

# HOUSE BILL No. 5950

April 18, 2006, Introduced by Rep. Byrnes and referred to the Committee on Tax Policy.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       PART 363 FARMLAND PRESERVATION - AGRICULTURAL SECURITY DISTRICTS  
2       SEC. 36301. AS USED IN THIS PART:

3       (A) "AGRICULTURAL SECURITY DISTRICT" MEANS AN AREA WITHIN A  
4       LOCAL UNIT DESIGNATED AS AN AGRICULTURAL SECURITY DISTRICT BY A  
5       RESOLUTION ADOPTED BY THE LOCAL GOVERNING BODY UNDER SECTION 36302.

6       (B) "AGRICULTURAL SECURITY DISTRICT CONTRACT" OR "CONTRACT"  
7       MEANS A CONTRACT UNDER SECTION 36304 BETWEEN THE LOCAL GOVERNING  
8       BODY AND THE OWNER OF ELIGIBLE FARMLAND.

9       (C) "AGRICULTURAL USE" MEANS THAT TERM AS DEFINED IN SECTION

1 36101.

2 (D) "CONSERVATION EASEMENT" MEANS EITHER OF THE FOLLOWING:

3 (i) A PERPETUAL AGRICULTURAL CONSERVATION EASEMENT OR  
4 DEVELOPMENT RIGHTS EASEMENT UNDER PART 361, AS THOSE TERMS ARE  
5 DEFINED IN SECTION 36101.

6 (ii) A PERPETUAL AGRICULTURAL CONSERVATION EASEMENT UNDER PART  
7 362, AS THAT TERM IS DEFINED IN SECTION 36201.

8 (E) "DEVELOPMENT" MEANS THAT TERM AS DEFINED IN SECTION 36101.

9 (F) "ELIGIBLE FARMLAND" MEANS REAL PROPERTY THAT MEETS ALL OF  
10 THE FOLLOWING CONDITIONS:

11 (i) IS SUBJECT TO A CONSERVATION EASEMENT.

12 (ii) IS QUALIFIED AGRICULTURAL PROPERTY.

13 (iii) IS ACTIVELY INVOLVED IN AGRICULTURAL USE.

14 (iv) IS LOCATED IN AN AGRICULTURAL SECURITY DISTRICT.

15 (G) "GENERAL PROPERTY TAX ACT" MEANS THE GENERAL PROPERTY TAX  
16 ACT, 1893 PA 206, MCL 211.1 TO 211.157.

17 (H) "LOCAL GOVERNING BODY" MEANS THE LEGISLATIVE BODY OF THE  
18 LOCAL UNIT.

19 (I) "LOCAL UNIT" MEANS 1 OF THE FOLLOWING:

20 (i) WITH RESPECT TO ELIGIBLE FARMLAND THAT IS LOCATED IN A CITY  
21 OR VILLAGE, THE CITY OR VILLAGE.

22 (ii) WITH RESPECT TO ELIGIBLE FARMLAND THAT IS NOT LOCATED IN A  
23 CITY OR VILLAGE, THE TOWNSHIP WHERE THE ELIGIBLE FARMLAND IS  
24 LOCATED.

25 (J) "OWNER" MEANS A PERSON HAVING A FREEHOLD ESTATE IN REAL  
26 PROPERTY COUPLED WITH POSSESSION AND ENJOYMENT. IF REAL PROPERTY IS  
27 SUBJECT TO A LAND CONTRACT, OWNER MEANS THE VENDEE IN AGREEMENT

1 WITH THE VENDOR.

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

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

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

8 SEC. 36302. (1) A LOCAL UNIT MAY, BY RESOLUTION ADOPTED BY THE  
9 LOCAL GOVERNING BODY, CREATE 1 OR MORE AGRICULTURAL SECURITY  
10 DISTRICTS WITHIN THE LOCAL UNIT. BEFORE ACTING ON THE RESOLUTION,  
11 THE CLERK OF THE LOCAL UNIT SHALL NOTIFY IN WRITING THE ASSESSOR  
12 FOR THE LOCAL UNIT IN WHICH THE PROPOSED AGRICULTURAL SECURITY  
13 DISTRICT IS LOCATED AND THE LEGISLATIVE BODY OF EACH TAXING UNIT  
14 THAT LEVIES AD VALOREM PROPERTY TAXES IN THE PROPOSED AGRICULTURAL  
15 SECURITY DISTRICT. THE LOCAL GOVERNING BODY SHALL AFFORD THE  
16 ASSESSOR AND A REPRESENTATIVE OF THE AFFECTED TAXING UNITS AN  
17 OPPORTUNITY FOR A HEARING.

18 (2) A COPY OF THE RESOLUTION SHALL BE FILED WITH THE STATE TAX  
19 COMMISSION. A RESOLUTION IS NOT EFFECTIVE UNLESS APPROVED BY THE  
20 STATE TAX COMMISSION AS PROVIDED IN SUBSECTION (3).

21 (3) NOT MORE THAN 60 DAYS AFTER RECEIPT OF A COPY OF THE  
22 RESOLUTION ADOPTED UNDER SUBSECTION (1), THE STATE TAX COMMISSION  
23 SHALL APPROVE OR DISAPPROVE THE RESOLUTION. THE STATE TREASURER,  
24 WITH THE WRITTEN CONCURRENCE OF THE DIRECTOR OF THE DEPARTMENT OF  
25 AGRICULTURE, SHALL ADVISE THE STATE TAX COMMISSION AS TO WHETHER  
26 CREATION OF THE AGRICULTURAL SECURITY DISTRICT WILL PREVENT THE  
27 DEVELOPMENT OF QUALIFIED AGRICULTURAL PROPERTY IN THIS STATE.

1           SEC. 36303. (1) ELIGIBLE FARMLAND FOR WHICH THE OWNER AND THE  
2   LOCAL UNIT ENTER INTO AN AGRICULTURAL SECURITY DISTRICT CONTRACT  
3   UNDER SECTION 36304 IS EXEMPT FROM THE COLLECTION OF TAXES UNDER  
4   THE GENERAL PROPERTY TAX ACT.

5           (2) THE EXEMPTION UNDER THIS SECTION IS EFFECTIVE ON THE  
6   DECEMBER 31 IMMEDIATELY SUCCEEDING THE EXECUTION OF THE  
7   AGRICULTURAL SECURITY DISTRICT CONTRACT. A COPY OF THE CONTRACT  
8   SHALL BE FILED WITH THE STATE TAX COMMISSION.

9           SEC. 36304. (1) AN OWNER OF ELIGIBLE FARMLAND MAY APPLY FOR AN  
10   AGRICULTURAL SECURITY DISTRICT CONTRACT BY FILING A SIGNED  
11   APPLICATION WITH THE LOCAL GOVERNING BODY. THE OWNER SHALL APPLY ON  
12   A FORM PRESCRIBED BY THE STATE TAX COMMISSION.

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

14          (A) THE TERMS, RESTRICTIONS, AND CONDITIONS GOVERNING THE  
15   AGRICULTURAL SECURITY DISTRICT AS SET FORTH IN THIS PART.

16          (B) INFORMATION REASONABLY NECESSARY TO IDENTIFY THE ELIGIBLE  
17   FARMLAND TO BE INCLUDED IN THE AGRICULTURAL SECURITY DISTRICT  
18   CONTRACT, INCLUDING BOTH OF THE FOLLOWING:

19          (i) A LAND SURVEY OR A LEGAL DESCRIPTION OF THE ELIGIBLE  
20   FARMLAND.

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

23          (C) A DESCRIPTION OF STRUCTURES TO BE COVERED BY THE  
24   AGRICULTURAL SECURITY DISTRICT CONTRACT AND INFORMATION REASONABLY  
25   NECESSARY TO DETERMINE THAT THOSE STRUCTURES ARE DEVOTED TO AN  
26   AGRICULTURAL USE.

27          (3) THE LOCAL UNIT MAY CHARGE AN APPLICANT A REASONABLE FEE

1 NOT EXCEEDING THE COST OF PROCESSING AN APPLICATION. IF THE LOCAL  
2 UNIT CHARGES SUCH A FEE, THE APPLICATION IS NOT COMPLETE UNLESS IT  
3 IS ACCOMPANIED BY THE FEE.

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

6 (5) WITHIN 42 DAYS AFTER RECEIVING THE APPLICATION, THE LOCAL  
7 GOVERNING BODY SHALL HOLD A HEARING ON THE APPLICATION PURSUANT TO  
8 THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275, AND DO 1  
9 OF THE FOLLOWING:

10 (A) APPROVE THE APPLICATION IF ALL THE LAND PROPOSED FOR  
11 INCLUSION IN THE AGRICULTURAL SECURITY DISTRICT IS ELIGIBLE  
12 FARMLAND AND ALL OF THE STRUCTURES PROPOSED FOR INCLUSION ARE  
13 DEVOTED TO AN AGRICULTURAL USE. IF ACTION IS NOT TAKEN BY THE LOCAL  
14 GOVERNING BODY BY THE DATE REQUIRED BY THIS SUBSECTION, THE LOCAL  
15 GOVERNING BODY SHALL BE CONSIDERED TO HAVE APPROVED THE APPLICATION  
16 ON THAT DATE. THE CLERK OF THE LOCAL GOVERNING BODY SHALL PROMPTLY  
17 RECORD THE LOCAL GOVERNING BODY'S APPROVAL AND THE DATE OF THE  
18 APPROVAL ON THE APPLICATION, SIGN THE APPLICATION, AND COMPLY WITH  
19 SECTION 36305. WHEN THE APPLICATION IS SIGNED BY THE CLERK, THE  
20 APPLICATION CONSTITUTES THE LEGALLY BINDING AGRICULTURAL SECURITY  
21 DISTRICT CONTRACT.

22 (B) REJECT THE APPLICATION IF ANY OF THE LAND PROPOSED FOR  
23 INCLUSION IN THE AGRICULTURAL SECURITY DISTRICT IS NOT ELIGIBLE  
24 FARMLAND OR ANY OF THE STRUCTURES PROPOSED FOR INCLUSION ARE NOT  
25 DEVOTED TO AN AGRICULTURAL USE. THE CLERK OF THE LOCAL GOVERNING  
26 BODY SHALL PROMPTLY RECORD THE LOCAL GOVERNING BODY'S REJECTION,  
27 THE DATE OF THE REJECTION, AND THE REASONS FOR THE REJECTION ON THE

1 APPLICATION, SIGN THE APPLICATION, AND RETURN THE APPLICATION TO  
2 THE OWNER.

3 SEC. 36305. UPON APPROVAL OF AN APPLICATION UNDER SECTION  
4 36304, THE CLERK OF THE LOCAL GOVERNING BODY SHALL RECORD THE  
5 AGRICULTURAL SECURITY DISTRICT CONTRACT WITH THE REGISTER OF DEEDS  
6 OF THE COUNTY IN WHICH THE ELIGIBLE FARMLAND IS LOCATED AND SHALL  
7 NOTIFY THE APPLICANT, THE LOCAL UNIT'S ASSESSOR, THE STATE TAX  
8 COMMISSION, AND THE DEPARTMENT OF TREASURY.

9 SEC. 36306. AN AGRICULTURAL SECURITY DISTRICT CONTRACT IS A  
10 COVENANT THAT RUNS WITH THE ELIGIBLE FARMLAND. AN OWNER OF ELIGIBLE  
11 FARMLAND IN AN AGRICULTURAL SECURITY DISTRICT MAY VOLUNTARILY  
12 CONVEY ANY INTEREST IN THE LAND WITHOUT PENALTY, BUT THE USE OF THE  
13 ELIGIBLE FARMLAND BY THE SUCCESSOR IN TITLE REMAINS SUBJECT TO THE  
14 AGRICULTURAL SECURITY DISTRICT CONTRACT. THE SELLER SHALL NOTIFY  
15 THE LOCAL UNIT'S ASSESSING OFFICE, THE STATE TAX COMMISSION, AND  
16 THE LOCAL GOVERNING BODY OF THE CHANGE IN OWNERSHIP.

17 SEC. 36307. (1) IF AN AGRICULTURAL SECURITY DISTRICT CONTRACT  
18 IS APPROVED UNDER SECTION 36304, THE OWNER SHALL ANNUALLY SUBMIT AN  
19 AFFIDAVIT TO THE ASSESSOR FOR THE LOCAL UNIT ATTESTING THAT THE  
20 PROPERTY SUBJECT TO THE CONTRACT MEETS ALL REQUIREMENTS OF ELIGIBLE  
21 FARMLAND. THE AFFIDAVIT SHALL BE IN A FORM PRESCRIBED BY THE STATE  
22 TAX COMMISSION.

23 (2) IF PROPERTY SUBJECT TO AN AGRICULTURAL SECURITY DISTRICT  
24 CONTRACT NO LONGER MEETS THE REQUIREMENTS OF ELIGIBLE FARMLAND, THE  
25 OWNER SHALL IMMEDIATELY NOTIFY THE ASSESSOR FOR THE LOCAL UNIT OF  
26 THE PROPERTY'S INELIGIBILITY FOR THE EXEMPTION UNDER THIS PART.

27 SEC. 36308. (1) IF ELIGIBLE FARMLAND OR STRUCTURES COVERED BY

1 AN AGRICULTURAL SECURITY DISTRICT CONTRACT ARE DEVELOPED FOR OR  
2 CONVERTED TO A USE THAT IS A PROHIBITED USE, BOTH OF THE FOLLOWING  
3 APPLY:

4 (A) THE AGRICULTURAL SECURITY DISTRICT CONTRACT IS TERMINATED  
5 WITH RESPECT TO THE ELIGIBLE FARMLAND AND STRUCTURES.

6 (B) A LIEN ARISES AGAINST THE PROPERTY FORMERLY SUBJECT TO THE  
7 AGRICULTURAL SECURITY DISTRICT CONTRACT. THE AMOUNT OF THE LIEN  
8 SHALL BE THE AMOUNT OF THE TAXES THAT WOULD HAVE BEEN COLLECTED  
9 UNDER THE GENERAL PROPERTY TAX ACT IF THE ELIGIBLE FARMLAND AND  
10 STRUCTURES HAD NOT BEEN EXEMPT UNDER THIS PART, TOGETHER WITH ALL  
11 INTEREST, PENALTIES, AND FEES CALCULATED FROM THE DATE THAT THE  
12 TAXES WOULD HAVE BEEN IMPOSED IF THE ELIGIBLE FARMLAND AND  
13 STRUCTURES HAD NOT BEEN EXEMPT UNDER THIS PART.

14 (2) THE ASSESSOR FOR THE LOCAL UNIT SHALL NOTIFY THE OWNER OF  
15 THE ELIGIBLE FARMLAND OF THE AMOUNT OF THE LIEN, INCLUDING  
16 INTEREST, PENALTIES, AND FEES. IF THE LIEN AMOUNT IS PAID WITHIN 30  
17 DAYS AFTER THE OWNER IS NOTIFIED, THE LIEN SHALL NOT BE RECORDED.  
18 OTHERWISE, THE ASSESSOR FOR THE LOCAL UNIT SHALL PROMPTLY RECORD  
19 THE LIEN AND THE ELIGIBLE FARMLAND IS SUBJECT TO FORFEITURE,  
20 FORECLOSURE, AND SALE UNDER THE GENERAL PROPERTY TAX ACT.