

HOUSE BILL No. 4257

February 10, 2005, Introduced by Reps. Walker, Moolenaar, Palsrok, Hansen, Hummel, Moore, Ward, Huizenga, Nofs, Elsenheimer, Palmer, Emmons, Caul, Newell, Garfield, Hune, Phillips, Booher, Nitz, Proos, Meyer, Brown, Gillard, Sheltroun, Cushingberry, Farhat, Pastor, Espinoza, Kolb, Gosselin, Kooiman, McDowell, Alma Smith, Schuitmaker, Hildenbrand, Stakoe, Mayes, Robertson and Spade and referred to the Committee on Natural Resources, Great Lakes, 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" OR "CONTRACT" MEANS A
CONTRACT UNDER THIS PART BETWEEN THE STATE LAND USE AGENCY AND THE

1 OWNER OF FARMLAND.

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

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

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

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

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

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

18 (v) A DESCRIPTION OF ANY JOINT PLANNING PLANS OR AGREEMENTS
19 UNDER THE JOINT MUNICIPAL PLANNING ACT, 2003 PA 226, MCL 125.131 TO
20 125.141.

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

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

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

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

(G) "FARMLAND" MEANS, EXCEPT AS PROVIDED IN SUBPARAGRAPH (v) OR FARMLAND SUBJECT TO A DEVELOPMENT RIGHTS AGREEMENT UNDER PART 361, 1 OR MORE OF THE FOLLOWING:

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

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

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

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

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

1 ZONING ORDINANCE.

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

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

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

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

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

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

14 (K) "MIGRATORY LABORER" MEANS THAT TERM AS DEFINED IN SECTION
15 12401 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.12401.

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

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

1 SECTION 36104A.

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

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

5 (P) "PROPERTY TAXES" MEANS THAT TERM AS DEFINED IN SECTION
6 36101.

7 (Q) "QUALIFIED AGRICULTURAL PROPERTY" MEANS THAT TERM AS
8 DEFINED IN SECTION 7DD OF THE GENERAL PROPERTY TAX ACT, 1893 PA
9 206, MCL 211.7DD.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 APPLICATION, SIGN THE APPLICATION, AND COMPLY WITH SECTION 36305.

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

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

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

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

1 APPLICATION TO THE OWNER.

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

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

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

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

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

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

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

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

27 (F) ANY OTHER CONDITION AND RESTRICTION ON THE LAND AS AGREED

1 TO BY THE PARTIES THAT IS CONSIDERED NECESSARY TO PRESERVE THE LAND
2 OR APPROPRIATE PORTIONS OF IT AS FARMLAND.

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

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

15 SEC. 36306. (1) THE EXECUTION AND ACCEPTANCE OF AN
16 AGRICULTURAL DISTRICT CONTRACT BY THE STATE LAND USE AGENCY AND THE
17 OWNER CONTRACTUALLY BINDS THE OWNER TO KEEP THE FARMLAND IN AN
18 AGRICULTURAL USE FOR THE TERM SPECIFIED IN THE AGRICULTURAL
19 DISTRICT CONTRACT. AN AGRICULTURAL DISTRICT CONTRACT SHALL BE FOR
20 AN INITIAL TERM OF NOT LESS THAN 20 YEARS.

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

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

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

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

12 (2) THE STATE LAND USE AGENCY SHALL NOTIFY THE LANDOWNER VIA
13 FIRST-CLASS MAIL AT LEAST 10 YEARS BEFORE THE EXPIRATION OF AN
14 AGRICULTURAL DISTRICT CONTRACT THAT A LIEN MAY BE PLACED AT THE
15 TIME OF EXPIRATION OF THE AGRICULTURAL DISTRICT CONTRACT ON THE
16 FARMLAND IF THE LANDOWNER DOES NOT EXTEND THE AGRICULTURAL DISTRICT
17 CONTRACT AND SHALL INDICATE TO THE LANDOWNER THE OPTION OF NOT
18 CLAIMING CREDITS DURING ALL OR A PORTION OF THE NEXT 10 YEARS.

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

21 SEC. 36309. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
22 2005, AN OWNER OF FARMLAND SUBJECT TO AN AGRICULTURAL DISTRICT
23 CONTRACT WHO IS REQUIRED OR ELIGIBLE TO FILE A RETURN AS AN
24 INDIVIDUAL OR A CLAIMANT UNDER THE STATE INCOME TAX ACT MAY CLAIM A
25 CREDIT AGAINST THE STATE INCOME TAX LIABILITY FOR THE AMOUNT THAT
26 REPRESENTS THE DIFFERENCE BETWEEN THE PROPERTY TAXES ON THE
27 FARMLAND USED IN THE FARMING OPERATION, SUBJECT TO THE AGRICULTURAL

1 DISTRICT CONTRACT AND \$5.00 PER ACRE FOR EACH ACRE SUBJECT TO THE
2 AGRICULTURAL DISTRICT CONTRACT. FOR THE PURPOSES OF THIS SECTION,
3 ALL OF THE FOLLOWING APPLY:

4 (A) A PARTNER IN A PARTNERSHIP IS CONSIDERED AN OWNER OF
5 FARMLAND AND RELATED BUILDINGS OWNED BY THE PARTNERSHIP AND COVERED
6 BY AN AGRICULTURAL DISTRICT CONTRACT. A PARTNER IS CONSIDERED TO
7 PAY A PROPORTION OF THE PROPERTY TAXES ON THAT PROPERTY EQUAL TO
8 THE PARTNER'S SHARE OF OWNERSHIP OF CAPITAL OR DISTRIBUTIVE SHARE
9 OF ORDINARY INCOME AS REPORTED BY THE PARTNERSHIP TO THE INTERNAL
10 REVENUE SERVICE OR, IF THE PARTNERSHIP IS NOT REQUIRED TO REPORT
11 THAT INFORMATION TO THE INTERNAL REVENUE SERVICE, AS PROVIDED IN
12 THE PARTNERSHIP AGREEMENT OR, IF THERE IS NO WRITTEN PARTNERSHIP
13 AGREEMENT, A STATEMENT SIGNED BY ALL THE PARTNERS. A PARTNER
14 CLAIMING A CREDIT UNDER THIS SECTION BASED UPON THE PARTNERSHIP
15 AGREEMENT OR A STATEMENT SHALL FILE A COPY OF THE AGREEMENT OR
16 STATEMENT WITH HIS OR HER INCOME TAX RETURN. IF THE AGREEMENT OR
17 STATEMENT IS NOT FILED, THE DEPARTMENT OF TREASURY SHALL DENY THE
18 CREDIT. ALL PARTNERS IN A PARTNERSHIP CLAIMING THE CREDIT ALLOWED
19 UNDER THIS SECTION SHALL COMPUTE THE CREDIT USING THE SAME BASIS
20 FOR THE APPORTIONMENT OF THE PROPERTY TAXES.

21 (B) A SHAREHOLDER OF A CORPORATION THAT HAS FILED A PROPER
22 ELECTION UNDER SUBCHAPTER S OF CHAPTER 1 OF SUBTITLE A OF THE
23 INTERNAL REVENUE CODE OF 1986, 26 USC 1361 TO 1379, IS CONSIDERED
24 AN OWNER OF FARMLAND AND RELATED BUILDINGS COVERED BY AN
25 AGRICULTURAL DISTRICT CONTRACT THAT ARE OWNED BY THE CORPORATION. A
26 SHAREHOLDER IS CONSIDERED TO PAY A PROPORTION OF THE PROPERTY TAXES
27 ON THAT PROPERTY EQUAL TO THE SHAREHOLDER'S PERCENTAGE OF STOCK

1 OWNERSHIP FOR THE TAX YEAR AS REPORTED BY THE CORPORATION TO THE
2 INTERNAL REVENUE SERVICE.

3 (C) IF AN INDIVIDUAL IN POSSESSION OF PROPERTY FOR LIFE UNDER
4 A LIFE ESTATE WITH REMAINDER TO ANOTHER PERSON OR HOLDING PROPERTY
5 UNDER A LIFE LEASE ENTERS INTO A WRITTEN AGREEMENT WITH THE PERSON
6 HOLDING THE REMAINDER INTEREST IN THAT LAND AND THE WRITTEN
7 AGREEMENT APPORTIONS THE PROPERTY TAXES IN THE SAME MANNER AS
8 REVENUE AND EXPENSES, THE LIFE LEASE OR LIFE ESTATE HOLDER AND THE
9 PERSON HOLDING THE REMAINDER INTEREST MAY CLAIM THE CREDIT UNDER
10 THIS ACT AS IT IS APPORTIONED TO THEM UNDER THE WRITTEN AGREEMENT
11 UPON FILING A COPY OF THE WRITTEN AGREEMENT WITH THE RETURN.

12 (D) IF A TRUST HOLDS FARMLAND COVERED BY AN AGRICULTURAL
13 DISTRICT CONTRACT AND AN INDIVIDUAL IS TREATED UNDER SUBPART E OF
14 SUBCHAPTER J OF CHAPTER 1 OF SUBTITLE A OF THE INTERNAL REVENUE
15 CODE OF 1986, 26 USC 671 TO 679, AS THE OWNER OF THAT PORTION OF
16 THE TRUST THAT INCLUDES THE FARMLAND AND RELATED BUILDINGS, THAT
17 INDIVIDUAL IS CONSIDERED THE OWNER OF THAT PROPERTY.

18 (E) AN INDIVIDUAL WHO IS THE SOLE BENEFICIARY OF A TRUST THAT
19 IS THE RESULT OF THE DEATH OF THAT INDIVIDUAL'S SPOUSE IS
20 CONSIDERED THE OWNER OF FARMLAND COVERED BY AN AGRICULTURAL
21 DISTRICT CONTRACT AND HELD BY THE TRUST IF THE TRUST CONFORMS TO
22 ALL OF THE FOLLOWING:

23 (i) ONE HUNDRED PERCENT OF THE TRUST INCOME IS DISTRIBUTED TO
24 THE BENEFICIARY IN THE TAX YEAR IN WHICH THE TRUST RECEIVES THE
25 INCOME.

26 (ii) THE TRUST TERMS DO NOT PROVIDE THAT ANY PORTION OF THE
27 TRUST IS TO BE PAID, SET ASIDE, OR OTHERWISE USED IN A MANNER THAT

1 WOULD QUALIFY FOR THE DEDUCTION ALLOWED BY SECTION 642(C) OF THE
2 INTERNAL REVENUE CODE OF 1986.

3 (F) A MEMBER IN A LIMITED LIABILITY COMPANY IS CONSIDERED AN
4 OWNER OF FARMLAND COVERED BY AN AGRICULTURAL DISTRICT CONTRACT THAT
5 ARE OWNED BY THE LIMITED LIABILITY COMPANY. A MEMBER IS CONSIDERED
6 TO PAY A PROPORTION OF THE PROPERTY TAXES ON THAT PROPERTY EQUAL TO
7 THE MEMBER'S SHARE OF OWNERSHIP OR DISTRIBUTIVE SHARE OF ORDINARY
8 INCOME AS REPORTED BY THE LIMITED LIABILITY COMPANY TO THE INTERNAL
9 REVENUE SERVICE.

10 (2) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31, 2005, AN OWNER
11 OF FARMLAND SUBJECT TO 1 OR MORE AGRICULTURAL DISTRICT CONTRACTS TO
12 WHOM SUBSECTION (1) DOES NOT APPLY MAY CLAIM A CREDIT UNDER THE
13 SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145, FOR THE
14 AMOUNT THAT REPRESENTS THE DIFFERENCE BETWEEN THE PROPERTY TAXES ON
15 THE LAND SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT AND \$5.00
16 PER ACRE FOR EACH ACRE SUBJECT TO THE AGRICULTURAL DISTRICT
17 CONTRACT. A PARTICIPANT IS NOT ELIGIBLE TO CLAIM A CREDIT AND
18 REFUND AGAINST THE STATE SINGLE BUSINESS TAX UNLESS THE PARTICIPANT
19 DEMONSTRATES THAT THE PARTICIPANT'S AGRICULTURAL GROSS RECEIPTS OF
20 THE FARMING OPERATION EXCEED 5 TIMES THE PROPERTY TAXES ON THE LAND
21 FOR EACH OF 3 OUT OF THE 5 TAX YEARS IMMEDIATELY PRECEDING THE YEAR
22 IN WHICH THE CREDIT IS CLAIMED. A PARTICIPANT MAY COMPARE, DURING
23 THE CONTRACT PERIOD, THE AVERAGE OF THE MOST RECENT 3 YEARS OF
24 AGRICULTURAL GROSS RECEIPTS TO PROPERTY TAXES IN THE FIRST YEAR
25 THAT THE OWNER IS SUBJECT TO AN AGRICULTURAL DISTRICT CONTRACT IN
26 CALCULATING THE GROSS RECEIPTS QUALIFICATION. ONCE AN ELECTION IS
27 MADE BY THE PARTICIPANT TO COMPUTE THE BENEFIT IN THIS MANNER, ALL

1 FUTURE CALCULATIONS SHALL BE MADE IN THE SAME MANNER.

2 (3) IF THE FARMLAND COVERED BY AN AGRICULTURAL DISTRICT
3 CONTRACT ARE OWNED BY MORE THAN 1 OWNER, EACH OWNER IS ALLOWED TO
4 CLAIM A CREDIT UNDER THIS SECTION BASED UPON THAT OWNER'S SHARE OF
5 THE PROPERTY TAX PAYABLE ON THE FARMLAND. THE DEPARTMENT OF
6 TREASURY SHALL CONSIDER THE PROPERTY TAX EQUALLY APPORTIONED AMONG
7 THE OWNERS UNLESS A WRITTEN AGREEMENT SIGNED BY ALL THE OWNERS IS
8 FILED WITH THE RETURN, WHICH AGREEMENT APPORTIONS THE PROPERTY
9 TAXES IN THE SAME MANNER AS ALL OTHER ITEMS OF REVENUE AND EXPENSE.
10 IF THE PROPERTY TAXES ARE CONSIDERED EQUALLY APPORTIONED, A HUSBAND
11 AND WIFE SHALL BE CONSIDERED 1 OWNER, AND A PERSON WITH RESPECT TO
12 WHOM A DEDUCTION UNDER SECTION 151 OF THE INTERNAL REVENUE CODE OF
13 1986 IS ALLOWABLE TO ANOTHER OWNER OF THE PROPERTY SHALL NOT BE
14 CONSIDERED AN OWNER.

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

19 (5) IF THE ALLOWABLE AMOUNT OF THE CREDIT CLAIMED EXCEEDS THE
20 STATE INCOME TAX OR THE STATE SINGLE BUSINESS TAX OTHERWISE DUE FOR
21 THE TAX YEAR OR IF THERE IS NO STATE INCOME TAX OR THE STATE SINGLE
22 BUSINESS TAX DUE FOR THE TAX YEAR, THE AMOUNT OF THE CLAIM NOT USED
23 AS AN OFFSET AGAINST THE STATE INCOME TAX OR THE STATE SINGLE
24 BUSINESS TAX, AFTER EXAMINATION AND REVIEW, SHALL BE APPROVED FOR
25 PAYMENT TO THE CLAIMANT PURSUANT TO 1941 PA 122, MCL 205.1 TO
26 205.31. THE TOTAL CREDIT ALLOWABLE UNDER THIS PART AND CHAPTER 9 OF
27 THE INCOME TAX ACT OF 1967, 1967 PA 281, MCL 206.501 TO 206.532, OR

1 THE SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145,
2 SHALL NOT EXCEED THE TOTAL PROPERTY TAX DUE AND PAYABLE BY THE
3 CLAIMANT IN THAT YEAR. THE AMOUNT THE CREDIT EXCEEDS THE PROPERTY
4 TAX DUE AND PAYABLE SHALL BE DEDUCTED FROM THE CREDIT CLAIMED UNDER
5 THIS PART.

6 (6) FOR PURPOSES OF AUDIT, REVIEW, DETERMINATION, APPEALS,
7 HEARINGS, NOTICES, ASSESSMENTS, AND ADMINISTRATION RELATING TO THE
8 CREDIT PROGRAM PROVIDED BY THIS SECTION, THE STATE INCOME TAX ACT
9 OR SINGLE BUSINESS TAX ACT, 1975 PA 228, MCL 208.1 TO 208.145,
10 APPLIES ACCORDING TO WHICH TAX THE CREDIT IS CLAIMED AGAINST. IF AN
11 INDIVIDUAL IS ALLOWED TO CLAIM A CREDIT UNDER SUBSECTION (1) BASED
12 UPON PROPERTY OWNED OR HELD BY A PARTNERSHIP, S CORPORATION, OR
13 TRUST, THE DEPARTMENT OF TREASURY MAY REQUIRE THAT THE INDIVIDUAL
14 FURNISH TO THE DEPARTMENT A COPY OF A TAX RETURN, OR PORTION OF A
15 TAX RETURN, AND SUPPORTING SCHEDULES THAT THE PARTNERSHIP, S
16 CORPORATION, OR TRUST FILES UNDER THE INTERNAL REVENUE CODE.

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

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

26 SEC. 36310. (1) LAND SUBJECT TO AN AGRICULTURAL DISTRICT
27 CONTRACT MAY BE SOLD OR TRANSFERRED WITHOUT PENALTY UNDER SECTION

1 36311, IF THE USE OF THE LAND BY THE SUCCESSOR IN TITLE COMPLIES
2 WITH THE PROVISIONS CONTAINED IN THE AGRICULTURAL DISTRICT
3 CONTRACT. THE SELLER SHALL NOTIFY THE GOVERNMENTAL AUTHORITY HAVING
4 JURISDICTION OVER THE AGRICULTURAL DISTRICT CONTRACT OF THE CHANGE
5 IN OWNERSHIP. IF LAND SUBJECT TO AN AGRICULTURAL DISTRICT CONTRACT
6 IS SOLD OR TRANSFERRED, THE SUCCESSOR IN TITLE SHALL FILE THE
7 AFFIDAVIT PROVIDED IN SECTION 27A(7)(N) OF THE GENERAL PROPERTY TAX
8 ACT, 1893 PA 206, MCL 211.27A, IN A TIMELY MANNER OR SHALL BE
9 CONSIDERED TO BE IN VIOLATION OF THE CONTRACT.

10 (2) IF THE OWNER OF LAND SUBJECT TO AN AGRICULTURAL DISTRICT
11 CONTRACT DIES OR BECOMES TOTALLY AND PERMANENTLY DISABLED OR WHEN
12 AN INDIVIDUAL ESSENTIAL TO THE OPERATION OF THE FARM DIES OR
13 BECOMES TOTALLY AND PERMANENTLY DISABLED, THE LAND MAY BE
14 RELINQUISHED FROM THE CONTRACT UNDER THIS PART AND IS SUBJECT TO A
15 LIEN PURSUANT TO SECTION 36311(11). A REQUEST FOR RELINQUISHMENT
16 UNDER THIS SECTION SHALL BE MADE WITHIN 3 YEARS FROM THE DATE OF
17 DEATH OR DISABILITY. A REQUEST FOR RELINQUISHMENT UNDER THIS
18 SUBSECTION SHALL BE MADE ONLY BY THE OWNER IN CASE OF A DISABILITY
19 OR, IN CASE OF DEATH, THE PERSON WHO BECOMES THE OWNER THROUGH
20 SURVIVORSHIP OR INHERITANCE.

21 (3) IF AN OWNER OF LAND SUBJECT TO AN AGRICULTURAL DISTRICT
22 CONTRACT BECOMES TOTALLY AND PERMANENTLY DISABLED OR DIES, LAND
23 CONTAINING STRUCTURES THAT WERE PRESENT BEFORE THE RECORDING OF THE
24 DEVELOPMENT RIGHTS AGREEMENT MAY BE RELINQUISHED FROM THE CONTRACT,
25 UPON REQUEST OF THE DISABLED CONTRACT HOLDER OR UPON REQUEST OF THE
26 PERSON WHO BECOMES AN OWNER THROUGH SURVIVORSHIP OR INHERITANCE,
27 AND UPON APPROVAL OF THE LOCAL GOVERNING BODY AND THE STATE LAND

1 USE AGENCY. NOT MORE THAN 2 ACRES MAY BE RELINQUISHED UNDER THIS
2 SUBSECTION UNLESS ADDITIONAL LAND AREA IS NEEDED TO ENCOMPASS ALL
3 OF THE BUILDINGS LOCATED ON THE PARCEL, IN WHICH CASE NOT MORE THAN
4 5 ACRES MAY BE RELINQUISHED. IF THE PARCEL PROPOSED TO BE
5 RELINQUISHED IS LESS IN AREA THAN THE MINIMUM PARCEL SIZE REQUIRED
6 BY LOCAL ZONING, THE PARCEL MAY NOT BE RELINQUISHED UNLESS A
7 VARIANCE IS OBTAINED FROM THE LOCAL ZONING BOARD OF APPEALS TO
8 ALLOW FOR THE SMALLER PARCEL SIZE. THE PORTION OF THE FARMLAND
9 RELINQUISHED FROM THE AGRICULTURAL DISTRICT CONTRACT UNDER THIS
10 SUBSECTION IS SUBJECT TO A LIEN PURSUANT TO SECTION 36311(10).

11 (4) THE LAND DESCRIBED IN AN AGRICULTURAL DISTRICT CONTRACT
12 MAY BE DIVIDED INTO SMALLER PARCELS OF LAND, EACH OF WHICH SHALL BE
13 COVERED BY A SEPARATE AGRICULTURAL DISTRICT CONTRACT AND EACH OF
14 WHICH SHALL BE ELIGIBLE FOR SUBSEQUENT RENEWAL. THE SEPARATE
15 AGRICULTURAL DISTRICT CONTRACTS SHALL CONTAIN THE SAME TERMS AND
16 CONDITIONS AS THE ORIGINAL AGRICULTURAL DISTRICT CONTRACT. THE
17 SMALLER PARCELS CREATED BY THE DIVISION MUST MEET THE MINIMUM
18 REQUIREMENTS FOR BEING ENROLLED UNDER THIS PART OR BE 40 ACRES OR
19 MORE IN SIZE. FARMLAND MAY BE DIVIDED ONCE UNDER THIS SUBSECTION
20 WITHOUT FEE BY THE STATE LAND USE AGENCY. THE STATE LAND USE AGENCY
21 MAY CHARGE A REASONABLE FEE NOT GREATER THAN THE STATE LAND USE
22 AGENCY'S ACTUAL COST OF DIVIDING THE AGREEMENT FOR ALL SUBSEQUENT
23 DIVISIONS OF THAT FARMLAND. WHEN A DIVISION OF AN AGRICULTURAL
24 DISTRICT CONTRACT IS MADE UNDER THIS SUBSECTION AND IS EXECUTED AND
25 RECORDED, THE STATE LAND USE AGENCY SHALL NOTIFY THE APPLICANT, THE
26 LOCAL GOVERNING BODY AND ITS ASSESSING OFFICE, AND THE DEPARTMENT
27 OF TREASURY.

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

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

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

12 (6) THE STATE LAND USE AGENCY MAY CHARGE AND COLLECT A FEE OF
13 \$25.00 TO PROCESS EACH CHANGE OF OWNERSHIP UNDER SUBSECTION (1) OR
14 EACH DIVISION UNDER SUBSECTION (4). THE FEE COLLECTED UNDER THIS
15 SUBSECTION SHALL BE USED BY THE STATE LAND USE AGENCY TO ADMINISTER
16 THIS ACT.

17 SEC. 36311. (1) AN AGRICULTURAL DISTRICT CONTRACT EXPIRES AT
18 THE EXPIRATION OF THE TERM OF THE CONTRACT UNLESS RENEWED WITH THE
19 CONSENT OF THE OWNER OF THE LAND. IF THE OWNER OF THE LAND HAS
20 COMPLIED WITH THE REQUIREMENTS OF THIS PART REGARDING AGRICULTURAL
21 DISTRICT CONTRACTS, THE OWNER IS ENTITLED TO AUTOMATIC RENEWAL OF
22 THE FARMLAND COVERED BY THE CONTRACT UPON WRITTEN REQUEST OF THE
23 OWNER. AN AGRICULTURAL DISTRICT CONTRACT MAY BE RENEWED FOR A TERM
24 OF NOT LESS THAN 10 YEARS. IF AN AGRICULTURAL DISTRICT CONTRACT IS
25 RENEWED, THE STATE LAND USE AGENCY SHALL SEND A COPY OF THE RENEWAL
26 CONTRACT TO THE LOCAL GOVERNING BODY IN WHICH THE FARMLAND IS
27 LOCATED.

1 (2) AN AGRICULTURAL DISTRICT CONTRACT OR A PORTION OF THE
2 FARMLAND COVERED BY AN AGRICULTURAL DISTRICT CONTRACT MAY BE
3 RELINQUISHED AS PROVIDED IN THIS SECTION AND SECTION 36312.
4 FARMLAND MAY BE RELINQUISHED BY THIS STATE BEFORE A TERMINATION
5 DATE CONTAINED IN THE CONTRACT UNDER EITHER OF THE FOLLOWING
6 CIRCUMSTANCES:

7 (A) IF APPROVED BY THE LOCAL GOVERNING BODY AND THE STATE LAND
8 USE AGENCY, LAND CONTAINING STRUCTURES THAT WERE PRESENT BEFORE THE
9 RECORDING OF THE AGRICULTURAL DISTRICT CONTRACT MAY BE RELINQUISHED
10 FROM THE CONTRACT. NOT MORE THAN 2 ACRES MAY BE RELINQUISHED UNDER
11 THIS SUBDIVISION UNLESS ADDITIONAL LAND AREA IS NEEDED TO ENCOMPASS
12 ALL OF THE BUILDINGS AND STRUCTURES LOCATED ON THE PARCEL, IN WHICH
13 CASE NOT MORE THAN 5 ACRES MAY BE RELINQUISHED. IF THE PARCEL
14 PROPOSED TO BE RELINQUISHED IS LESS IN AREA THAN THE MINIMUM PARCEL
15 SIZE REQUIRED BY LOCAL ZONING, THE PARCEL MAY NOT BE RELINQUISHED
16 UNLESS A VARIANCE IS OBTAINED FROM THE LOCAL ZONING BOARD OF
17 APPEALS TO ALLOW FOR THE SMALLER PARCEL SIZE.

18 (B) IF APPROVED BY THE LOCAL GOVERNING BODY AND THE STATE LAND
19 USE AGENCY, LAND MAY BE RELINQUISHED FROM THE CONTRACT FOR THE
20 CONSTRUCTION OF A RESIDENCE BY AN INDIVIDUAL ESSENTIAL TO THE
21 OPERATION OF THE FARM AS DEFINED IN SECTION 36310. NOT MORE THAN 2
22 ACRES MAY BE RELINQUISHED UNDER THIS SUBDIVISION. IF THE PARCEL
23 PROPOSED TO BE RELINQUISHED IS LESS IN AREA THAN THE MINIMUM PARCEL
24 SIZE REQUIRED BY LOCAL ZONING, THE PARCEL MAY NOT BE RELINQUISHED
25 UNLESS A VARIANCE IS OBTAINED FROM THE LOCAL ZONING BOARD OF
26 APPEALS TO ALLOW FOR THE SMALLER PARCEL SIZE.

27 (3) IF THE REQUEST FOR RELINQUISHMENT OF THE AGRICULTURAL

1 DISTRICT CONTRACT IS APPROVED, THE STATE LAND USE AGENCY SHALL
2 PREPARE AN INSTRUMENT, SUBJECT TO SUBSECTIONS (4), (5), (6), AND
3 (7), AND RECORD IT WITH THE REGISTER OF DEEDS OF THE COUNTY IN
4 WHICH THE LAND IS SITUATED.

5 (4) IF AN AGRICULTURAL DISTRICT CONTRACT OR A PORTION OF AN
6 AGRICULTURAL DISTRICT CONTRACT IS TO BE RELINQUISHED PURSUANT TO
7 SUBSECTION (2) OR SECTION 36312, THE STATE LAND USE AGENCY SHALL
8 RECORD A LIEN AGAINST THE PROPERTY FORMERLY SUBJECT TO THE
9 AGRICULTURAL DISTRICT CONTRACT FOR THE TOTAL AMOUNT OF THE
10 ALLOCATED TAX CREDIT OF THE LAST 10 YEARS, INCLUDING THE YEAR OF
11 TERMINATION, RECEIVED BY AN OWNER FOR THAT PROPERTY UNDER THE
12 AGREEMENT UNDER SECTION 36309, ATTRIBUTABLE TO THE PROPERTY
13 FORMERLY SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT, PLUS
14 INTEREST AT THE RATE OF 6% PER ANNUM SIMPLE INTEREST FROM THE TIME
15 THE CREDIT WAS RECEIVED UNTIL THE LIEN IS PLACED ON THE PROPERTY.

16 (5) IF THE PROPERTY BEING RELINQUISHED FROM THE AGRICULTURAL
17 DISTRICT CONTRACT IS LESS THAN ALL OF THE PROPERTY SUBJECT TO THAT
18 AGRICULTURAL DISTRICT CONTRACT, THE ALLOCATED TAX CREDIT FOR THE
19 AGRICULTURAL DISTRICT CONTRACT SHALL BE MULTIPLIED BY THE
20 PROPERTY'S SHARE OF THE TAXABLE VALUE OF THE CONTRACT. AS USED IN
21 THIS SUBSECTION:

22 (A) "THE ALLOCATED TAX CREDIT" MEANS THE AMOUNT OBTAINED BY
23 MULTIPLYING THE OWNER'S TOTAL FARMLAND PRESERVATION CREDIT CLAIMED
24 IN THAT YEAR ON ALL CONTRACTS BY THE QUOTIENT OF THE AD VALOREM
25 PROPERTY TAX LEVIED IN THAT YEAR ON PROPERTY SUBJECT TO THE
26 AGRICULTURAL DISTRICT CONTRACT THAT INCLUDED THE PROPERTY BEING
27 RELINQUISHED FROM THE CONTRACT DIVIDED BY THE TOTAL PROPERTY TAXES

1 LEVIED ON PROPERTY SUBJECT TO ANY CONTRACT AND USED IN DETERMINING
2 THE FARMLAND PRESERVATION CREDIT IN THAT YEAR.

3 (B) "THE PROPERTY'S SHARE OF THE TAXABLE VALUE OF THE
4 AGREEMENT" MEANS THE QUOTIENT OF THE TAXABLE VALUE OF THE PROPERTY
5 BEING RELINQUISHED FROM THE CONTRACT DIVIDED BY THE TOTAL TAXABLE
6 VALUE OF PROPERTY SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT
7 THAT INCLUDED THE PROPERTY BEING RELINQUISHED FROM THE AGRICULTURAL
8 DISTRICT CONTRACT.

9 (6) THIRTY DAYS BEFORE THE RECORDING OF A LIEN UNDER THIS
10 SECTION, THE STATE LAND USE AGENCY SHALL NOTIFY THE OWNER OF THE
11 FARMLAND SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT OF THE
12 AMOUNT OF THE LIEN, INCLUDING INTEREST, IF ANY. IF THE LIEN AMOUNT
13 IS PAID BEFORE 30 DAYS AFTER THE OWNER IS NOTIFIED, THE LIEN SHALL
14 NOT BE RECORDED. THE LIEN MAY BE PAID AND DISCHARGED AT ANY TIME
15 AND IS PAYABLE TO THE STATE BY THE OWNER OF RECORD AT THE TIME THE
16 LAND OR ANY PORTION OF IT IS SOLD BY THE OWNER OF RECORD, OR IF THE
17 LAND IS CONVERTED TO A USE PROHIBITED BY THE FORMER AGRICULTURAL
18 DISTRICT CONTRACT. THE LIEN SHALL BE DISCHARGED UPON RENEWAL OR
19 REENTRY IN AN AGRICULTURAL DISTRICT CONTRACT, EXCEPT THAT A
20 SUBSEQUENT LIEN SHALL NOT BE LESS THAN THE LIEN DISCHARGED.

21 (7) UPON THE TERMINATION OF ALL OR A PORTION OF THE
22 AGRICULTURAL DISTRICT CONTRACT UNDER SUBSECTION (3) OR THE
23 EXPIRATION OF AN AGRICULTURAL DISTRICT CONTRACT UNDER SUBSECTION
24 (1), THE STATE LAND USE AGENCY SHALL PREPARE AND RECORD A LIEN, IF
25 ANY, AGAINST THE PROPERTY FORMERLY SUBJECT TO THE AGRICULTURAL
26 DISTRICT CONTRACT FOR THE TOTAL AMOUNT OF THE ALLOCATED TAX CREDIT
27 OF THE LAST 10 YEARS, INCLUDING THE YEAR OF TERMINATION, RECEIVED

1 BY THE OWNER UNDER SECTION 36309, ATTRIBUTABLE TO THE PROPERTY
2 FORMERLY SUBJECT TO THE AGRICULTURAL DISTRICT CONTRACT, PLUS
3 INTEREST AT THE RATE OF 6% PER ANNUM SIMPLE INTEREST FROM THE TIME
4 THE CREDIT WAS RECEIVED UNTIL THE LIEN IS PLACED ON THE PROPERTY.

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

8 (9) THE UNAPPROPRIATED PROCEEDS FROM LIEN PAYMENTS AND EARLY
9 WITHDRAWAL ASSESSMENTS MADE UNDER THIS PART SHALL BE FORWARDED TO
10 THE STATE TREASURER FOR DEPOSIT IN THE AGRICULTURAL PRESERVATION
11 FUND CREATED IN SECTION 36202. NOT LESS THAN HALF OF THE AMOUNT
12 DESCRIBED IN THIS SUBSECTION SHALL BE USED FOR THE PURPOSES SET
13 FORTH IN SECTION 36202(4)(B) OR (C) IN THE QUALIFIED LOCAL UNIT
14 WHERE THE PROPERTY THAT WAS SUBJECT TO THE LIEN IS LOCATED.

15 (10) UPON THE RELINQUISHMENT OF ALL OF THE FARMLAND UNDER
16 SECTION 36310(2) OR A PORTION OF THE FARMLAND UNDER SECTION
17 36310(3), THE STATE LAND USE AGENCY SHALL PREPARE AND RECORD A LIEN
18 AGAINST THE PROPERTY FORMERLY SUBJECT TO AN AGRICULTURAL DISTRICT
19 CONTRACT IN AN AMOUNT CALCULATED AS FOLLOWS:

20 (A) ESTABLISHING A TERM OF YEARS BY MULTIPLYING 10 BY A
21 FRACTION, THE NUMERATOR OF WHICH IS THE NUMBER OF YEARS THE
22 FARMLAND WAS UNDER THE AGRICULTURAL DISTRICT CONTRACT, INCLUDING
23 ANY EXTENSIONS, AND THE DENOMINATOR OF WHICH IS THE NUMBER
24 REPRESENTING THE TERM OF YEARS OF THAT CONTRACT, INCLUDING ANY
25 EXTENSIONS.

26 (B) THE LIEN AMOUNT EQUALS THE TOTAL AMOUNT OF THE ALLOCATED
27 TAX CREDIT CLAIMED ATTRIBUTABLE TO THAT AGRICULTURAL DISTRICT

1 CONTRACT IN THE IMMEDIATELY PRECEDING TERM OF YEARS AS DETERMINED
2 IN SUBDIVISION (A).

3 (11) WHEN A LIEN IS PAID UNDER THIS SECTION, THE STATE LAND
4 USE AGENCY SHALL PREPARE AND RECORD A DISCHARGE OF LIEN WITH THE
5 REGISTER OF DEEDS IN THE COUNTY IN WHICH THE LAND IS LOCATED. THE
6 DISCHARGE OF LIEN SHALL SPECIFICALLY STATE THAT THE LIEN HAS BEEN
7 PAID IN FULL, THAT THE LIEN IS DISCHARGED, THAT THE AGRICULTURAL
8 DISTRICT CONTRACT IS TERMINATED, AND THAT THE STATE HAS NO FURTHER
9 INTEREST IN THE LAND UNDER THAT CONTRACT.

10 (12) AN OWNER OF FARMLAND SUBJECT TO AN AGRICULTURAL DISTRICT
11 CONTRACT, UPON WRITTEN REQUEST TO THE STATE LAND USE AGENCY BETWEEN
12 JANUARY 1 AND APRIL 1, IN THE TENTH AND FIFTEENTH YEARS OF THE
13 INITIAL TERM OF THE CONTRACT, MAY ELECT TO TERMINATE THE CONTRACT
14 UPON PAYMENT OF THE EARLY WITHDRAWAL ASSESSMENT PROVIDED IN THIS
15 SECTION TO THE STATE LAND USE AGENCY. THE EARLY WITHDRAWAL
16 ASSESSMENT IS AS FOLLOWS:

17 (A) IN THE TENTH YEAR, AN AMOUNT EQUAL TO 7% OF THE TRUE CASH
18 VALUE OF THE FARMLAND SUBJECT TO THE CONTRACT OR THE TAX CREDITS
19 RECEIVED DURING THE LAST 10 YEARS THAT ARE ATTRIBUTABLE TO THE
20 AGRICULTURAL DISTRICT CONTRACT, WHICHEVER IS GREATER.

21 (B) IN THE FIFTEENTH YEAR, AN AMOUNT EQUAL TO 5% OF THE TRUE
22 CASH VALUE OF THE FARMLAND SUBJECT TO THE CONTRACT OR THE TAX
23 CREDITS RECEIVED DURING THE LAST 10 YEARS THAT ARE ATTRIBUTABLE TO
24 THE AGRICULTURAL DISTRICT CONTRACT, WHICHEVER IS GREATER.

25 (13) IF A REQUEST IS MADE UNDER SUBSECTION (12), THE STATE
26 LAND USE AGENCY SHALL CAUSE TO BE PREPARED A CERTIFIED APPRAISAL TO
27 DETERMINE THE TRUE CASH VALUE OF THE PROPERTY. THE COST FOR THE

1 CERTIFIED APPRAISAL SHALL BE PAID BY THE LANDOWNER MAKING THE
2 REQUEST FOR TERMINATION FROM THE PROGRAM.

3 (14) IF, UPON EXPIRATION OF THE TERM OF AN AGRICULTURAL
4 DISTRICT CONTRACT, THE FARMLAND BECOMES SUBJECT TO AN AGRICULTURAL
5 CONSERVATION EASEMENT OR PURCHASE OF DEVELOPMENT RIGHTS UNDER
6 SECTION 36111B OR 36206 OR IF AN AGRICULTURAL DISTRICT CONTRACT IS
7 TERMINATED UNDER SUBSECTION (12), THE FARMLAND IS NOT SUBJECT TO A
8 LIEN UNDER THIS SECTION.

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

13 (A) THE LOCAL GOVERNING BODY DETERMINES 1 OR MORE OF THE
14 FOLLOWING:

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

18 (ii) THAT SURROUNDING CONDITIONS IMPOSE PHYSICAL OBSTACLES TO
19 THE AGRICULTURAL OPERATION OR PROHIBIT ESSENTIAL AGRICULTURAL
20 PRACTICES.

21 (iii) THAT SIGNIFICANT NATURAL PHYSICAL CHANGES IN THE FARMLAND
22 HAVE OCCURRED THAT ARE GENERALLY IRREVERSIBLE AND PERMANENTLY LIMIT
23 THE PRODUCTIVITY OF THE FARMLAND.

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

26 (B) THE LOCAL GOVERNING BODY DETERMINES THAT THE
27 RELINQUISHMENT IS IN THE PUBLIC INTEREST AND THAT THE FARMLAND TO

1 BE RELINQUISHED MEETS 1 OR MORE OF THE FOLLOWING CONDITIONS:

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

4 (ii) THE FARMLAND HAD BEEN ZONED FOR THE IMMEDIATELY PRECEDING
5 3 YEARS FOR A COMMERCIAL OR INDUSTRIAL USE.

6 (iii) THE FARMLAND IS ZONED FOR COMMERCIAL OR INDUSTRIAL USE AND
7 THE RELINQUISHMENT OF THE FARMLAND WILL BE MITIGATED BY 1 OF THE
8 FOLLOWING MEANS:

9 (A) FOR EVERY 1 ACRE OF FARMLAND TO BE RELINQUISHED, AN
10 AGRICULTURAL CONSERVATION EASEMENT WILL BE ACQUIRED OVER 2 ACRES OF
11 FARMLAND OF COMPARABLE OR BETTER QUALITY LOCATED WITHIN THE SAME
12 LOCAL UNIT OF GOVERNMENT WHERE THE FARMLAND TO BE RELINQUISHED IS
13 LOCATED. THE AGRICULTURAL CONSERVATION EASEMENT SHALL BE HELD BY
14 THE LOCAL UNIT OF GOVERNMENT WHERE THE FARMLAND TO BE RELINQUISHED
15 IS LOCATED OR, IF THE LOCAL GOVERNING BODY DECLINES TO HOLD THE
16 AGRICULTURAL CONSERVATION EASEMENT, BY THE STATE LAND USE AGENCY.

17 (B) IF AN AGRICULTURAL CONSERVATION EASEMENT CANNOT BE
18 ACQUIRED AS PROVIDED UNDER SUB-SUBPARAGRAPH (A), THERE WILL BE
19 DEPOSITED INTO THE STATE AGRICULTURAL PRESERVATION FUND CREATED IN
20 SECTION 36202 AN AMOUNT EQUAL TO TWICE THE VALUE OF THE DEVELOPMENT
21 RIGHTS TO THE FARMLAND BEING RELINQUISHED, AS DETERMINED BY A
22 CERTIFIED APPRAISAL.

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

27 (2) IN DETERMINING PUBLIC INTEREST UNDER SUBSECTION (1)(B),

1 THE GOVERNING BODY SHALL CONSIDER ALL OF THE FOLLOWING:

2 (A) THE LONG-TERM EFFECT OF THE RELINQUISHMENT UPON THE
3 PRESERVATION AND ENHANCEMENT OF AGRICULTURE IN THE SURROUNDING
4 AREA, INCLUDING ANY NONFARM ENCROACHMENT UPON OTHER AGRICULTURAL
5 OPERATIONS IN THE SURROUNDING AREA.

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

8 (C) ANY INFRASTRUCTURE CHANGES AND COSTS TO THE LOCAL UNIT OF
9 GOVERNMENT THAT WILL RESULT FROM THE DEVELOPMENT OF THE FARMLAND TO
10 BE RELINQUISHED.

11 (3) IF A LANDOWNER'S RELINQUISHMENT APPLICATION UNDER THIS
12 SECTION IS DENIED BY THE LOCAL GOVERNING BODY, THE LANDOWNER MAY
13 APPEAL THAT DENIAL TO THE STATE LAND USE AGENCY. IN DETERMINING
14 WHETHER TO GRANT THE APPEAL AND APPROVE THE RELINQUISHMENT, THE
15 STATE LAND USE AGENCY SHALL FOLLOW THE CRITERIA ESTABLISHED IN
16 SUBSECTION (1)(A) OR FOLLOW THE CRITERIA IN SUBSECTION (1)(B) AND
17 CONSIDER THE FACTORS DESCRIBED IN SUBSECTION (2).

18 (4) THE STATE LAND USE AGENCY SHALL REVIEW AN APPLICATION
19 APPROVED BY THE LOCAL GOVERNING BODY TO VERIFY THAT THE CRITERIA
20 PROVIDED IN SUBSECTION (1)(A) WERE MET OR THE CRITERIA IN
21 SUBSECTION (1)(B) WERE MET AND THE FACTORS IN SUBSECTION (2) WERE
22 CONSIDERED. IF THE LOCAL GOVERNING BODY DID NOT RENDER A
23 DETERMINATION IN ACCORDANCE WITH THIS SUBSECTION, THE STATE LAND
24 USE AGENCY SHALL NOT RELINQUISH THE FARMLAND FROM THE DEVELOPMENT
25 RIGHTS AGREEMENT.

26 (5) A LOCAL GOVERNING BODY MAY ELECT TO WAIVE ITS RIGHT TO
27 MAKE A RELINQUISHMENT DETERMINATION UNDER SUBSECTION (1)(A) OR (B)

1 BY PROVIDING WRITTEN NOTICE OF THAT ELECTION TO THE STATE LAND USE
2 AGENCY. THE WRITTEN NOTICE SHALL GRANT THE STATE LAND USE AGENCY
3 SOLE AUTHORITY TO GRANT OR DENY THE APPLICATION AS PROVIDED IN THIS
4 SECTION.

5 (6) A DECISION BY THE STATE LAND USE AGENCY TO GRANT OR DENY
6 AN APPLICATION FOR RELINQUISHMENT UNDER THIS SECTION THAT ADVERSELY
7 AFFECTS A LAND OWNER OR A LOCAL GOVERNING BODY IS SUBJECT TO A
8 CONTESTED CASE HEARING AS PROVIDED UNDER THIS ACT AND THE
9 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
10 24.328.

11 (7) AS USED IN THIS SECTION, "ECONOMIC VIABILITY" MEANS THAT
12 THE CASH FLOW RETURNING TO THE FARMING OPERATION IS POSITIVE. THE
13 LOCAL GOVERNING BODY OR STATE LAND USE AGENCY SHALL EVALUATE AN
14 APPLICATION FOR RELINQUISHMENT, AND DETERMINE THE ECONOMIC
15 VIABILITY OF THE AFFECTED FARMING OPERATION, BY DOING ALL OF THE
16 FOLLOWING:

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

22 (B) ADDING AVERAGE YEARLY PROPERTY TAX CREDITS AFFORDED BY THE
23 AGRICULTURAL DISTRICT CONTRACT OVER THE IMMEDIATELY PRECEDING 5-
24 YEAR PERIOD.

25 (C) SUBTRACTING ESTIMATED EXPENSES DIRECTLY ATTRIBUTED TO THE
26 PRODUCTION OF THE CROP, LIVESTOCK, OR PRODUCT, INCLUDING, BUT NOT
27 LIMITED TO, SEED, FERTILIZER, INSECTICIDE, BUILDING AND MACHINERY

1 REPAIR, DRYING, TRUCKING, AND PROPERTY TAXES.

2 (D) SUBTRACTING THE ESTIMATED COST OF THE OPERATOR'S LABOR AND
3 MANAGEMENT TIME AT RATES ESTABLISHED BY THE UNITED STATES
4 DEPARTMENT OF AGRICULTURE FOR "ALL LABOR", GREAT LAKES AREA, AS
5 PUBLISHED IN THE UNITED STATES DEPARTMENT OF AGRICULTURE LABOR
6 REPORTS.

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

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