

SENATE BILL No. 404

April 19, 2001, Introduced by Senators GARCIA and VAN REGENMORTER and referred to the Committee on Judiciary.

A bill to amend 1982 PA 220, entitled
"Michigan family farm development act,"
by amending section 29 (MCL 285.279).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 29. (1) A person shall not, with the intent to defraud
2 or cheat — AND designedly by false pretenses, including false
3 statement or representation, obtain money, agricultural land,
4 agricultural improvements, depreciable agricultural property,
5 other real or personal property, or the use of an instrument,
6 facility, article, or other valuable thing or service — pro-
7 vided under this act, including participation in a program estab-
8 lished ~~pursuant to~~ UNDER this act.

9 (2) A person who violates this section ~~by obtaining money,~~
10 ~~agricultural land, agricultural improvements, depreciable~~
11 ~~agricultural property, or other real or personal property, or use~~

~~1 of an instrument, facility, article, or other valuable thing or~~
~~2 service, \$100.00 or less in value, shall be~~ IS GUILTY OF A CRIME
3 AS FOLLOWS:

4 (A) IF THE VALUE OF THE PROCEEDS IS LESS THAN \$200.00, THE
5 PERSON IS guilty of a misdemeanor ~~—~~, punishable by imprisonment
6 for not more than ~~90~~ 93 days ~~—~~, or a fine of not more than
7 ~~\$100.00, or both. A person who violates this section by obtain=~~
8 ~~ing money, agricultural land, agricultural improvements, depre=~~
9 ~~ciable agricultural property, or other real or personal property,~~
10 ~~or use of an instrument, facility, article, or other valuable~~
11 ~~thing or service more than \$100.00 in value, shall be \$500.00 OR~~
12 3 TIMES THE VALUE OF THE PROCEEDS, WHICHEVER IS GREATER, OR BOTH
13 IMPRISONMENT AND A FINE.

14 (B) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
15 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR
16 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE
17 PROCEEDS, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

18 (i) THE VALUE OF THE PROCEEDS IS \$200.00 OR MORE BUT LESS
19 THAN \$1,000.00

20 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 1 OR MORE
21 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
22 OFFENSE UNDER THIS SECTION.

23 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
24 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
25 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE PRO-
26 CEEDS, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

1 (i) THE VALUE OF THE PROCEEDS IS \$1,000.00 OR MORE BUT LESS
2 THAN \$20,000.00.

3 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 1 OR
4 MORE PRIOR CONVICTIONS FOR VIOLATING OR ATTEMPTING TO VIOLATE
5 THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A
6 PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR VIOLATING OR
7 ATTEMPTING TO VIOLATE SUBDIVISION (A) OR (B)(ii).

8 (D) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS guilty of a
9 felony — punishable by imprisonment for not more than 10 years
10 —, or a fine of not more than ~~\$5,000.00, or both~~ \$15,000.00 OR
11 3 TIMES THE VALUE OF THE PROCEEDS, WHICHEVER IS GREATER, OR BOTH
12 IMPRISONMENT AND A FINE:

13 (i) THE VALUE OF THE PROCEEDS IS \$20,000.00 OR MORE.

14 (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 2 OR
15 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
16 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH,
17 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR
18 VIOLATING OR ATTEMPTING TO VIOLATE SUBDIVISION (A) OR (B)(ii).

19 (3) THE VALUES OF PROCEEDS OBTAINED IN SEPARATE INCIDENTS
20 PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY 12-MONTH
21 PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL VALUE OF PROCEEDS
22 OBTAINED.

23 (4) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
24 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-
25 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT
26 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR
27 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION

1 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,
2 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE
3 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTAB-
4 LISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT
5 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

6 (A) A COPY OF THE JUDGMENT OF CONVICTION.

7 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
8 SENTENCING.

9 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

10 (D) THE DEFENDANT'S STATEMENT.

11 (5) AS USED IN THIS SECTION, "PROCEEDS" MEANS MONEY, AGRI-
12 CULTURAL LAND, AGRICULTURAL IMPROVEMENTS, DEPRECIABLE AGRICUL-
13 TURAL PROPERTY, OTHER REAL OR PERSONAL PROPERTY, OR THE USE OF AN
14 INSTRUMENT, FACILITY, ARTICLE, OR OTHER VALUABLE THING OR SERVICE
15 OBTAINED IN VIOLATION OF SUBSECTION (1).