

HOUSE BILL No. 5030

August 13, 2003, Introduced by Reps. Walker, Palsrok, Moolenaar and Emmons and referred to the Committee on Land Use and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by amending the part heading of part
361 and by adding part 363.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

PART 361 FARMLAND AND OPEN SPACE PRESERVATION - DEVELOPMENT
RIGHTS AGREEMENTS AND EASEMENTS

PART 363 FARMLAND PRESERVATION - AGRICULTURAL DISTRICTS

Sec. 36301. As used in this part:

(a) "Agricultural district" means an area of farmland
designated in an agricultural district contract.

(b) "Agricultural district contract" means a contract under
section 36303 between the local governing body and the owner of
farmland.

(c) "Agricultural district tax" means a specific tax levied

1 under section 36311.

2 (d) "Agricultural use" means that term as defined in section
3 36101. Agricultural use does not include a residence other than
4 a residence for migratory laborers.

5 (e) "Conservation easement" means either of the following:

6 (i) A permanent agricultural conservation easement or
7 development rights easement under part 361, as those terms are
8 defined in section 36101.

9 (ii) An agricultural conservation easement under part 362, as
10 that term is defined in section 36201.

11 (f) "Development" means that term as defined in section
12 36101.

13 (g) "Farmland" means that term as defined in section 36101.

14 (h) "General property tax act" means the general property tax
15 act, 1893 PA 206, MCL 211.1 to 211.157.

16 (i) "Local governing body" means the legislative body of the
17 local unit.

18 (j) "Local unit" means 1 of the following:

19 (i) With respect to farmland that is located in a city or
20 village, the city or village.

21 (ii) With respect to farmland that is not located in a city
22 or village, the township where the farmland is located.

23 (k) "Migratory laborer" means that term as defined in section
24 12401 of the public health code, 1978 PA 368, MCL 333.12401.

25 (l) "Owner" means a person having a freehold estate in real
26 property coupled with possession and enjoyment. If real property
27 is subject to a land contract, owner means the vendee in

1 agreement with the vendor.

2 (m) "Permitted use" means any use expressly authorized within
3 an agricultural district contract that is consistent with the
4 farming operation. Storage, retail or wholesale marketing, or
5 processing of agricultural products is a permitted use in a
6 farming operation if more than 50% of the stored, processed, or
7 merchandised products are produced by the farm operator for at
8 least 3 of the immediately preceding 5 years. The state land use
9 agency shall determine whether a use is a permitted use pursuant
10 to section 36104a.

11 (n) "Person" means that term as defined in section 36101.

12 (o) "Prohibited use" means a use that is not consistent with
13 an agricultural use for farmland.

14 (p) "Property taxes" means that term as defined in section
15 36101.

16 (q) "Qualified agricultural property" means that term as
17 defined in section 7dd of the general property tax act, 1893 PA
18 206, MCL 211.7dd.

19 (r) "State income tax act" means the income tax act of 1967,
20 1967 PA 281, MCL 206.1 to 206.532, and in effect during the
21 particular year of the reference to the act.

22 (s) "State land use agency" means the department of
23 agriculture.

24 (t) "True cash value" means that term as defined in section
25 27 of the general property tax act, 1893 PA 206, MCL 211.27.

26 Sec. 36303. (1) An owner of farmland who desires to
27 establish an agricultural district consisting of that farmland

1 may apply by filing a signed application with the local governing
2 body. The owner shall apply on a form prescribed by the state
3 land use agency.

4 (2) The application shall contain all of the following:

5 (a) The terms, restrictions, and conditions governing the
6 agricultural district as set forth in this part.

7 (b) Information reasonably necessary to classify as farmland
8 the land to be covered by the agricultural district contract,
9 including both of the following:

10 (i) A land survey or a legal description of the land.

11 (ii) A map showing the significant natural features and all
12 structures and physical improvements located on the land.

13 (c) A description of structures to be covered by the
14 agricultural district contract and information reasonably
15 necessary to determine that those structures are devoted to an
16 agricultural use.

17 (3) The local unit may charge an applicant a reasonable fee
18 not exceeding the cost of processing an application. If the
19 local unit charges such a fee, the application is not complete
20 unless it is accompanied by the fee.

21 (4) The clerk of the local governing body shall record the
22 date of receipt on the application.

23 (5) Within 42 days after receiving the application, the local
24 governing body shall hold a hearing on the application pursuant
25 to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, and
26 do 1 of the following:

27 (a) Approve the application if all the land proposed for

1 inclusion in the agricultural district is farmland and all of the
2 structures proposed for inclusion are devoted to an agricultural
3 use. If action is not taken by the local governing body by the
4 date required by this subsection, the local governing body shall
5 be considered to have approved the application on that date. The
6 clerk of the local governing body shall promptly record the local
7 governing body's approval and the date of the approval on the
8 application, sign the application, and comply with section
9 36305. When the application is signed by the clerk, the
10 application constitutes the legally binding agricultural district
11 contract.

12 (b) Reject the application if any of the land proposed for
13 inclusion in the agricultural district is not farmland or any of
14 the structures proposed for inclusion are not devoted to an
15 agricultural use. The clerk of the local governing body shall
16 promptly record the local governing body's rejection, the date of
17 the rejection, and the reasons for the rejection on the
18 application, sign the application, and return the application to
19 the owner.

20 (6) Within 28 days after rejection of an application by the
21 local governing body, the owner may appeal the rejection by
22 filing the rejected application with the state land use agency.
23 Within 42 days after receiving the rejected application, the
24 state land use agency shall do 1 of the following:

25 (a) Approve the application if all the land proposed for
26 inclusion in the agricultural district is farmland and all the
27 structures proposed for inclusion are devoted to an agricultural

1 use. An authorized employee of the state land use agency shall
2 do all of the following:

3 (i) Record the approval and the date of the approval on the
4 application.

5 (ii) Sign the application. When the application is signed by
6 the authorized employee, the application constitutes the legally
7 binding agricultural district contract.

8 (iii) Return the application to the clerk of the local
9 governing body.

10 (b) Reject the application if any of the land proposed for
11 inclusion in the agricultural district is not farmland or any of
12 the structures proposed for inclusion are not devoted to an
13 agricultural use. An authorized employee of the state land use
14 agency shall record its rejection, the date of the rejection, and
15 the reasons for rejection on the application, sign the
16 application, and return the application to the owner.

17 Sec. 36305. Upon approval of an application under section
18 36303(5) or receiving an application approved by the state land
19 use agency under section 36303(6), the clerk of the local
20 governing body shall record the agricultural district contract
21 with the register of deeds of the county in which the land is
22 located and shall notify the applicant, the local unit's
23 assessing office, the state land use agency, and the department
24 of treasury. An agricultural district contract that is approved
25 by November 1 shall take effect in that tax year.

26 Sec. 36307. (1) An agricultural district contract is a
27 covenant that runs with the land. An owner of land in an

1 agricultural district may voluntarily convey development rights
2 or any other interest in the land without penalty, but the use of
3 the land by the successor in title remains subject to the
4 agricultural district contract. The seller shall notify the
5 state land use agency and the local governing body of the change
6 in ownership.

7 (2) If a state or local governmental entity acquires
8 development rights to land in an agricultural district, whether
9 or not any other interest in the land is acquired, the appraised
10 value of the development rights shall not be considered to be
11 reduced by the land's inclusion in the agricultural district.

12 Sec. 36309. (1) Special assessments on land in an
13 agricultural district are subject to section 36108.

14 (2) Land in an agricultural district is eligible for a tax
15 credit under section 36109, and is subject to the tax credit
16 repayment requirements under section 36111 if the agricultural
17 district contract is terminated under section 36313, in the same
18 manner as land subject to a development rights agreement. All
19 tax benefits received by an owner of land because of the land's
20 inclusion in an agricultural district shall be taken into account
21 in determining the amount of property tax for the purpose of
22 calculating the tax credit under section 36109.

23 (3) Structures in an agricultural district that are devoted
24 to an agricultural use and land in an agricultural district are
25 exempt from general ad valorem property taxes collected under the
26 general property tax act, but are subject to specific taxes as
27 provided in section 36311.

1 (4) If structures that were devoted to an agricultural use on
2 the effective date of the agricultural district contract are no
3 longer devoted to agricultural use, the local governing body may
4 terminate the benefits granted with respect to those structures
5 under subsection (3) while all other conditions of the
6 agricultural district contract remain in effect.

7 Sec. 36311. (1) The agricultural district contract shall
8 provide that the local governing body shall do both of the
9 following:

10 (a) Levy upon the taxable value of structures covered by the
11 agricultural district contract as described pursuant to section
12 36303(2)(c) a specific tax of 40% the rate of the ad valorem
13 general property tax from which the structures are exempt under
14 section 36309.

15 (b) Levy upon land covered by the agricultural district
16 contract as described pursuant to section 36303(2)(b) a specific
17 tax. The rate of the specific tax shall be \$2.00 per acre if the
18 land is subject to a conservation easement. Otherwise, the
19 specific tax shall be based on how long the agricultural district
20 contract has been in effect, as follows:

21 (i) One or 2 years, \$18.00.

22 (ii) Three to 7 years, \$15.00.

23 (iii) Eight or more years, \$12.00.

24 (2) In addition, if all of the following conditions are
25 satisfied, the local tax collecting unit shall revise the taxable
26 value of structures in an agricultural district that are
27 qualified agricultural property on the tax roll to the taxable

1 value that qualified agricultural property would have had if
2 there had been no transfer of ownership of that qualified
3 agricultural property from June 30, 1994 to December 31, 1999 and
4 there had been no adjustment of that qualified agricultural
5 property's taxable value under section 27a(3) of the general
6 property tax act, 1893 PA 206, MCL 211.27a, from June 30, 1994 to
7 December 31, 1999:

8 (a) The qualified agricultural property was qualified
9 agricultural property for taxes levied in 1994 and each year
10 after 1994.

11 (b) The owner of the qualified agricultural property files an
12 affidavit with the assessor of the local tax collecting unit in
13 which the qualified agricultural property is located and with the
14 register of deeds for the county in which the qualified
15 agricultural property is located attesting that the qualified
16 agricultural property has been qualified agricultural property
17 since June 30, 1994. The affidavit under this subdivision shall
18 be in a form prescribed by the department of treasury.

19 (c) The qualified agricultural property is devoted to an
20 agricultural use.

21 (3) If the taxable value of qualified agricultural property
22 is adjusted under subsection (2), the owner of that qualified
23 agricultural property is not entitled to a refund for any
24 property taxes collected under this act or the general property
25 tax act on that qualified agricultural property before the
26 adjustment under subsection (2).

27 (4) A specific tax under subsection (1) is an annual tax

1 payable at the same times, in the same installments, and to the
2 same officer or officers as taxes collected under the general
3 property tax act. The officer or officers shall disburse the
4 agricultural district taxes collected each year to this state and
5 cities, townships, villages, school districts, counties, and
6 authorities, at the same times and in the same proportions as
7 taxes collected under the general property tax act.

8 (5) Until an agricultural district tax is paid, the property
9 upon which the agricultural district tax was levied is subject to
10 a lien for the amount of the agricultural district tax. The lien
11 may be foreclosed in the same manner as provided by law for the
12 foreclosure in the circuit courts of mortgage liens upon real
13 property. However, before foreclosure proceedings are initiated,
14 the officer to whom the agricultural district tax is first
15 payable shall file with the register of deeds of the county in
16 which the property is located a certificate of nonpayment of the
17 agricultural district tax, together with an affidavit of proof of
18 service of the certificate of nonpayment upon the owner by
19 certified mail.

20 (6) The assessor of the local tax collecting unit in which
21 real property subject to a specific tax under subsection (1) is
22 located shall separately assess any structures covered by the
23 agricultural district contract, any structures not covered by the
24 agricultural district contract, and land covered by the
25 agricultural district contract. The appropriate assessor under
26 the general property tax act shall annually determine an
27 assessment of the structures devoted to an agricultural use and

1 land within an agricultural district which would have been made
2 under the general property tax act if the agricultural district
3 had not been in effect. The owner of land or structures in an
4 agricultural district shall furnish to the assessor such
5 information as may be necessary for the determination.

6 Sec. 36313. (1) If land or, subject to section 36309(4),
7 structures covered by an agricultural district contract are
8 developed for or converted to a use that is not an agricultural
9 use, both of the following apply:

10 (a) The agricultural district and agricultural district
11 contract are terminated with respect to the land and structures.

12 (b) A lien arises against the property formerly subject to
13 the agricultural district contract. The amount of the lien shall
14 be a percent of the true cash value of the land equal to 2% plus,
15 for each year or part of a year that the agricultural district
16 contract was in effect after the first 2 years, an additional
17 0.5%. However, the lien shall not exceed 10% of the true cash
18 value of the land.

19 (2) The state land use agency shall notify the owner of the
20 land of the amount of the lien, including interest. If the lien
21 amount is paid within 30 days after the owner is notified, the
22 lien shall not be recorded. Otherwise, the state land use agency
23 shall promptly record the lien. The amount of the lien may be
24 paid and discharged at any time and shall be paid to the state by
25 the owner within 7 years after the termination of the
26 agricultural district.

27 (3) When a lien is paid, the state land use agency shall

1 prepare and record a discharge of lien with the register of deeds
2 in the county in which the land developed for or converted to a
3 use that is not an agricultural use is located. The discharge of
4 lien shall specifically state that the lien has been paid in
5 full, that the lien is discharged, and that the agricultural
6 district contract is terminated with respect to that land.

7 Sec. 36315. The state treasurer shall distribute lien
8 payments under section 36313 as follows:

9 (a) 50% to the state general fund and to cities, townships,
10 villages, school districts, counties, and authorities, in the
11 same proportions as required by law for the disbursement of taxes
12 collected under the general property tax act on property subject
13 to the lien.

14 (b) In addition to distributions under subdivision (a), 8% to
15 the county or counties where the property subject to the lien is
16 located.

17 (c) In addition to distributions under subdivision (a), 2% to
18 the township or townships where the property subject to the lien
19 is located.

20 (d) 40% to the agricultural preservation fund created in
21 section 36202. At least half of this amount shall be used for
22 the purposes set forth in section 36202(4)(b) or (c) in the
23 county where the property that was subject to the lien is
24 located.

25 Sec. 36317. The state land use agency may promulgate rules
26 to implement this part pursuant to the administrative procedures
27 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

1 Enacting section 1. This amendatory act does not take
2 effect unless all of the following bills of the 92nd Legislature
3 are enacted into law:

4 (a) Senate Bill No. _____ or House Bill No. 5031 (request
5 no. 03047'03 a).

6 (b) Senate Bill No. _____ or House Bill No. 5032 (request
7 no. 03047'03 b).