

SENATE BILL No. 304

March 19, 2003, Introduced by Senators STAMAS, ALLEN, BIRKHOLZ, HARDIMAN, KUIPERS, SIKKEMA, HAMMERSTROM, BISHOP, GARCIA, VAN WOERKOM, GILBERT, GEORGE and JELINEK and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.532) by adding section 270.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 270. (1) For tax years that begin after December 31,
2 2002, a taxpayer may claim a credit against the tax imposed by
3 this act equal to 50% of the taxable value of a qualified
4 donation of real property or an interest in real property located
5 in this state that is conveyed by the taxpayer in the tax year.

6 (2) The credit allowed under this section shall not exceed
7 \$100,000.00 per tax year.

8 (3) To qualify for the credit allowed under this section,
9 the qualified donation of real property or interest in real
10 property donated shall be used for either of the following
11 purposes:

1 (a) The protection of private lands for open space, natural
2 resources, biodiversity conservation, outdoor recreation,
3 farmland and forestland preservation, historic preservation, and
4 land conservation.

5 (b) The protection of a unique natural resource, wildlife
6 habitat, open space, agricultural or forested resource, or
7 historic resource of this state.

8 (4) The department of natural resources shall develop
9 criteria to determine if the donation qualifies for the credit
10 allowed under this section. A taxpayer who makes a donation
11 shall apply to the department of natural resources for a credit
12 certificate on a form provided by the department and shall submit
13 that application form to the department of natural resources
14 along with documentation that verifies that the taxpayer's
15 donation is a qualified donation, that he or she made the
16 donation in the tax year, and the purpose for which the donation
17 was made. The department of natural resources shall approve or
18 deny the application. If the department of natural resources
19 approves the application, the department of natural resources
20 shall issue a certificate that states that the donation is a
21 qualified donation, the value of the qualified donation, and the
22 total amount of the credit that the taxpayer is allowed to claim
23 under this section. If the department of natural resources
24 denies an application under this subsection, a taxpayer is not
25 prohibited from subsequently applying for the credit allowed
26 under this section.

27 (5) If the credit allowed under this section for the tax

1 year and any unused carryforward of the credit allowed under this section exceed the tax liability of the taxpayer for the tax year, the excess shall not be refunded, but may be carried forward as an offset to the tax liability in subsequent tax years for 20 tax years or until the excess credit is used up, whichever occurs first.

7 (6) A taxpayer may transfer all or a portion of the tax credit allowed under this section. A tax credit transfer under this section is irrevocable and shall be made in the tax year in which the qualified donation is made. A taxpayer may claim a portion of a credit and transfer the remaining tax credit amount. Except as otherwise provided in this subsection, if the taxpayer both claims and transfers portions of the tax credit, the taxpayer shall claim the portion he or she claims in the tax year in which the qualified donation is made. If a taxpayer transfers all or a portion of the tax credit to more than 1 taxpayer, the taxpayer shall prorate the tax credit to each transferee. A transferee shall not subsequently transfer a tax credit or any portion of a tax credit transferred under this subsection. The tax credit transfer under this subsection shall be made on a form prescribed by the department. The transferee shall attach a copy of the completed transfer form to his or her annual return required to be filed under this act for the tax year in which the transfer is made and the transferee first claims a credit, which shall be the same tax year.

26 (7) The donation used as a basis for a credit under this section shall not be used as a basis for any other credit or

1 deduction under this act or under the single business tax act,
2 1975 PA 275, 208.1 to 208.145.

3 (8) The department of natural resources may promulgate rules
4 to implement the provisions of this section.

5 (9) As used in this section, "qualified donation" means an
6 unconditional donation in perpetuity to this state, a political
7 subdivision of this state, or a charitable organization described
8 in section 501(c)(3) of the internal revenue code that also meets
9 the requirements of section 170(h)(3) of the internal revenue
10 code and the criteria under subsection (3), of either of the
11 following:

12 (a) A fee interest in real property.

13 (b) A less than fee interest in real property, including,
14 but not limited to, a conservation restriction, preservation
15 restriction, agricultural preservation restriction, or watershed
16 preservation restriction, if the less than fee interest qualifies
17 for a charitable contribution deduction under section 170(h) of
18 the internal revenue code.