
14 ~~jointly by the commission of natural resources and the com-~~  
15 ~~mission of agriculture.~~ In developing a point system for select-  
16 ing the parcels for purchase of development rights OR THE ACQUI-  
17 SITION OF AGRICULTURAL CONSERVATION EASEMENTS, the ~~state land~~  
18 ~~use agency and~~ department of agriculture shall seek the assist-  
19 ance of THE DEPARTMENT OF NATURAL RESOURCES, Michigan state uni-  
20 versity, the United States department of agriculture-natural  
21 resources conservation service, and other appropriate profes-  
22 sional and industry organizations. The selection criteria shall  
23 give consideration to the quality and physical characteristics of  
24 the parcel as well as surrounding land uses and threat of  
25 development.

26 (2) The ~~state land use agency~~ DEPARTMENT OF AGRICULTURE  
27 shall prepare a notification to those individuals whose farmland

1 development rights agreements are expiring in the year of  
2 application or expiring 1 year after the year of application.  
3 The notice shall be completed not less than 90 days before an  
4 application deadline set by the ~~state land use agency~~  
5 DEPARTMENT OF AGRICULTURE and shall include written information  
6 and details regarding the program. Applications for THE PURCHASE  
7 OF development rights OR THE acquisition OF AGRICULTURAL CONSER-  
8 VATION EASEMENTS shall be submitted to the ~~state land use~~  
9 ~~agency~~ DEPARTMENT OF AGRICULTURE by the owner of that land and  
10 must include written support by the local governing body.

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

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

19 (b) Lands that are enrolled under this act.

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

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

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

1       (4) For purposes of ~~this section~~ SUBSECTIONS (7) AND (8),  
2 THE VALUE OF development rights ~~value~~ IN THE PURCHASE OF DEVEL-  
3 OPMENT RIGHTS OR THE ACQUISITION OF AGRICULTURAL CONSERVATION  
4 EASEMENTS shall be determined by subtracting the current fair  
5 market value of the property without the development rights from  
6 the current fair market value of the property with all develop-  
7 ment rights.

8       (5) The ~~director of the department of natural resources in~~  
9 ~~consultation with the~~ director of the department of agriculture  
10 shall approve individual parcels for the purchase of development  
11 rights OR THE ACQUISITION OF AGRICULTURAL CONSERVATION EASEMENTS  
12 based upon the adopted selection criteria and scoring process.  
13 The ~~commission of natural resources and the~~ commission of agri-  
14 culture shall approve a method to establish the price to be paid  
15 for THE PURCHASE OF development rights OR THE ACQUISITION OF  
16 AGRICULTURAL CONSERVATION EASEMENTS, such as via appraisal, ~~or~~  
17 bidding, OR A FORMULA-BASED process and shall establish the maxi-  
18 mum price to be paid on a per purchase basis from the lien fund.  
19 The director of the department of ~~natural resources~~  
20 AGRICULTURE, after negotiations with the landowner, shall approve  
21 the price to be paid for purchase of development rights OR THE  
22 ACQUISITION OF THE AGRICULTURAL CONSERVATION EASEMENTS. Proper  
23 releases from mortgage holders and lienholders must be obtained  
24 and executed to ensure that all development rights are purchased  
25 free and clear of all encumbrances.



1       (6) THE DEPARTMENT MAY PURCHASE THE AGRICULTURAL  
2 CONSERVATION EASEMENT THROUGH AN INSTALLMENT PURCHASE AGREEMENT  
3 UNDER TERMS NEGOTIATED BY THE DEPARTMENT.

4       (7) ~~(6) All development rights easements~~ AN AGRICULTURAL  
5 CONSERVATION EASEMENT shall include appropriate provisions for  
6 the protection of the farmland and other unique and critical  
7 benefits. ~~Development rights easements created under this~~  
8 ~~section~~ AN AGRICULTURAL CONSERVATION EASEMENT may be terminated  
9 if the land, as determined by the ~~natural resources~~ commission  
10 OF AGRICULTURE, meets 1 or more of the criteria described in sec-  
11 tion ~~36111a(1)(a)(i) through (iv)~~ 36111A(1)(A) TO (D). An  
12 AGRICULTURAL CONSERVATION easement or portion of an AGRICULTURAL  
13 CONSERVATION easement shall not be terminated unless approved by  
14 the local governing body and the commission of natural resources  
15 and the commission of agriculture. If an AGRICULTURAL  
16 CONSERVATION easement is terminated, the current fair market  
17 value of the development rights, at the time of termination,  
18 shall be paid to the state land use agency. Any payment received  
19 by the state land use agency under this part shall be used to  
20 ~~purchase development rights~~ ACQUIRE AGRICULTURAL CONSERVATION  
21 EASEMENTS on additional farmland ~~in accordance with the provi-~~  
22 ~~sions of~~ UNDER section 36111(10).

23       (8) ~~(7)~~ Whenever a public entity, authority, or political  
24 subdivision exercises the power of eminent domain and condemns  
25 land enrolled under this act, the value of the land shall include  
26 the value of development rights covered by development rights  
27 agreements OR AGRICULTURAL CONSERVATION EASEMENTS. If the

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1 development rights have been purchased OR AGRICULTURAL  
2 CONSERVATION EASEMENTS HAVE BEEN ACQUIRED under section  
3 36111(10), the value of the development rights at the time of  
4 condemnation shall be paid to the state land use agency and any  
5 payment received by the state land use agency shall be used to  
6 ~~purchase development rights~~ ACQUIRE AGRICULTURAL CONSERVATION  
7 EASEMENTS on additional land under section 36111(10).

8 PART 362 AGRICULTURAL PRESERVATION FUND

9 SEC. 36201. AS USED IN THIS PART:

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

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

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20

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 FEDERAL  
5 FUNDS, OTHER STATE REVENUES, GIFTS, BEQUESTS, AND OTHER  
6 DONATIONS. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF  
7 THE FUND AND SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM  
8 FUND INVESTMENTS.

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

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

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

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

22        (C) AFTER EXPENDITURES UNDER SUBDIVISIONS (A) AND (B) HAVE  
23 BEEN MADE, IF THE AMOUNT OF MONEY REMAINING IN THE FUND EXCEEDS  
24 \$5,000,000.00, MONEY IN THE FUND MAY BE USED PURSUANT TO  
25 SECTION 36111B FOR THE PURCHASE OF DEVELOPMENT RIGHTS OR THE  
26 ACQUISITION OF AGRICULTURAL CONSERVATION EASEMENTS.

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

4       SEC. 36203. (1) THE DEPARTMENT SHALL ESTABLISH A GRANT PRO-  
5 GRAM TO PROVIDE GRANTS TO ELIGIBLE LOCAL UNITS OF GOVERNMENT FOR  
6 THE PURCHASE OF AGRICULTURAL CONSERVATION EASEMENTS.

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

11       (A) THE LOCAL UNIT OF GOVERNMENT HAS ADOPTED A DEVELOPMENT  
12 RIGHTS ORDINANCE PROVIDING FOR A PURCHASE OF DEVELOPMENT RIGHTS  
13 PROGRAM PURSUANT TO THE COUNTY ZONING ACT, 1943 PA 183, MCL  
14 125.201 TO 125.240, THE TOWNSHIP ZONING ACT, 1943 PA 184, MCL  
15 125.271 TO 125.310, OR THE CITY AND VILLAGE ZONING ACT, 1921 PA  
16 207, MCL 125.581 TO 125.600, THAT CONTAINS ALL OF THE FOLLOWING:

17       (i) AN APPLICATION PROCEDURE.

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

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

23       (B) THE LOCAL UNIT OF GOVERNMENT HAS ADOPTED, WITHIN THE  
24 LAST 10 YEARS, A COMPREHENSIVE LAND USE PLAN THAT INCLUDES A PLAN  
25 FOR AGRICULTURAL PRESERVATION OR THE LOCAL UNIT OF GOVERNMENT IS  
26 INCLUDED WITHIN A REGIONAL PLAN THAT WAS PREPARED WITHIN THE LAST  
27 10 YEARS THAT INCLUDES A PLAN FOR AGRICULTURAL PRESERVATION.

1       (3) AN APPLICATION FOR A GRANT SHALL BE SUBMITTED ON A FORM  
2 PRESCRIBED BY THE DEPARTMENT. THE GRANT APPLICATION SHALL  
3 INCLUDE AT A MINIMUM A LIST OF THE PARCELS PROPOSED FOR ACQUI-  
4 TION OF AGRICULTURAL CONSERVATION EASEMENTS, THE SIZE AND LOCA-  
5 TION OF EACH PARCEL, THE AMOUNT OF LOCAL MATCHING FUNDS, AND THE  
6 ESTIMATED ACQUISITION VALUE OF THE AGRICULTURAL CONSERVATION  
7 EASEMENTS.

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

11       SEC. 36204. (1) THE AGRICULTURAL PRESERVATION FUND BOARD IS  
12 CREATED WITHIN THE DEPARTMENT.

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

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

15       (B) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR  
16 HIS OR HER DESIGNEE.

17       (C) FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR AS FOLLOWS:

18       (i) TWO INDIVIDUALS REPRESENTING AGRICULTURAL INTERESTS.

19       (ii) ONE INDIVIDUAL REPRESENTING CONSERVATION INTERESTS.

20       (iii) ONE INDIVIDUAL REPRESENTING DEVELOPMENT INTERESTS.

21       (iv) ONE INDIVIDUAL REPRESENTING THE GENERAL PUBLIC.

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

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

4       (4) MEMBERS OF THE BOARD APPOINTED UNDER SUBSECTION (2)(C)  
5 AND (D) SHALL SERVE FOR TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS  
6 APPOINTED, WHICHEVER IS LATER. HOWEVER, OF THE MEMBERS FIRST  
7 APPOINTED UNDER SUBSECTION (2)(C), 1 SHALL BE APPOINTED FOR A  
8 TERM OF 2 YEARS, 2 SHALL BE APPOINTED FOR TERMS OF 3 YEARS, AND 2  
9 SHALL BE APPOINTED FOR TERMS OF 4 YEARS.

10       (5) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A  
11 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE  
12 BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE  
13 REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

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

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

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

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

25       SEC. 36205. (1) AN APPLICATION SUBMITTED TO THE BOARD UNDER  
26 SECTION 36203 SHALL BE EVALUATED ACCORDING TO SELECTION CRITERIA  
27 ESTABLISHED BY THE BOARD. THE CRITERIA SHALL PLACE A PRIORITY ON



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25

1 THE ACQUISITION OF AGRICULTURAL CONSERVATION EASEMENTS ON  
2 FARMLAND THAT MEETS 1 OR MORE OF THE FOLLOWING:

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

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

8 (C) FARMLAND THAT IS LOCATED WITHIN AN AREA THAT COMPLEMENTS  
9 OTHER LAND PROTECTION EFFORTS BY CREATING A BLOCK OF FARMLAND  
10 THAT IS SUBJECT TO AN AGRICULTURAL CONSERVATION EASEMENT UNDER  
11 THIS PART OR PART 361, OR A DEVELOPMENT RIGHTS AGREEMENT UNDER  
12 PART 361, OR IN WHICH DEVELOPMENT RIGHTS HAVE BEEN ACQUIRED UNDER  
13 PART 361.

14 (D) FARMLAND IN WHICH A GREATER PORTION OF MATCHING FUNDS OR  
15 A LARGER PERCENTAGE OF THE AGRICULTURAL CONSERVATION EASEMENT  
16 VALUE IS PROVIDED BY A LOCAL UNIT OF GOVERNMENT OR SOURCES OTHER  
17 THAN THE FUND.

18 (E) OTHER FACTORS CONSIDERED IMPORTANT BY THE BOARD.

19 (2) AFTER REVIEWING GRANT APPLICATIONS FOR THE ACQUISITION  
20 OF AGRICULTURAL CONSERVATION EASEMENTS AND EVALUATING THEM  
21 ACCORDING TO THE CRITERIA ESTABLISHED IN SUBSECTION (1), THE  
22 BOARD SHALL DETERMINE WHICH GRANTS SHOULD BE AWARDED AND THE  
23 AMOUNT OF THE GRANTS. UPON MAKING ITS DETERMINATION, THE BOARD  
24 SHALL NOTIFY THE DEPARTMENT AND SHALL SUBMIT A REPORT CONTAINING  
25 THIS INFORMATION TO THE COMMISSION.

1       (3) THE BOARD MAY ESTABLISH A MAXIMUM AMOUNT PER ACRE THAT  
2 MAY BE EXPENDED WITH MONEY FROM THE FUND FOR THE PURCHASE OF  
3 AGRICULTURAL CONSERVATION EASEMENTS.

4       (4) A GRANT SHALL REQUIRE THAT A PORTION OF THE COST OF  
5 ACQUIRING AN AGRICULTURAL CONSERVATION EASEMENT SHALL BE PROVIDED  
6 BY THE APPLICANT OR ANOTHER PERSON.

7       SEC. 36206. (1) AFTER THE BOARD DETERMINES WHICH GRANTS  
8 SHOULD BE AWARDED, AND THE AMOUNT OF THE GRANTS, THE DEPARTMENT  
9 SHALL DISTRIBUTE THE GRANTS TO THE LOCAL UNITS OF GOVERNMENT  
10 AWARDED THE GRANTS. THE DEPARTMENT SHALL CONDITION THE RECEIPT  
11 OF A GRANT UPON THE DEPARTMENT'S APPROVAL OF THE AGRICULTURAL  
12 CONSERVATION EASEMENTS BEING ACQUIRED.

13       (2) IN REVIEWING PERMITTED USES CONTAINED WITHIN AN AGRICUL-  
14 TURAL CONSERVATION EASEMENT UNDER SUBSECTION (1), THE DEPARTMENT  
15 SHALL CONSIDER ALL OF THE FOLLOWING:

16       (A) WHETHER THE PERMITTED USES ADVERSELY AFFECT THE PRODUC-  
17 TIVITY OF FARMLAND.

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

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

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

24       (3) THE DEPARTMENT MAY ACCEPT CONTRIBUTIONS OF ALL OR A POR-  
25 TION OF THE DEVELOPMENT RIGHTS TO 1 OR MORE PARCELS OF LAND,  
26 INCLUDING A CONSERVATION EASEMENT OR A HISTORIC PRESERVATION

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1 EASEMENT AS DEFINED IN SECTION 2140, AS PART OF A TRANSACTION FOR  
2 THE PURCHASE OF AN AGRICULTURAL CONSERVATION EASEMENT.

3 (4) A LOCAL UNIT OF GOVERNMENT THAT PURCHASES AN AGRICUL-  
4 TURAL CONSERVATION EASEMENT WITH MONEY FROM A GRANT MAY PURCHASE  
5 THE AGRICULTURAL CONSERVATION EASEMENT THROUGH AN INSTALLMENT  
6 PURCHASE AGREEMENT UNDER TERMS NEGOTIATED BY THE LOCAL UNIT OF  
7 GOVERNMENT.

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

15 (6) AN AGRICULTURAL CONSERVATION EASEMENT ACQUIRED UNDER  
16 THIS PART MAY BE TRANSFERRED TO THE OWNER OF THE PROPERTY SUBJECT  
17 TO THE AGRICULTURAL CONSERVATION EASEMENT IF THE STATE AND THE  
18 LOCAL UNIT OF GOVERNMENT HOLDING THE AGRICULTURAL CONSERVATION  
19 EASEMENT AGREE TO THE TRANSFER AND THE TERMS OF THE TRANSFER.

20 SEC. 36207. THE DEPARTMENT MAY PROMULGATE RULES TO IMPL-  
21 MENT THIS PART.