

SUBSTITUTE FOR
HOUSE BILL NO. 4257

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:

- 1 PART 361 FARMLAND AND OPEN SPACE PRESERVATION - DEVELOPMENT RIGHTS
2 AGREEMENTS AND EASEMENTS
3 PART 363 FARMLAND PRESERVATION - AGRICULTURAL DISTRICTS
4 SEC. 36301. AS USED IN THIS PART:
5 (A) "AGRICULTURAL DISTRICT" MEANS AN AREA OF FARMLAND
6 DESIGNATED IN AN AGRICULTURAL DISTRICT CONTRACT.
7 (B) "AGRICULTURAL DISTRICT CONTRACT" OR "CONTRACT" MEANS A
8 CONTRACT UNDER THIS PART BETWEEN THE STATE LAND USE AGENCY AND THE
9 OWNER OF FARMLAND.

1 (C) "AGRICULTURAL USE" MEANS THAT TERM AS DEFINED IN SECTION
2 36101. AGRICULTURAL USE DOES NOT INCLUDE A RESIDENCE OTHER THAN A
3 RESIDENCE FOR MIGRATORY LABORERS.

4 (D) "COMPREHENSIVE LAND USE PLAN" MEANS A LAND USE PLAN
5 ADOPTED BY A LOCAL UNIT OF GOVERNMENT THAT CONTAINS AN AGRICULTURAL
6 PRESERVATION COMPONENT CONSISTING OF ALL OF THE FOLLOWING:

7 (i) A FUTURE LAND USE MAP OF THE LOCAL UNIT OF GOVERNMENT
8 INDICATING AREAS INTENDED FOR AGRICULTURAL AND FARMLAND
9 PRESERVATION.

10 (ii) A DESCRIPTION OF THE STRATEGIES INTENDED TO BE USED TO
11 PRESERVE THE AGRICULTURAL LAND AND FARMLAND IN THE LOCAL UNIT OF
12 GOVERNMENT.

13 (iii) A DESCRIPTION OF THE REASONS WHY AGRICULTURAL LANDS AND
14 FARMLAND SHOULD BE PRESERVED IN THE LOCAL UNIT OF GOVERNMENT.

15 (iv) A DESCRIPTION OF HOW AND WHY THE SPECIFIC AGRICULTURAL
16 LANDS AND FARMLAND WAS SELECTED FOR PRESERVATION.

17 (v) A DESCRIPTION OF ANY JOINT PLANNING PLANS OR AGREEMENTS
18 UNDER THE JOINT MUNICIPAL PLANNING ACT, 2003 PA 226, MCL 125.131 TO
19 125.141.

20 (E) "CONSERVATION EASEMENT" MEANS EITHER OF THE FOLLOWING:

21 (i) A PERMANENT AGRICULTURAL CONSERVATION EASEMENT OR
22 DEVELOPMENT RIGHTS EASEMENT UNDER PART 361, AS THOSE TERMS ARE
23 DEFINED IN SECTION 36101.

24 (ii) AN AGRICULTURAL CONSERVATION EASEMENT UNDER PART 362, AS
25 THAT TERM IS DEFINED IN SECTION 36201.

26 (F) "DEVELOPMENT" MEANS THAT TERM AS DEFINED IN SECTION 36101.

27 (G) "FARMLAND" MEANS, EXCEPT AS PROVIDED IN SUBPARAGRAPH (v)

1 OR FARMLAND SUBJECT TO A DEVELOPMENT RIGHTS AGREEMENT UNDER PART
2 361, 1 OR MORE OF THE FOLLOWING:

3 (i) A FARM OF 40 OR MORE ACRES IN 1 OWNERSHIP, WITH 51% OR MORE
4 OF THE LAND AREA DEVOTED TO AN AGRICULTURAL USE.

5 (ii) A FARM OF 5 ACRES OR MORE IN 1 OWNERSHIP, BUT LESS THAN 40
6 ACRES, WITH 51% OR MORE OF THE LAND AREA DEVOTED TO AN AGRICULTURAL
7 USE, THAT HAS PRODUCED A GROSS ANNUAL INCOME FROM AGRICULTURE OF
8 \$200.00 PER YEAR OR MORE PER ACRE OF CLEARED AND TILLABLE LAND. A
9 FARM DESCRIBED IN THIS SUBPARAGRAPH ENROLLED IN A FEDERAL ACREAGE
10 SET ASIDE PROGRAM OR A FEDERAL CONSERVATION RESERVE PROGRAM IS
11 CONSIDERED TO HAVE PRODUCED A GROSS ANNUAL INCOME FROM AGRICULTURE
12 OF \$200.00 PER YEAR OR MORE PER ACRE OF CLEARED AND TILLABLE LAND.

13 (iii) A FARM DESIGNATED BY THE DEPARTMENT OF AGRICULTURE AS A
14 SPECIALTY FARM IN 1 OWNERSHIP THAT HAS PRODUCED A GROSS ANNUAL
15 INCOME FROM AN AGRICULTURAL USE OF \$2,000.00 OR MORE. SPECIALTY
16 FARMS INCLUDE, BUT ARE NOT LIMITED TO, GREENHOUSES; EQUINE BREEDING
17 AND GRAZING; THE BREEDING AND GRAZING OF CERVIDAE, PHEASANTS, AND
18 OTHER GAME ANIMALS; BEES AND BEE PRODUCTS; MUSHROOMS; AQUACULTURE;
19 AND OTHER SIMILAR USES AND ACTIVITIES.

20 (iv) PARCELS OF LAND IN 1 OWNERSHIP THAT ARE NOT CONTIGUOUS BUT
21 WHICH CONSTITUTE AN INTEGRAL PART OF A FARMING OPERATION BEING
22 CONDUCTED ON LAND OTHERWISE QUALIFYING AS FARMLAND.

23 (v) FARMLAND DOES NOT INCLUDE PROPERTY EXEMPT UNDER SECTION
24 7CC OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.7CC, AND
25 SURROUNDING PROPERTY SUFFICIENT TO EQUAL THE MINIMUM LOT SIZE IF
26 THE LOCAL GOVERNING BODY HAS IMPLEMENTED A MINIMUM LOT SIZE BY
27 ZONING ORDINANCE.

1 (H) "GENERAL PROPERTY TAX ACT" MEANS THE GENERAL PROPERTY TAX
2 ACT, 1893 PA 206, MCL 211.1 TO 211.157.

3 (I) "LOCAL GOVERNING BODY" MEANS 1 OF THE FOLLOWING:

4 (i) WITH RESPECT TO FARMLAND THAT IS LOCATED IN A CITY OR
5 VILLAGE, THE LEGISLATIVE BODY OF THE CITY OR VILLAGE.

6 (ii) WITH RESPECT TO FARMLAND THAT IS NOT LOCATED IN A CITY OR
7 VILLAGE BUT THAT IS LOCATED IN A TOWNSHIP HAVING A ZONING ORDINANCE
8 IN EFFECT AS PROVIDED BY LAW, THE TOWNSHIP BOARD.

9 (iii) WITH RESPECT TO FARMLAND THAT IS NOT DESCRIBED IN
10 SUBPARAGRAPH (i) OR (ii), THE COUNTY BOARD OF COMMISSIONERS.

11 (J) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, CITY, VILLAGE,
12 OR TOWNSHIP.

13 (K) "MIGRATORY LABORER" MEANS THAT TERM AS DEFINED IN SECTION
14 12401 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.12401.

15 (L) "OWNER" MEANS A PERSON HAVING A FREEHOLD ESTATE IN REAL
16 PROPERTY COUPLED WITH POSSESSION AND ENJOYMENT. IF REAL PROPERTY IS
17 SUBJECT TO A LAND CONTRACT, OWNER MEANS THE VENDEE IN AGREEMENT
18 WITH THE VENDOR.

19 (M) "PERMITTED USE" MEANS ANY USE EXPRESSLY AUTHORIZED WITHIN
20 AN AGRICULTURAL DISTRICT CONTRACT THAT IS CONSISTENT WITH THE
21 FARMING OPERATION. STORAGE, RETAIL OR WHOLESALE MARKETING, OR
22 PROCESSING OF AGRICULTURAL PRODUCTS IS A PERMITTED USE IN A FARMING
23 OPERATION IF MORE THAN 50% OF THE STORED, PROCESSED, OR
24 MERCHANDISED PRODUCTS ARE PRODUCED BY THE FARM OPERATOR FOR AT
25 LEAST 3 OF THE IMMEDIATELY PRECEDING 5 YEARS. THE STATE LAND USE
26 AGENCY SHALL DETERMINE WHETHER A USE IS A PERMITTED USE PURSUANT TO
27 SECTION 36104A.

1 (N) "PERSON" MEANS THAT TERM AS DEFINED IN SECTION 36101.

2 (O) "PROHIBITED USE" MEANS A USE THAT IS NOT CONSISTENT WITH
3 AN AGRICULTURAL USE FOR FARMLAND.

4 (P) "PROPERTY TAXES" MEANS THAT TERM AS DEFINED IN SECTION
5 36101.

6 (Q) "QUALIFIED AGRICULTURAL PROPERTY" MEANS THAT TERM AS
7 DEFINED IN SECTION 7DD OF THE GENERAL PROPERTY TAX ACT, 1893 PA
8 206, MCL 211.7DD.

9 (R) "QUALIFIED LOCAL UNIT" MEANS A LOCAL GOVERNING BODY THAT
10 ADOPTS A RESOLUTION TO PARTICIPATE UNDER THIS ACT AND IS LOCATED IN
11 A COUNTY OR TOWNSHIP THAT HAS CREATED OR UPDATED A COMPREHENSIVE
12 LAND USE PLAN WITHIN THE IMMEDIATELY PRECEDING 5 YEARS THAT IS
13 CONSISTENT WITH THIS PART AS DETERMINED BY THE STATE LAND USE
14 AGENCY.

15 (S) "STATE INCOME TAX ACT" MEANS THE INCOME TAX ACT OF 1967,
16 1967 PA 281, MCL 206.1 TO 206.532, AND IN EFFECT DURING THE
17 PARTICULAR YEAR OF THE REFERENCE TO THE ACT.

18 (T) "STATE LAND USE AGENCY" MEANS THE DEPARTMENT OF
19 AGRICULTURE.

20 (U) "TRUE CASH VALUE" MEANS THAT TERM AS DEFINED IN SECTION 27
21 OF THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.27.

22 SEC. 36303. (1) AN OWNER OF FARMLAND WHO DESIRES TO ESTABLISH
23 AN AGRICULTURAL DISTRICT CONSISTING OF THAT FARMLAND MAY APPLY BY
24 FILING A SIGNED APPLICATION WITH THE QUALIFIED LOCAL GOVERNING BODY
25 IN WHICH THE FARMLAND IS LOCATED. THE OWNER SHALL APPLY ON A FORM
26 PRESCRIBED BY THE STATE LAND USE AGENCY.

27 (2) THE APPLICATION SHALL CONTAIN ALL OF THE FOLLOWING:

1 (A) THE TERMS, RESTRICTIONS, AND CONDITIONS GOVERNING THE
2 AGRICULTURAL DISTRICT AS SET FORTH IN THIS PART.

3 (B) INFORMATION REASONABLY NECESSARY TO CLASSIFY AS FARMLAND
4 THE LAND TO BE COVERED BY THE AGRICULTURAL DISTRICT CONTRACT,
5 INCLUDING BOTH OF THE FOLLOWING:

6 (i) A LAND SURVEY OR A LEGAL DESCRIPTION OF THE LAND.

7 (ii) A MAP SHOWING THE SIGNIFICANT NATURAL FEATURES AND ALL
8 STRUCTURES AND PHYSICAL IMPROVEMENTS LOCATED ON THE LAND.

9 (3) THE QUALIFIED LOCAL UNIT MAY CHARGE AN APPLICANT A
10 REASONABLE ASSESSMENT NOT EXCEEDING THE COST OF PROCESSING AN
11 APPLICATION. IF THE QUALIFIED LOCAL UNIT CHARGES SUCH AN
12 ASSESSMENT, THE APPLICATION IS NOT COMPLETE UNLESS IT IS
13 ACCOMPANIED BY THE ASSESSMENT.

14 (4) THE CLERK OF THE LOCAL GOVERNING BODY SHALL RECORD THE
15 DATE OF RECEIPT ON THE APPLICATION.

16 (5) WITHIN 42 DAYS AFTER RECEIVING THE APPLICATION, THE LOCAL
17 GOVERNING BODY SHALL DO 1 OF THE FOLLOWING:

18 (A) APPROVE THE APPLICATION IF ALL THE LAND PROPOSED FOR
19 INCLUSION IN THE AGRICULTURAL DISTRICT IS FARMLAND, THE FARMLAND IS
20 LOCATED IN A QUALIFIED LOCAL UNIT, AND ALL OF THE STRUCTURES
21 PROPOSED FOR INCLUSION ARE DEVOTED TO AN AGRICULTURAL USE. IF
22 ACTION IS NOT TAKEN BY THE LOCAL GOVERNING BODY BY THE DATE
23 REQUIRED BY THIS SUBSECTION, THE LOCAL GOVERNING BODY SHALL BE
24 CONSIDERED TO HAVE APPROVED THE APPLICATION ON THAT DATE. THE CLERK
25 OF THE LOCAL GOVERNING BODY SHALL PROMPTLY RECORD THE LOCAL
26 GOVERNING BODY'S APPROVAL AND THE DATE OF THE APPROVAL ON THE
27 APPLICATION, SIGN THE APPLICATION, AND COMPLY WITH SECTION 36305.

1 (B) REJECT THE APPLICATION IF THE LAND PROPOSED FOR INCLUSION
2 IN THE AGRICULTURAL DISTRICT IS NOT FARMLAND, THE FARMLAND IS NOT
3 LOCATED IN A QUALIFIED LOCAL UNIT, OR ANY OF THE STRUCTURES
4 PROPOSED FOR INCLUSION ARE NOT DEVOTED TO AN AGRICULTURAL USE. THE
5 CLERK OF THE LOCAL GOVERNING BODY SHALL PROMPTLY RECORD THE LOCAL
6 GOVERNING BODY'S REJECTION, THE DATE OF THE REJECTION, AND THE
7 REASONS FOR THE REJECTION ON THE APPLICATION, SIGN THE APPLICATION,
8 AND RETURN THE APPLICATION TO THE OWNER.

9 (6) WITHIN 28 DAYS AFTER REJECTION OF AN APPLICATION BY THE
10 LOCAL GOVERNING BODY, THE OWNER MAY APPEAL THE REJECTION BY FILING
11 THE REJECTED APPLICATION WITH THE STATE LAND USE AGENCY. WITHIN 42
12 DAYS AFTER RECEIVING THE REJECTED APPLICATION, THE STATE LAND USE
13 AGENCY SHALL DO 1 OF THE FOLLOWING:

14 (A) APPROVE THE APPLICATION IF ALL THE LAND PROPOSED FOR
15 INCLUSION IN THE AGRICULTURAL DISTRICT IS FARMLAND, THE FARMLAND IS
16 LOCATED IN A QUALIFIED LOCAL UNIT, AND ALL THE STRUCTURES PROPOSED
17 FOR INCLUSION ARE DEVOTED TO AN AGRICULTURAL USE. AN AUTHORIZED
18 EMPLOYEE OF THE STATE LAND USE AGENCY SHALL RECORD THE APPROVAL AND
19 THE DATE OF THE APPROVAL ON THE APPLICATION.

20 (B) REJECT THE APPLICATION IF THE LAND PROPOSED FOR INCLUSION
21 IN THE AGRICULTURAL DISTRICT IS NOT FARMLAND, THE FARMLAND IS NOT
22 LOCATED IN A QUALIFIED LOCAL UNIT, OR ANY OF THE STRUCTURES
23 PROPOSED FOR INCLUSION ARE NOT DEVOTED TO AN AGRICULTURAL USE. AN
24 AUTHORIZED EMPLOYEE OF THE STATE LAND USE AGENCY SHALL RECORD ITS
25 REJECTION, THE DATE OF THE REJECTION, AND THE REASONS FOR REJECTION
26 ON THE APPLICATION, SIGN THE APPLICATION, AND RETURN THE
27 APPLICATION TO THE OWNER.

1 SEC. 36305. (1) THE STATE LAND USE AGENCY MAY EXECUTE AN
2 AGRICULTURAL DISTRICT CONTRACT ON BEHALF OF THE STATE.

3 (2) THE PROVISIONS OF AN AGRICULTURAL DISTRICT CONTRACT SHALL
4 BE CONSISTENT WITH THE PURPOSES OF THIS PART AND SHALL NOT PERMIT
5 AN ACTION WHICH WILL MATERIALLY IMPAIR THE CHARACTER OF THE
6 FARMLAND INVOLVED.

7 (3) IF THE APPLICATION IS APPROVED BY THE STATE LAND USE
8 AGENCY, THE STATE LAND USE AGENCY SHALL PREPARE AN AGRICULTURAL
9 DISTRICT CONTRACT THAT INCLUDES ALL OF THE FOLLOWING PROVISIONS:

10 (A) A STRUCTURE SHALL NOT BE BUILT ON THE LAND EXCEPT FOR USE
11 CONSISTENT WITH FARM OPERATIONS, WHICH INCLUDES A RESIDENCE FOR AN
12 INDIVIDUAL ESSENTIAL TO THE OPERATION OF THE FARM UNDER SECTION
13 36310(5), OR LINES FOR UTILITY TRANSMISSION OR DISTRIBUTION
14 PURPOSES OR WITH THE APPROVAL OF THE LOCAL GOVERNING BODY AND THE
15 STATE LAND USE AGENCY.

16 (B) THAT LAND IMPROVEMENTS SHALL NOT BE MADE EXCEPT FOR USE
17 CONSISTENT WITH FARM OPERATIONS OR WITH THE APPROVAL OF THE LOCAL
18 GOVERNING BODY AND THE STATE LAND USE AGENCY.

19 (C) A LANDOWNER MAY GRANT EASEMENTS FOR UTILITIES AND ACCESS
20 UNDER THIS PART THAT DO NOT SUBSTANTIALLY HINDER FARM OPERATIONS.

21 (D) THAT PUBLIC ACCESS IS NOT PERMITTED ON THE LAND UNLESS
22 AGREED TO BY THE OWNER.

23 (E) THAT THE OWNER OF RECORD AT THE TIME OF EARLY WITHDRAWAL
24 OR EXPIRATION IS RESPONSIBLE FOR THE EARLY WITHDRAWAL ASSESSMENT OR
25 EXPIRATION ASSESSMENT.

26 (F) ANY OTHER CONDITION AND RESTRICTION ON THE LAND AS AGREED
27 TO BY THE PARTIES THAT IS CONSIDERED NECESSARY TO PRESERVE THE LAND

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1 OR APPROPRIATE PORTIONS OF IT AS FARMLAND.

2 (4) THE AGRICULTURAL DISTRICT CONTRACT SHALL BE FORWARDED TO
3 THE APPLICANT FOR EXECUTION. AN APPLICATION THAT IS APPROVED BY THE
4 LOCAL GOVERNING BODY BY NOVEMBER 1 SHALL TAKE EFFECT FOR THE
5 CURRENT TAX YEAR.

6 (5) IF THE OWNER EXECUTES THE AGRICULTURAL DISTRICT CONTRACT,
7 THE OWNER SHALL RETURN IT TO THE STATE LAND USE AGENCY FOR
8 EXECUTION ON BEHALF OF THE STATE. THE STATE LAND USE AGENCY SHALL
9 RECORD THE EXECUTED AGRICULTURAL DISTRICT CONTRACT WITH THE
10 REGISTER OF DEEDS OF THE COUNTY IN WHICH THE LAND IS SITUATED AND
11 SHALL NOTIFY THE APPLICANT, THE LOCAL GOVERNING BODY AND ITS
12 ASSESSING OFFICE, ALL REVIEWING AGENCIES, AND THE DEPARTMENT OF
13 TREASURY.

14 (6) THE STATE LAND USE AGENCY MAY EXECUTE AGRICULTURAL
15 DISTRICT CONTRACTS ON BEHALF OF THIS STATE UP TO THE FOLLOWING
16 MAXIMUM NUMBER OF ACRES IN THE FOLLOWING YEARS:

17 (A) IN [2007], UP TO 200,000 ACRES.

18 (B) IN [2008], UP TO 200,000 ADDITIONAL ACRES.

19 (C) IN [2009], UP TO 200,000 ADDITIONAL ACRES.

20 (D) IN [2010], UP TO 200,000 ADDITIONAL ACRES.

21 (E) IN [2011], UP TO 200,000 ADDITIONAL ACRES.

22 (F) IN [2012] AND THEREAFTER, THE STATE LAND USE AGENCY SHALL
23 NOT EXECUTE ANY AGRICULTURAL DISTRICT CONTRACTS.

24 SEC. 36306. (1) THE EXECUTION AND ACCEPTANCE OF AN
25 AGRICULTURAL DISTRICT CONTRACT BY THE STATE LAND USE AGENCY AND THE
26 OWNER CONTRACTUALLY BINDS THE OWNER TO KEEP THE FARMLAND IN AN
27 AGRICULTURAL USE FOR THE TERM SPECIFIED IN THE AGRICULTURAL

1 DISTRICT CONTRACT. AN AGRICULTURAL DISTRICT CONTRACT SHALL BE FOR
2 AN INITIAL TERM OF NOT LESS THAN 20 YEARS.

3 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, THE STATE OR
4 LOCAL GOVERNING BODY SHALL NOT SELL, TRANSFER, CONVEY, RELINQUISH,
5 VACATE, OR OTHERWISE DISPOSE OF AN AGRICULTURAL DISTRICT CONTRACT
6 EXCEPT WITH THE AGREEMENT OF THE OWNER.

7 (3) AN AGRICULTURAL DISTRICT CONTRACT DOES NOT SUPERSEDE ANY
8 PRIOR LIEN, LEASE, OR INTEREST THAT IS PROPERLY RECORDED WITH THE
9 COUNTY REGISTER OF DEEDS.

10 (4) A LIEN CREATED UNDER THIS PART IN FAVOR OF THE STATE OR A
11 LOCAL GOVERNING BODY IS SUBORDINATE TO A LIEN OF A MORTGAGE THAT IS
12 RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS BEFORE THE
13 RECORDING OF THE LIEN OF THIS STATE OR LOCAL GOVERNING BODY.

14 SEC. 36307. (1) ALL PARTICIPANTS OWNING LAND UNDER AN
15 AGRICULTURAL DISTRICT CONTRACT SHALL NOTIFY, ON A FORM PROVIDED BY
16 THE STATE LAND USE AGENCY FOR INFORMATIONAL PURPOSES ONLY, THE
17 STATE OR THE LOCAL GOVERNING BODY HOLDING THE AGRICULTURAL DISTRICT
18 CONTRACT, 6 MONTHS BEFORE THE NATURAL TERMINATION DATE OF THE
19 AGRICULTURAL DISTRICT CONTRACT, OF THE OWNERS' INTENTIONS REGARDING
20 WHETHER THE CONTRACT SHOULD BE EXTENDED OR ALLOWED TO EXPIRE.

21 (2) THE STATE LAND USE AGENCY SHALL NOTIFY THE LANDOWNER VIA
22 FIRST-CLASS MAIL AT LEAST 10 YEARS BEFORE THE EXPIRATION OF AN
23 AGRICULTURAL DISTRICT CONTRACT THAT A LIEN MAY BE PLACED AT THE
24 TIME OF EXPIRATION OF THE AGRICULTURAL DISTRICT CONTRACT ON THE
25 FARMLAND IF THE LANDOWNER DOES NOT EXTEND THE AGRICULTURAL DISTRICT
26 CONTRACT AND SHALL INDICATE TO THE LANDOWNER THE OPTION OF NOT
27 CLAIMING CREDITS DURING ALL OR A PORTION OF THE NEXT 10 YEARS.

1 SEC. 36308. SPECIAL ASSESSMENTS ON FARMLAND IN AN AGRICULTURAL
2 DISTRICT ARE SUBJECT TO SECTION 36108.

3 SEC. 36309. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
4 2006, AN OWNER OF FARMLAND SUBJECT TO AN AGRICULTURAL DISTRICT
5 CONTRACT WHO IS REQUIRED OR ELIGIBLE TO FILE A RETURN AS AN
6 INDIVIDUAL OR A CLAIMANT UNDER THE STATE INCOME TAX ACT MAY CLAIM A
7 CREDIT AGAINST THE STATE INCOME TAX LIABILITY FOR THE AMOUNT THAT
8 REPRESENTS THE DIFFERENCE BETWEEN THE PROPERTY TAXES ON THE
9 FARMLAND USED IN THE FARMING OPERATION, SUBJECT TO THE AGRICULTURAL
10 DISTRICT CONTRACT AND \$5.00 PER ACRE FOR EACH ACRE SUBJECT TO THE
11 AGRICULTURAL DISTRICT CONTRACT. HOWEVER, THE CREDIT IS LIMITED TO
12 THE MILLAGE RATE IN EFFECT WHEN THE FARMLAND BECOMES SUBJECT TO THE
13 AGRICULTURAL DISTRICT CONTRACT. FOR THE PURPOSES OF THIS SECTION,
14 ALL OF THE FOLLOWING APPLY:

15 (A) A PARTNER IN A PARTNERSHIP IS CONSIDERED AN OWNER OF
16 FARMLAND AND RELATED BUILDINGS OWNED BY THE PARTNERSHIP AND COVERED
17 BY AN AGRICULTURAL DISTRICT CONTRACT. A PARTNER IS CONSIDERED TO
18 PAY A PROPORTION OF THE PROPERTY TAXES ON THAT PROPERTY EQUAL TO
19 THE PARTNER'S SHARE OF OWNERSHIP OF CAPITAL OR DISTRIBUTIVE SHARE
20 OF ORDINARY INCOME AS REPORTED BY THE PARTNERSHIP TO THE INTERNAL
21 REVENUE SERVICE OR, IF THE PARTNERSHIP IS NOT REQUIRED TO REPORT
22 THAT INFORMATION TO THE INTERNAL REVENUE SERVICE, AS PROVIDED IN
23 THE PARTNERSHIP AGREEMENT OR, IF THERE IS NO WRITTEN PARTNERSHIP
24 AGREEMENT, A STATEMENT SIGNED BY ALL THE PARTNERS. A PARTNER
25 CLAIMING A CREDIT UNDER THIS SECTION BASED UPON THE PARTNERSHIP
26 AGREEMENT OR A STATEMENT SHALL FILE A COPY OF THE AGREEMENT OR
27 STATEMENT WITH HIS OR HER INCOME TAX RETURN. IF THE AGREEMENT OR

1 STATEMENT IS NOT FILED, THE DEPARTMENT OF TREASURY SHALL DENY THE
2 CREDIT. ALL PARTNERS IN A PARTNERSHIP CLAIMING THE CREDIT ALLOWED
3 UNDER THIS SECTION SHALL COMPUTE THE CREDIT USING THE SAME BASIS
4 FOR THE APPORTIONMENT OF THE PROPERTY TAXES.

5 (B) A SHAREHOLDER OF A CORPORATION THAT HAS FILED A PROPER
6 ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF SUBTITLE A OF THE
7 INTERNAL REVENUE CODE OF 1986, 26 USC 1361 TO 1379, IS CONSIDERED
8 AN OWNER OF FARMLAND AND RELATED BUILDINGS COVERED BY AN
9 AGRICULTURAL DISTRICT CONTRACT THAT ARE OWNED BY THE CORPORATION. A
10 SHAREHOLDER IS CONSIDERED TO PAY A PROPORTION OF THE PROPERTY TAXES
11 ON THAT PROPERTY EQUAL TO THE SHAREHOLDER'S PERCENTAGE OF STOCK
12 OWNERSHIP FOR THE TAX YEAR AS REPORTED BY THE CORPORATION TO THE
13 INTERNAL REVENUE SERVICE.

14 (C) IF AN INDIVIDUAL IN POSSESSION OF PROPERTY FOR LIFE UNDER
15 A LIFE ESTATE WITH REMAINDER TO ANOTHER PERSON OR HOLDING PROPERTY
16 UNDER A LIFE LEASE ENTERS INTO A WRITTEN AGREEMENT WITH THE PERSON
17 HOLDING THE REMAINDER INTEREST IN THAT LAND AND THE WRITTEN
18 AGREEMENT APPORTIONS THE PROPERTY TAXES IN THE SAME MANNER AS
19 REVENUE AND EXPENSES, THE LIFE LEASE OR LIFE ESTATE HOLDER AND THE
20 PERSON HOLDING THE REMAINDER INTEREST MAY CLAIM THE CREDIT UNDER
21 THIS ACT AS IT IS APPORTIONED TO THEM UNDER THE WRITTEN AGREEMENT
22 UPON FILING A COPY OF THE WRITTEN AGREEMENT WITH THE RETURN.

23 (D) IF A TRUST HOLDS FARMLAND COVERED BY AN AGRICULTURAL
24 DISTRICT CONTRACT AND AN INDIVIDUAL IS TREATED UNDER SUBPART E OF
25 SUBCHAPTER J OF CHAPTER 1 OF SUBTITLE A OF THE INTERNAL REVENUE
26 CODE OF 1986, 26 USC 671 TO 679, AS THE OWNER OF THAT PORTION OF
27 THE TRUST THAT INCLUDES THE FARMLAND AND RELATED BUILDINGS, THAT

1 INDIVIDUAL IS CONSIDERED THE OWNER OF THAT PROPERTY.

2 (E) AN INDIVIDUAL WHO IS THE SOLE BENEFICIARY OF A TRUST THAT
3 IS THE RESULT OF THE DEATH OF THAT INDIVIDUAL'S SPOUSE IS
4 CONSIDERED THE OWNER OF FARMLAND COVERED BY AN AGRICULTURAL
5 DISTRICT CONTRACT AND HELD BY THE TRUST IF THE TRUST CONFORMS TO
6 ALL OF THE FOLLOWING:

7 (i) ONE HUNDRED PERCENT OF THE TRUST INCOME IS DISTRIBUTED TO
8 THE BENEFICIARY IN THE TAX YEAR IN WHICH THE TRUST RECEIVES THE
9 INCOME.

10 (ii) THE TRUST TERMS DO NOT PROVIDE THAT ANY PORTION OF THE
11 TRUST IS TO BE PAID, SET ASIDE, OR OTHERWISE USED IN A MANNER THAT
12 WOULD QUALIFY FOR THE DEDUCTION ALLOWED BY SECTION 642(C) OF THE
13 INTERNAL REVENUE CODE OF 1986.

14 (F) A MEMBER IN A LIMITED LIABILITY COMPANY IS CONSIDERED AN
15 OWNER OF FARMLAND COVERED BY AN AGRICULTURAL DISTRICT CONTRACT THAT
16 ARE OWNED BY THE LIMITED LIABILITY COMPANY. A MEMBER IS CONSIDERED
17 TO PAY A PROPORTION OF THE PROPERTY TAXES ON THAT PROPERTY EQUAL TO
18 THE MEMBER'S SHARE OF OWNERSHIP OR DISTRIBUTIVE SHARE OF ORDINARY
19 INCOME AS REPORTED BY THE LIMITED LIABILITY COMPANY TO THE INTERNAL
20 REVENUE SERVICE.

21 (2) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2006, AN OWNER
22 OF FARMLAND SUBJECT TO 1 OR MORE AGRICULTURAL DISTRICT CONTRACTS TO
23 WHOM SUBSECTION (1) DOES NOT APPLY MAY CLAIM A CREDIT UNDER THE
24 SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145, FOR THE
25 AMOUNT THAT REPRESENTS THE DIFFERENCE BETWEEN THE PROPERTY TAXES ON
26 THE LAND SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT AND \$5.00
27 PER ACRE FOR EACH ACRE SUBJECT TO THE AGRICULTURAL DISTRICT

1 CONTRACT. HOWEVER, THE CREDIT IS LIMITED TO THE MILLAGE RATE IN
2 EFFECT WHEN THE FARMLAND BECOMES SUBJECT TO THE AGRICULTURAL
3 DISTRICT CONTRACT. A PARTICIPANT IS NOT ELIGIBLE TO CLAIM A CREDIT
4 AND REFUND AGAINST THE STATE SINGLE BUSINESS TAX UNLESS THE
5 PARTICIPANT DEMONSTRATES THAT THE PARTICIPANT'S AGRICULTURAL GROSS
6 RECEIPTS OF THE FARMING OPERATION EXCEED 5 TIMES THE PROPERTY TAXES
7 ON THE LAND FOR EACH OF 3 OUT OF THE 5 TAX YEARS IMMEDIATELY
8 PRECEDING THE YEAR IN WHICH THE CREDIT IS CLAIMED. A PARTICIPANT
9 MAY COMPARE, DURING THE CONTRACT PERIOD, THE AVERAGE OF THE MOST
10 RECENT 3 YEARS OF AGRICULTURAL GROSS RECEIPTS TO PROPERTY TAXES IN
11 THE FIRST YEAR THAT THE OWNER IS SUBJECT TO AN AGRICULTURAL
12 DISTRICT CONTRACT IN CALCULATING THE GROSS RECEIPTS QUALIFICATION.
13 ONCE AN ELECTION IS MADE BY THE PARTICIPANT TO COMPUTE THE BENEFIT
14 IN THIS MANNER, ALL FUTURE CALCULATIONS SHALL BE MADE IN THE SAME
15 MANNER.

16 (3) IF THE FARMLAND COVERED BY AN AGRICULTURAL DISTRICT
17 CONTRACT ARE OWNED BY MORE THAN 1 OWNER, EACH OWNER IS ALLOWED TO
18 CLAIM A CREDIT UNDER THIS SECTION BASED UPON THAT OWNER'S SHARE OF
19 THE PROPERTY TAX PAYABLE ON THE FARMLAND. THE DEPARTMENT OF
20 TREASURY SHALL CONSIDER THE PROPERTY TAX EQUALLY APPORTIONED AMONG
21 THE OWNERS UNLESS A WRITTEN AGREEMENT SIGNED BY ALL THE OWNERS IS
22 FILED WITH THE RETURN, WHICH AGREEMENT APPORTIONS THE PROPERTY
23 TAXES IN THE SAME MANNER AS ALL OTHER ITEMS OF REVENUE AND EXPENSE.
24 IF THE PROPERTY TAXES ARE CONSIDERED EQUALLY APPORTIONED, A HUSBAND
25 AND WIFE SHALL BE CONSIDERED 1 OWNER, AND A PERSON WITH RESPECT TO
26 WHOM A DEDUCTION UNDER SECTION 151 OF THE INTERNAL REVENUE CODE OF
27 1986 IS ALLOWABLE TO ANOTHER OWNER OF THE PROPERTY SHALL NOT BE

1 CONSIDERED AN OWNER.

2 (4) A BENEFICIARY OF AN ESTATE OR TRUST TO WHICH SUBSECTION
3 (1) DOES NOT APPLY IS ENTITLED TO THE SAME PERCENTAGE OF THE CREDIT
4 PROVIDED IN THIS SECTION AS THAT PERSON'S PERCENTAGE OF ALL OTHER
5 DISTRIBUTIONS BY THE ESTATE OR TRUST.

6 (5) IF THE ALLOWABLE AMOUNT OF THE CREDIT CLAIMED EXCEEDS THE
7 STATE INCOME TAX OR THE STATE SINGLE BUSINESS TAX OTHERWISE DUE FOR
8 THE TAX YEAR OR IF THERE IS NO STATE INCOME TAX OR THE STATE SINGLE
9 BUSINESS TAX DUE FOR THE TAX YEAR, THE AMOUNT OF THE CLAIM NOT USED
10 AS AN OFFSET AGAINST THE STATE INCOME TAX OR THE STATE SINGLE
11 BUSINESS TAX, AFTER EXAMINATION AND REVIEW, SHALL BE APPROVED FOR
12 PAYMENT TO THE CLAIMANT PURSUANT TO 1941 PA 122, MCL 205.1 TO
13 205.31. THE TOTAL CREDIT ALLOWABLE UNDER THIS PART AND CHAPTER 9 OF
14 THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.501 TO 206.532, OR
15 THE SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145,
16 SHALL NOT EXCEED THE TOTAL PROPERTY TAX DUE AND PAYABLE BY THE
17 CLAIMANT IN THAT YEAR. THE AMOUNT THE CREDIT EXCEEDS THE PROPERTY
18 TAX DUE AND PAYABLE SHALL BE DEDUCTED FROM THE CREDIT CLAIMED UNDER
19 THIS PART.

20 (6) FOR PURPOSES OF AUDIT, REVIEW, DETERMINATION, APPEALS,
21 HEARINGS, NOTICES, ASSESSMENTS, AND ADMINISTRATION RELATING TO THE
22 CREDIT PROGRAM PROVIDED BY THIS SECTION, THE STATE INCOME TAX ACT
23 OR SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145,
24 APPLIES ACCORDING TO WHICH TAX THE CREDIT IS CLAIMED AGAINST. IF AN
25 INDIVIDUAL IS ALLOWED TO CLAIM A CREDIT UNDER SUBSECTION (1) BASED
26 UPON PROPERTY OWNED OR HELD BY A PARTNERSHIP, S CORPORATION, OR
27 TRUST, THE DEPARTMENT OF TREASURY MAY REQUIRE THAT THE INDIVIDUAL

1 FURNISH TO THE DEPARTMENT A COPY OF A TAX RETURN, OR PORTION OF A
2 TAX RETURN, AND SUPPORTING SCHEDULES THAT THE PARTNERSHIP, S
3 CORPORATION, OR TRUST FILES UNDER THE INTERNAL REVENUE CODE.

4 (7) THE DEPARTMENT OF TREASURY SHALL ACCOUNT SEPARATELY FOR
5 PAYMENTS UNDER THIS PART AND NOT COMBINE THEM WITH OTHER CREDIT
6 PROGRAMS. A PAYMENT MADE TO A CLAIMANT FOR A CREDIT CLAIMED UNDER
7 THIS PART SHALL BE ISSUED BY 1 OR MORE WARRANTS MADE OUT TO THE
8 CLAIMANT.

9 (8) THIS STATE SHALL REIMBURSE THE STATE SCHOOL AID FUND
10 ESTABLISHED BY SECTION 11 OF ARTICLE IX OF THE STATE CONSTITUTION
11 OF 1963 FOR ALL REVENUES LOST AS THE RESULT OF THE TAX CREDITS PAID
12 UNDER THIS ACT.

13 SEC. 36310. (1) LAND SUBJECT TO AN AGRICULTURAL DISTRICT
14 CONTRACT MAY BE SOLD OR TRANSFERRED WITHOUT PENALTY UNDER SECTION
15 36311, IF THE USE OF THE LAND BY THE SUCCESSOR IN TITLE COMPLIES
16 WITH THE PROVISIONS CONTAINED IN THE AGRICULTURAL DISTRICT
17 CONTRACT. THE SELLER SHALL NOTIFY THE GOVERNMENTAL AUTHORITY HAVING
18 JURISDICTION OVER THE AGRICULTURAL DISTRICT CONTRACT OF THE CHANGE
19 IN OWNERSHIP. IF LAND SUBJECT TO AN AGRICULTURAL DISTRICT CONTRACT
20 IS SOLD OR TRANSFERRED, THE SUCCESSOR IN TITLE SHALL FILE THE
21 AFFIDAVIT PROVIDED IN SECTION 27A(7)(N) OF THE GENERAL PROPERTY TAX
22 ACT, 1893 PA 206, MCL 211.27A, IN A TIMELY MANNER OR SHALL BE
23 CONSIDERED TO BE IN VIOLATION OF THE CONTRACT.

24 (2) IF THE OWNER OF LAND SUBJECT TO AN AGRICULTURAL DISTRICT
25 CONTRACT DIES OR BECOMES TOTALLY AND PERMANENTLY DISABLED OR WHEN
26 AN INDIVIDUAL ESSENTIAL TO THE OPERATION OF THE FARM DIES OR
27 BECOMES TOTALLY AND PERMANENTLY DISABLED, THE LAND MAY BE

1 RELINQUISHED FROM THE CONTRACT UNDER THIS PART AND IS SUBJECT TO A
2 LIEN PURSUANT TO SECTION 36311(11). A REQUEST FOR RELINQUISHMENT
3 UNDER THIS SECTION SHALL BE MADE WITHIN 3 YEARS FROM THE DATE OF
4 DEATH OR DISABILITY. A REQUEST FOR RELINQUISHMENT UNDER THIS
5 SUBSECTION SHALL BE MADE ONLY BY THE OWNER IN CASE OF A DISABILITY
6 OR, IN CASE OF DEATH, THE PERSON WHO BECOMES THE OWNER THROUGH
7 SURVIVORSHIP OR INHERITANCE.

8 (3) IF AN OWNER OF LAND SUBJECT TO AN AGRICULTURAL DISTRICT
9 CONTRACT BECOMES TOTALLY AND PERMANENTLY DISABLED OR DIES, LAND
10 CONTAINING STRUCTURES THAT WERE PRESENT BEFORE THE RECORDING OF THE
11 DEVELOPMENT RIGHTS AGREEMENT MAY BE RELINQUISHED FROM THE CONTRACT,
12 UPON REQUEST OF THE DISABLED CONTRACT HOLDER OR UPON REQUEST OF THE
13 PERSON WHO BECOMES AN OWNER THROUGH SURVIVORSHIP OR INHERITANCE,
14 AND UPON APPROVAL OF THE LOCAL GOVERNING BODY AND THE STATE LAND
15 USE AGENCY. NOT MORE THAN 2 ACRES MAY BE RELINQUISHED UNDER THIS
16 SUBSECTION UNLESS ADDITIONAL LAND AREA IS NEEDED TO ENCOMPASS ALL
17 OF THE BUILDINGS LOCATED ON THE PARCEL, IN WHICH CASE NOT MORE THAN
18 5 ACRES MAY BE RELINQUISHED. IF THE PARCEL PROPOSED TO BE
19 RELINQUISHED IS LESS IN AREA THAN THE MINIMUM PARCEL SIZE REQUIRED
20 BY LOCAL ZONING, THE PARCEL MAY NOT BE RELINQUISHED UNLESS A
21 VARIANCE IS OBTAINED FROM THE LOCAL ZONING BOARD OF APPEALS TO
22 ALLOW FOR THE SMALLER PARCEL SIZE. THE PORTION OF THE FARMLAND
23 RELINQUISHED FROM THE AGRICULTURAL DISTRICT CONTRACT UNDER THIS
24 SUBSECTION IS SUBJECT TO A LIEN PURSUANT TO SECTION 36311(10).

25 (4) THE LAND DESCRIBED IN AN AGRICULTURAL DISTRICT CONTRACT
26 MAY BE DIVIDED INTO SMALLER PARCELS OF LAND, EACH OF WHICH SHALL BE
27 COVERED BY A SEPARATE AGRICULTURAL DISTRICT CONTRACT AND EACH OF

1 WHICH SHALL BE ELIGIBLE FOR SUBSEQUENT RENEWAL. THE SEPARATE
2 AGRICULTURAL DISTRICT CONTRACTS SHALL CONTAIN THE SAME TERMS AND
3 CONDITIONS AS THE ORIGINAL AGRICULTURAL DISTRICT CONTRACT. THE
4 SMALLER PARCELS CREATED BY THE DIVISION MUST MEET THE MINIMUM
5 REQUIREMENTS FOR BEING ENROLLED UNDER THIS PART OR BE 40 ACRES OR
6 MORE IN SIZE. FARMLAND MAY BE DIVIDED ONCE UNDER THIS SUBSECTION
7 WITHOUT FEE BY THE STATE LAND USE AGENCY. THE STATE LAND USE AGENCY
8 MAY CHARGE A REASONABLE FEE NOT GREATER THAN THE STATE LAND USE
9 AGENCY'S ACTUAL COST OF DIVIDING THE AGREEMENT FOR ALL SUBSEQUENT
10 DIVISIONS OF THAT FARMLAND. WHEN A DIVISION OF AN AGRICULTURAL
11 DISTRICT CONTRACT IS MADE UNDER THIS SUBSECTION AND IS EXECUTED AND
12 RECORDED, THE STATE LAND USE AGENCY SHALL NOTIFY THE APPLICANT, THE
13 LOCAL GOVERNING BODY AND ITS ASSESSING OFFICE, AND THE DEPARTMENT
14 OF TREASURY.

15 (5) AS USED IN THIS SECTION, "INDIVIDUAL ESSENTIAL TO THE
16 OPERATION OF THE FARM" MEANS A CO-OWNER, PARTNER, SHAREHOLDER, FARM
17 MANAGER, OR FAMILY MEMBER, WHO, TO A MATERIAL EXTENT, CULTIVATES,
18 OPERATES, OR MANAGES FARMLAND UNDER THIS PART. AN INDIVIDUAL IS
19 CONSIDERED INVOLVED TO A MATERIAL EXTENT IF THAT INDIVIDUAL DOES 1
20 OR MORE OF THE FOLLOWING:

21 (A) HAS A FINANCIAL INTEREST EQUAL TO OR GREATER THAN 1/2 THE
22 COST OF PRODUCING THE CROPS, LIVESTOCK, OR PRODUCTS AND INSPECTS
23 AND ADVISES AND CONSULTS WITH THE OWNER ON PRODUCTION ACTIVITIES.

24 (B) WORKS 1,040 HOURS OR MORE ANNUALLY IN ACTIVITIES CONNECTED
25 WITH PRODUCTION OF THE FARMING OPERATION.

26 (6) THE STATE LAND USE AGENCY MAY CHARGE AND COLLECT A FEE OF
27 \$25.00 TO PROCESS EACH CHANGE OF OWNERSHIP UNDER SUBSECTION (1) OR

1 EACH DIVISION UNDER SUBSECTION (4). THE FEE COLLECTED UNDER THIS
2 SUBSECTION SHALL BE USED BY THE STATE LAND USE AGENCY TO ADMINISTER
3 THIS ACT.

4 SEC. 36311. (1) AN AGRICULTURAL DISTRICT CONTRACT EXPIRES AT
5 THE EXPIRATION OF THE TERM OF THE CONTRACT UNLESS RENEWED WITH THE
6 CONSENT OF THE OWNER OF THE LAND. IF THE OWNER OF THE LAND HAS
7 COMPLIED WITH THE REQUIREMENTS OF THIS PART REGARDING AGRICULTURAL
8 DISTRICT CONTRACTS, THE OWNER IS ENTITLED TO AUTOMATIC RENEWAL OF
9 THE FARMLAND COVERED BY THE CONTRACT UPON WRITTEN REQUEST OF THE
10 OWNER. AN AGRICULTURAL DISTRICT CONTRACT MAY BE RENEWED FOR A TERM
11 OF NOT LESS THAN 10 YEARS. IF AN AGRICULTURAL DISTRICT CONTRACT IS
12 RENEWED, THE STATE LAND USE AGENCY SHALL SEND A COPY OF THE RENEWAL
13 CONTRACT TO THE LOCAL GOVERNING BODY IN WHICH THE FARMLAND IS
14 LOCATED.

15 (2) AN AGRICULTURAL DISTRICT CONTRACT OR A PORTION OF THE
16 FARMLAND COVERED BY AN AGRICULTURAL DISTRICT CONTRACT MAY BE
17 RELINQUISHED AS PROVIDED IN THIS SECTION AND SECTION 36312.
18 FARMLAND MAY BE RELINQUISHED BY THIS STATE BEFORE A TERMINATION
19 DATE CONTAINED IN THE CONTRACT UNDER EITHER OF THE FOLLOWING
20 CIRCUMSTANCES:

21 (A) IF APPROVED BY THE LOCAL GOVERNING BODY AND THE STATE LAND
22 USE AGENCY, LAND CONTAINING STRUCTURES THAT WERE PRESENT BEFORE THE
23 RECORDING OF THE AGRICULTURAL DISTRICT CONTRACT MAY BE RELINQUISHED
24 FROM THE CONTRACT. NOT MORE THAN 2 ACRES MAY BE RELINQUISHED UNDER
25 THIS SUBDIVISION UNLESS ADDITIONAL LAND AREA IS NEEDED TO ENCOMPASS
26 ALL OF THE BUILDINGS AND STRUCTURES LOCATED ON THE PARCEL, IN WHICH
27 CASE NOT MORE THAN 5 ACRES MAY BE RELINQUISHED. IF THE PARCEL

1 PROPOSED TO BE RELINQUISHED IS LESS IN AREA THAN THE MINIMUM PARCEL
2 SIZE REQUIRED BY LOCAL ZONING, THE PARCEL MAY NOT BE RELINQUISHED
3 UNLESS A VARIANCE IS OBTAINED FROM THE LOCAL ZONING BOARD OF
4 APPEALS TO ALLOW FOR THE SMALLER PARCEL SIZE.

5 (B) IF APPROVED BY THE LOCAL GOVERNING BODY AND THE STATE LAND
6 USE AGENCY, LAND MAY BE RELINQUISHED FROM THE CONTRACT FOR THE
7 CONSTRUCTION OF A RESIDENCE BY AN INDIVIDUAL ESSENTIAL TO THE
8 OPERATION OF THE FARM AS DEFINED IN SECTION 36310. NOT MORE THAN 2
9 ACRES MAY BE RELINQUISHED UNDER THIS SUBDIVISION. IF THE PARCEL
10 PROPOSED TO BE RELINQUISHED IS LESS IN AREA THAN THE MINIMUM PARCEL
11 SIZE REQUIRED BY LOCAL ZONING, THE PARCEL MAY NOT BE RELINQUISHED
12 UNLESS A VARIANCE IS OBTAINED FROM THE LOCAL ZONING BOARD OF
13 APPEALS TO ALLOW FOR THE SMALLER PARCEL SIZE.

14 (3) IF THE REQUEST FOR RELINQUISHMENT OF THE AGRICULTURAL
15 DISTRICT CONTRACT IS APPROVED, THE STATE LAND USE AGENCY SHALL
16 PREPARE AN INSTRUMENT, SUBJECT TO SUBSECTIONS (4), (5), (6), AND
17 (7), AND RECORD IT WITH THE REGISTER OF DEEDS OF THE COUNTY IN
18 WHICH THE LAND IS SITUATED.

19 (4) IF AN AGRICULTURAL DISTRICT CONTRACT OR A PORTION OF AN
20 AGRICULTURAL DISTRICT CONTRACT IS TO BE RELINQUISHED PURSUANT TO
21 SUBSECTION (2) OR SECTION 36312, THE STATE LAND USE AGENCY SHALL
22 RECORD A LIEN AGAINST THE PROPERTY FORMERLY SUBJECT TO THE
23 AGRICULTURAL DISTRICT CONTRACT FOR THE TOTAL AMOUNT OF THE
24 ALLOCATED TAX CREDIT OF THE LAST 10 YEARS, INCLUDING THE YEAR OF
25 TERMINATION, RECEIVED BY AN OWNER FOR THAT PROPERTY UNDER THE
26 AGREEMENT UNDER SECTION 36309, ATTRIBUTABLE TO THE PROPERTY
27 FORMERLY SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT, PLUS

1 INTEREST AT THE RATE OF 6% PER ANNUM SIMPLE INTEREST FROM THE TIME
2 THE CREDIT WAS RECEIVED UNTIL THE LIEN IS PLACED ON THE PROPERTY.

3 (5) IF THE PROPERTY BEING RELINQUISHED FROM THE AGRICULTURAL
4 DISTRICT CONTRACT IS LESS THAN ALL OF THE PROPERTY SUBJECT TO THAT
5 AGRICULTURAL DISTRICT CONTRACT, THE ALLOCATED TAX CREDIT FOR THE
6 AGRICULTURAL DISTRICT CONTRACT SHALL BE MULTIPLIED BY THE
7 PROPERTY'S SHARE OF THE TAXABLE VALUE OF THE CONTRACT. AS USED IN
8 THIS SUBSECTION:

9 (A) "THE ALLOCATED TAX CREDIT" MEANS THE AMOUNT OBTAINED BY
10 MULTIPLYING THE OWNER'S TOTAL FARMLAND PRESERVATION CREDIT CLAIMED
11 IN THAT YEAR ON ALL CONTRACTS BY THE QUOTIENT OF THE AD VALOREM
12 PROPERTY TAX LEVIED IN THAT YEAR ON PROPERTY SUBJECT TO THE
13 AGRICULTURAL DISTRICT CONTRACT THAT INCLUDED THE PROPERTY BEING
14 RELINQUISHED FROM THE CONTRACT DIVIDED BY THE TOTAL PROPERTY TAXES
15 LEVIED ON PROPERTY SUBJECT TO ANY CONTRACT AND USED IN DETERMINING
16 THE FARMLAND PRESERVATION CREDIT IN THAT YEAR.

17 (B) "THE PROPERTY'S SHARE OF THE TAXABLE VALUE OF THE
18 AGREEMENT" MEANS THE QUOTIENT OF THE TAXABLE VALUE OF THE PROPERTY
19 BEING RELINQUISHED FROM THE CONTRACT DIVIDED BY THE TOTAL TAXABLE
20 VALUE OF PROPERTY SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT
21 THAT INCLUDED THE PROPERTY BEING RELINQUISHED FROM THE AGRICULTURAL
22 DISTRICT CONTRACT.

23 (6) THIRTY DAYS BEFORE THE RECORDING OF A LIEN UNDER THIS
24 SECTION, THE STATE LAND USE AGENCY SHALL NOTIFY THE OWNER OF THE
25 FARMLAND SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT OF THE
26 AMOUNT OF THE LIEN, INCLUDING INTEREST, IF ANY. IF THE LIEN AMOUNT
27 IS PAID BEFORE 30 DAYS AFTER THE OWNER IS NOTIFIED, THE LIEN SHALL

1 NOT BE RECORDED. THE LIEN MAY BE PAID AND DISCHARGED AT ANY TIME
2 AND IS PAYABLE TO THE STATE BY THE OWNER OF RECORD AT THE TIME THE
3 LAND OR ANY PORTION OF IT IS SOLD BY THE OWNER OF RECORD, OR IF THE
4 LAND IS CONVERTED TO A USE PROHIBITED BY THE FORMER AGRICULTURAL
5 DISTRICT CONTRACT. THE LIEN SHALL BE DISCHARGED UPON RENEWAL OR
6 REENTRY IN AN AGRICULTURAL DISTRICT CONTRACT, EXCEPT THAT A
7 SUBSEQUENT LIEN SHALL NOT BE LESS THAN THE LIEN DISCHARGED.

8 (7) UPON THE TERMINATION OF ALL OR A PORTION OF THE
9 AGRICULTURAL DISTRICT CONTRACT UNDER SUBSECTION (3) OR THE
10 EXPIRATION OF AN AGRICULTURAL DISTRICT CONTRACT UNDER SUBSECTION
11 (1), THE STATE LAND USE AGENCY SHALL PREPARE AND RECORD A LIEN, IF
12 ANY, AGAINST THE PROPERTY FORMERLY SUBJECT TO THE AGRICULTURAL
13 DISTRICT CONTRACT FOR THE TOTAL AMOUNT OF THE ALLOCATED TAX CREDIT
14 OF THE LAST 10 YEARS, INCLUDING THE YEAR OF TERMINATION, RECEIVED
15 BY THE OWNER UNDER SECTION 36309, ATTRIBUTABLE TO THE PROPERTY
16 FORMERLY SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT, PLUS
17 INTEREST AT THE RATE OF 6% PER ANNUM SIMPLE INTEREST FROM THE TIME
18 THE CREDIT WAS RECEIVED UNTIL THE LIEN IS PLACED ON THE PROPERTY.

19 (8) UPON TERMINATION OF AN AGRICULTURAL DISTRICT CONTRACT, THE
20 STATE LAND USE AGENCY SHALL NOTIFY THE DEPARTMENT OF TREASURY FOR
21 THEIR RECORDS.

22 (9) THE UNAPPROPRIATED PROCEEDS FROM LIEN PAYMENTS AND EARLY
23 WITHDRAWAL ASSESSMENTS MADE UNDER THIS PART SHALL BE FORWARDED TO
24 THE STATE TREASURER FOR DEPOSIT IN THE AGRICULTURAL PRESERVATION
25 FUND CREATED IN SECTION 36202. NOT LESS THAN HALF OF THE AMOUNT
26 DESCRIBED IN THIS SUBSECTION SHALL BE USED FOR THE PURPOSES SET
27 FORTH IN SECTION 36202(4)(B) OR (C) IN THE QUALIFIED LOCAL UNIT

1 WHERE THE PROPERTY THAT WAS SUBJECT TO THE LIEN IS LOCATED.

2 (10) UPON THE RELINQUISHMENT OF ALL OF THE FARMLAND UNDER
3 SECTION 36310(2) OR A PORTION OF THE FARMLAND UNDER SECTION
4 36310(3), THE STATE LAND USE AGENCY SHALL PREPARE AND RECORD A LIEN
5 AGAINST THE PROPERTY FORMERLY SUBJECT TO AN AGRICULTURAL DISTRICT
6 CONTRACT IN AN AMOUNT CALCULATED AS FOLLOWS:

7 (A) ESTABLISHING A TERM OF YEARS BY MULTIPLYING 10 BY A
8 FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF YEARS THE
9 FARMLAND WAS UNDER THE AGRICULTURAL DISTRICT CONTRACT, INCLUDING
10 ANY EXTENSIONS, AND THE DENOMINATOR OF WHICH IS THE NUMBER
11 REPRESENTING THE TERM OF YEARS OF THAT CONTRACT, INCLUDING ANY
12 EXTENSIONS.

13 (B) THE LIEN AMOUNT EQUALS THE TOTAL AMOUNT OF THE ALLOCATED
14 TAX CREDIT CLAIMED ATTRIBUTABLE TO THAT AGRICULTURAL DISTRICT
15 CONTRACT IN THE IMMEDIATELY PRECEDING TERM OF YEARS AS DETERMINED
16 IN SUBDIVISION (A).

17 (11) WHEN A LIEN IS PAID UNDER THIS SECTION, THE STATE LAND
18 USE AGENCY SHALL PREPARE AND RECORD A DISCHARGE OF LIEN WITH THE
19 REGISTER OF DEEDS IN THE COUNTY IN WHICH THE LAND IS LOCATED. THE
20 DISCHARGE OF LIEN SHALL SPECIFICALLY STATE THAT THE LIEN HAS BEEN
21 PAID IN FULL, THAT THE LIEN IS DISCHARGED, THAT THE AGRICULTURAL
22 DISTRICT CONTRACT IS TERMINATED, AND THAT THE STATE HAS NO FURTHER
23 INTEREST IN THE LAND UNDER THAT CONTRACT.

24 (12) AN OWNER OF FARMLAND SUBJECT TO AN AGRICULTURAL DISTRICT
25 CONTRACT, UPON WRITTEN REQUEST TO THE STATE LAND USE AGENCY BETWEEN
26 JANUARY 1 AND APRIL 1, IN THE TENTH AND FIFTEENTH YEARS OF THE
27 INITIAL TERM OF THE CONTRACT, MAY ELECT TO TERMINATE THE CONTRACT

House Bill No. 4257 (H-1) as amended October 11, 2005

1 UPON PAYMENT OF THE EARLY WITHDRAWAL ASSESSMENT PROVIDED IN THIS
2 SECTION TO THE STATE LAND USE AGENCY. THE EARLY WITHDRAWAL
3 ASSESSMENT IS AS FOLLOWS:

4 (A) IN THE TENTH YEAR, AN AMOUNT EQUAL TO 7% OF THE TRUE CASH
5 VALUE OF THE FARMLAND SUBJECT TO THE CONTRACT OR [AN AMOUNT EQUAL TO] THE
6 TAX CREDITS
7 RECEIVED DURING THE LAST 10 YEARS THAT ARE ATTRIBUTABLE TO THE
8 AGRICULTURAL DISTRICT CONTRACT [PLUS INTEREST AT THE RATE OF 6% PER ANNUM
9 SIMPLE INTEREST], WHICHEVER IS GREATER.

10 (B) IN THE FIFTEENTH YEAR, AN AMOUNT EQUAL TO 5% OF THE TRUE
11 CASH VALUE OF THE FARMLAND SUBJECT TO THE CONTRACT OR [AN AMOUNT EQUAL
12 TO] THE TAX
13 CREDITS RECEIVED DURING THE LAST 10 YEARS THAT ARE ATTRIBUTABLE TO
14 THE AGRICULTURAL DISTRICT CONTRACT [PLUS INTEREST AT THE RATE OF 6% PER
15 ANNUM SIMPLE INTEREST], WHICHEVER IS GREATER.

16 (13) IF A REQUEST IS MADE UNDER SUBSECTION (12), THE STATE
17 LAND USE AGENCY SHALL CAUSE TO BE PREPARED A CERTIFIED APPRAISAL TO
18 DETERMINE THE TRUE CASH VALUE OF THE PROPERTY. THE COST FOR THE
19 CERTIFIED APPRAISAL SHALL BE PAID BY THE LANDOWNER MAKING THE
20 REQUEST FOR TERMINATION FROM THE PROGRAM.

21 (14) IF, UPON EXPIRATION OF THE TERM OF AN AGRICULTURAL
22 DISTRICT CONTRACT, THE FARMLAND BECOMES SUBJECT TO AN AGRICULTURAL
23 CONSERVATION EASEMENT OR PURCHASE OF DEVELOPMENT RIGHTS UNDER
24 SECTION 36111B OR 36206 OR IF AN AGRICULTURAL DISTRICT CONTRACT IS
25 TERMINATED UNDER SUBSECTION (12), THE FARMLAND IS NOT SUBJECT TO A
26 LIEN UNDER THIS SECTION.

27 SEC. 36312. (1) UPON REQUEST FROM A LANDOWNER AND A LOCAL
GOVERNING BODY, THE STATE LAND USE AGENCY SHALL RELINQUISH FARMLAND
FROM THE AGRICULTURAL DISTRICT CONTRACT IF 1 OR BOTH OF THE
FOLLOWING OCCUR:

(A) THE LOCAL GOVERNING BODY DETERMINES 1 OR MORE OF THE

1 FOLLOWING:

2 (i) THAT, BECAUSE OF THE QUALITY OF THE FARMLAND, AGRICULTURAL
3 PRODUCTION CANNOT BE MADE ECONOMICALLY VIABLE WITH GENERALLY
4 ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES.

5 (ii) THAT SURROUNDING CONDITIONS IMPOSE PHYSICAL OBSTACLES TO
6 THE AGRICULTURAL OPERATION OR PROHIBIT ESSENTIAL AGRICULTURAL
7 PRACTICES.

8 (iii) THAT SIGNIFICANT NATURAL PHYSICAL CHANGES IN THE FARMLAND
9 HAVE OCCURRED THAT ARE GENERALLY IRREVERSIBLE AND PERMANENTLY LIMIT
10 THE PRODUCTIVITY OF THE FARMLAND.

11 (iv) THAT A COURT ORDER RESTRICTS THE USE OF THE FARMLAND SO
12 THAT AGRICULTURAL PRODUCTION CANNOT BE MADE ECONOMICALLY VIABLE.

13 (B) THE LOCAL GOVERNING BODY DETERMINES THAT THE
14 RELINQUISHMENT IS IN THE PUBLIC INTEREST AND THAT THE FARMLAND TO
15 BE RELINQUISHED MEETS 1 OR MORE OF THE FOLLOWING CONDITIONS:

16 (i) THE FARMLAND IS TO BE OWNED, OPERATED, AND MAINTAINED BY A
17 PUBLIC BODY FOR A PUBLIC USE.

18 (ii) THE FARMLAND HAD BEEN ZONED FOR THE IMMEDIATELY PRECEDING
19 3 YEARS FOR A COMMERCIAL OR INDUSTRIAL USE.

20 (iii) THE FARMLAND IS ZONED FOR COMMERCIAL OR INDUSTRIAL USE AND
21 THE RELINQUISHMENT OF THE FARMLAND WILL BE MITIGATED BY 1 OF THE
22 FOLLOWING MEANS:

23 (A) FOR EVERY 1 ACRE OF FARMLAND TO BE RELINQUISHED, AN
24 AGRICULTURAL CONSERVATION EASEMENT WILL BE ACQUIRED OVER 2 ACRES OF
25 FARMLAND OF COMPARABLE OR BETTER QUALITY LOCATED WITHIN THE SAME
26 LOCAL UNIT OF GOVERNMENT WHERE THE FARMLAND TO BE RELINQUISHED IS
27 LOCATED. THE AGRICULTURAL CONSERVATION EASEMENT SHALL BE HELD BY

1 THE LOCAL UNIT OF GOVERNMENT WHERE THE FARMLAND TO BE RELINQUISHED
2 IS LOCATED OR, IF THE LOCAL GOVERNING BODY DECLINES TO HOLD THE
3 AGRICULTURAL CONSERVATION EASEMENT, BY THE STATE LAND USE AGENCY.

4 (B) IF AN AGRICULTURAL CONSERVATION EASEMENT CANNOT BE
5 ACQUIRED AS PROVIDED UNDER SUB-SUBPARAGRAPH (A), THERE WILL BE
6 DEPOSITED INTO THE STATE AGRICULTURAL PRESERVATION FUND CREATED IN
7 SECTION 36202 AN AMOUNT EQUAL TO TWICE THE VALUE OF THE DEVELOPMENT
8 RIGHTS TO THE FARMLAND BEING RELINQUISHED, AS DETERMINED BY A
9 CERTIFIED APPRAISAL.

10 (iv) THE FARMLAND IS TO BE OWNED, OPERATED, AND MAINTAINED BY
11 AN ORGANIZATION EXEMPT FROM TAXATION UNDER SECTION 501(C)(3) OF THE
12 INTERNAL REVENUE CODE OF 1986, 26 USC 501, AND THE RELINQUISHMENT
13 WILL BE BENEFICIAL TO THE LOCAL COMMUNITY.

14 (2) IN DETERMINING PUBLIC INTEREST UNDER SUBSECTION (1)(B),
15 THE GOVERNING BODY SHALL CONSIDER ALL OF THE FOLLOWING:

16 (A) THE LONG-TERM EFFECT OF THE RELINQUISHMENT UPON THE
17 PRESERVATION AND ENHANCEMENT OF AGRICULTURE IN THE SURROUNDING
18 AREA, INCLUDING ANY NONFARM ENCROACHMENT UPON OTHER AGRICULTURAL
19 OPERATIONS IN THE SURROUNDING AREA.

20 (B) ANY OTHER REASONABLE AND PRUDENT SITE ALTERNATIVES TO THE
21 FARMLAND TO BE RELINQUISHED.

22 (C) ANY INFRASTRUCTURE CHANGES AND COSTS TO THE LOCAL UNIT OF
23 GOVERNMENT THAT WILL RESULT FROM THE DEVELOPMENT OF THE FARMLAND TO
24 BE RELINQUISHED.

25 (3) IF A LANDOWNER'S RELINQUISHMENT APPLICATION UNDER THIS
26 SECTION IS DENIED BY THE LOCAL GOVERNING BODY, THE LANDOWNER MAY
27 APPEAL THAT DENIAL TO THE STATE LAND USE AGENCY. IN DETERMINING

1 WHETHER TO GRANT THE APPEAL AND APPROVE THE RELINQUISHMENT, THE
2 STATE LAND USE AGENCY SHALL FOLLOW THE CRITERIA ESTABLISHED IN
3 SUBSECTION (1)(A) OR FOLLOW THE CRITERIA IN SUBSECTION (1)(B) AND
4 CONSIDER THE FACTORS DESCRIBED IN SUBSECTION (2).

5 (4) THE STATE LAND USE AGENCY SHALL REVIEW AN APPLICATION
6 APPROVED BY THE LOCAL GOVERNING BODY TO VERIFY THAT THE CRITERIA
7 PROVIDED IN SUBSECTION (1)(A) WERE MET OR THE CRITERIA IN
8 SUBSECTION (1)(B) WERE MET AND THE FACTORS IN SUBSECTION (2) WERE
9 CONSIDERED. IF THE LOCAL GOVERNING BODY DID NOT RENDER A
10 DETERMINATION IN ACCORDANCE WITH THIS SUBSECTION, THE STATE LAND
11 USE AGENCY SHALL NOT RELINQUISH THE FARMLAND FROM THE DEVELOPMENT
12 RIGHTS AGREEMENT.

13 (5) A LOCAL GOVERNING BODY MAY ELECT TO WAIVE ITS RIGHT TO
14 MAKE A RELINQUISHMENT DETERMINATION UNDER SUBSECTION (1)(A) OR (B)
15 BY PROVIDING WRITTEN NOTICE OF THAT ELECTION TO THE STATE LAND USE
16 AGENCY. THE WRITTEN NOTICE SHALL GRANT THE STATE LAND USE AGENCY
17 SOLE AUTHORITY TO GRANT OR DENY THE APPLICATION AS PROVIDED IN THIS
18 SECTION.

19 (6) A DECISION BY THE STATE LAND USE AGENCY TO GRANT OR DENY
20 AN APPLICATION FOR RELINQUISHMENT UNDER THIS SECTION THAT ADVERSELY
21 AFFECTS A LAND OWNER OR A LOCAL GOVERNING BODY IS SUBJECT TO A
22 CONTESTED CASE HEARING AS PROVIDED UNDER THIS ACT AND THE
23 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
24 24.328.

25 (7) AS USED IN THIS SECTION, "ECONOMIC VIABILITY" MEANS THAT
26 THE CASH FLOW RETURNING TO THE FARMING OPERATION IS POSITIVE. THE
27 LOCAL GOVERNING BODY OR STATE LAND USE AGENCY SHALL EVALUATE AN

1 APPLICATION FOR RELINQUISHMENT, AND DETERMINE THE ECONOMIC
2 VIABILITY OF THE AFFECTED FARMING OPERATION, BY DOING ALL OF THE
3 FOLLOWING:

4 (A) ESTIMATING CROP, LIVESTOCK, OR PRODUCT VALUE OF THE
5 FARMLAND USING LOCALLY ACCEPTED PRODUCTION METHODS AND LOCAL UNITED
6 STATES DEPARTMENT OF AGRICULTURE YIELD CAPABILITIES FOR THE
7 SPECIFIC SOIL TYPES AND AVERAGE PRICE FOR CROP, LIVESTOCK, OR
8 PRODUCT OVER THE PAST 5 YEARS.

9 (B) ADDING AVERAGE YEARLY PROPERTY TAX CREDITS AFFORDED BY THE
10 AGRICULTURAL DISTRICT CONTRACT OVER THE IMMEDIATELY PRECEDING 5-
11 YEAR PERIOD.

12 (C) SUBTRACTING ESTIMATED EXPENSES DIRECTLY ATTRIBUTED TO THE
13 PRODUCTION OF THE CROP, LIVESTOCK, OR PRODUCT, INCLUDING, BUT NOT
14 LIMITED TO, SEED, FERTILIZER, INSECTICIDE, BUILDING AND MACHINERY
15 REPAIR, DRYING, TRUCKING, AND PROPERTY TAXES.

16 (D) SUBTRACTING THE ESTIMATED COST OF THE OPERATOR'S LABOR AND
17 MANAGEMENT TIME AT RATES ESTABLISHED BY THE UNITED STATES
18 DEPARTMENT OF AGRICULTURE FOR "ALL LABOR", GREAT LAKES AREA, AS
19 PUBLISHED IN THE UNITED STATES DEPARTMENT OF AGRICULTURE LABOR
20 REPORTS.

21 (E) SUBTRACTING TYPICAL CAPITAL REPLACEMENT COST PER ACRE OF
22 NONLAND ASSETS USING A USEFUL LIFE DEPRECIATION RATE FOR COMPARABLE
23 FARMING OPERATIONS.

24 SEC. 36313. THE STATE LAND USE AGENCY MAY PROMULGATE RULES TO
25 IMPLEMENT THIS PART PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT
26 OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.