

HOUSE BILL No. 5698

February 12, 2008, Introduced by Reps. Sheltrown, Walker, Hansen, Mayes, Ball, Stahl and Rick Jones and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.532) by adding section 277.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 277. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
2 2007, A TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS
3 ACT EQUAL TO 50% OF THE STATE EQUALIZED VALUATION AS DETERMINED
4 UNDER THE GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.1 TO
5 211.155, OF A QUALIFIED DONATION OF REAL PROPERTY OR AN INTEREST IN
6 REAL PROPERTY LOCATED IN THIS STATE THAT IS CONVEYED BY THE
7 TAXPAYER IN THE TAX YEAR.

8 (2) THE CREDIT ALLOWED UNDER THIS SECTION SHALL NOT EXCEED
9 \$10,000.00 PER TAX YEAR.

10 (3) TO QUALIFY FOR THE CREDIT ALLOWED UNDER THIS SECTION, THE

1 QUALIFIED DONATION OF REAL PROPERTY OR INTEREST IN REAL PROPERTY
2 DONATED SHALL BE USED FOR EITHER OF THE FOLLOWING PURPOSES:

3 (A) THE PROTECTION OF PRIVATE LANDS FOR OPEN SPACE, NATURAL
4 RESOURCES, BIODIVERSITY CONSERVATION, OUTDOOR RECREATION, FARMLAND
5 AND FORESTLAND PRESERVATION, HISTORIC PRESERVATION, AND LAND
6 CONSERVATION.

7 (B) THE PROTECTION OF A UNIQUE NATURAL RESOURCE, WILDLIFE
8 HABITAT, OPEN SPACE, AGRICULTURAL OR FORESTED RESOURCE, OR HISTORIC
9 RESOURCE OF THIS STATE.

10 (4) THE DEPARTMENT OF NATURAL RESOURCES SHALL DEVELOP CRITERIA
11 TO DETERMINE IF THE DONATION QUALIFIES FOR THE CREDIT ALLOWED UNDER
12 THIS SECTION. A TAXPAYER WHO MAKES A DONATION SHALL APPLY TO THE
13 DEPARTMENT OF NATURAL RESOURCES FOR A CREDIT CERTIFICATE ON A FORM
14 PROVIDED BY THE DEPARTMENT AND SHALL SUBMIT THAT APPLICATION FORM
15 TO THE DEPARTMENT OF NATURAL RESOURCES ALONG WITH DOCUMENTATION
16 THAT VERIFIES THAT THE TAXPAYER'S DONATION IS A QUALIFIED DONATION,
17 THAT HE OR SHE MADE THE DONATION IN THE TAX YEAR, AND THE PURPOSE
18 FOR WHICH THE DONATION WAS MADE. THE DEPARTMENT OF NATURAL
19 RESOURCES SHALL APPROVE OR DENY THE APPLICATION. IF THE DEPARTMENT
20 OF NATURAL RESOURCES APPROVES THE APPLICATION, THE DEPARTMENT OF
21 NATURAL RESOURCES SHALL ISSUE A CERTIFICATE THAT STATES THAT THE
22 DONATION IS A QUALIFIED DONATION, THE VALUE OF THE QUALIFIED
23 DONATION, AND THE TOTAL AMOUNT OF THE CREDIT THAT THE TAXPAYER IS
24 ALLOWED TO CLAIM UNDER THIS SECTION. IF THE DEPARTMENT OF NATURAL
25 RESOURCES DENIES AN APPLICATION UNDER THIS SUBSECTION, A TAXPAYER
26 IS NOT PROHIBITED FROM SUBSEQUENTLY APPLYING FOR THE CREDIT ALLOWED
27 UNDER THIS SECTION.

1 (5) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR
2 AND ANY UNUSED CARRYFORWARD OF THE CREDIT ALLOWED UNDER THIS
3 SECTION EXCEED THE TAX LIABILITY OF THE TAXPAYER FOR THE TAX YEAR,
4 THE EXCESS SHALL NOT BE REFUNDED, BUT MAY BE CARRIED FORWARD AS AN
5 OFFSET TO THE TAX LIABILITY IN SUBSEQUENT TAX YEARS FOR 20 TAX
6 YEARS OR UNTIL THE EXCESS CREDIT IS USED UP, WHICHEVER OCCURS
7 FIRST.

8 (6) A TAXPAYER MAY TRANSFER ALL OR A PORTION OF THE TAX CREDIT
9 ALLOWED UNDER THIS SECTION. A TAX CREDIT TRANSFER UNDER THIS
10 SECTION IS IRREVOCABLE AND SHALL BE MADE IN THE TAX YEAR IN WHICH
11 THE QUALIFIED DONATION IS MADE. A TAXPAYER MAY CLAIM A PORTION OF A
12 CREDIT AND TRANSFER THE REMAINING TAX CREDIT AMOUNT. EXCEPT AS
13 OTHERWISE PROVIDED IN THIS SUBSECTION, IF THE TAXPAYER BOTH CLAIMS
14 AND TRANSFERS PORTIONS OF THE TAX CREDIT, THE TAXPAYER SHALL CLAIM
15 THE PORTION HE OR SHE CLAIMS IN THE TAX YEAR IN WHICH THE QUALIFIED
16 DONATION IS MADE. IF A TAXPAYER TRANSFERS ALL OR A PORTION OF THE
17 TAX CREDIT TO MORE THAN 1 TAXPAYER, THE TAXPAYER SHALL PRORATE THE
18 TAX CREDIT TO EACH TRANSFEREE. A TRANSFEREE SHALL NOT SUBSEQUENTLY
19 TRANSFER A TAX CREDIT OR ANY PORTION OF A TAX CREDIT TRANSFERRED
20 UNDER THIS SUBSECTION. THE TAX CREDIT TRANSFER UNDER THIS
21 SUBSECTION SHALL BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT.
22 THE TRANSFEREE SHALL ATTACH A COPY OF THE COMPLETED TRANSFER FORM
23 TO HIS OR HER ANNUAL RETURN REQUIRED TO BE FILED UNDER THIS ACT FOR
24 THE TAX YEAR IN WHICH THE TRANSFER IS MADE AND THE TRANSFEREE FIRST
25 CLAIMS A CREDIT, WHICH SHALL BE THE SAME TAX YEAR.

26 (7) THE DONATION USED AS A BASIS FOR A CREDIT UNDER THIS
27 SECTION SHALL NOT BE USED AS A BASIS FOR ANY OTHER CREDIT OR

1 DEDUCTION UNDER THIS ACT OR UNDER THE MICHIGAN BUSINESS TAX ACT,
2 2007 PA 36, MCL 208.1101 TO 208.1601.

3 (8) THE DEPARTMENT OF NATURAL RESOURCES MAY PROMULGATE RULES
4 TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

5 (9) AS USED IN THIS SECTION, "QUALIFIED DONATION" MEANS AN
6 UNCONDITIONAL DONATION IN PERPETUITY TO THIS STATE, A POLITICAL
7 SUBDIVISION OF THIS STATE, OR A CHARITABLE ORGANIZATION DESCRIBED
8 IN SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE THAT ALSO MEETS
9 THE REQUIREMENTS OF SECTION 170(H)(3) OF THE INTERNAL REVENUE CODE
10 AND THE CRITERIA UNDER SUBSECTION (3), OF EITHER OF THE FOLLOWING:

11 (A) A FEE INTEREST IN REAL PROPERTY.

12 (B) A LESS THAN FEE INTEREST IN REAL PROPERTY, INCLUDING, BUT
13 NOT LIMITED TO, A CONSERVATION RESTRICTION, PRESERVATION
14 RESTRICTION, AGRICULTURAL PRESERVATION RESTRICTION, OR WATERSHED
15 PRESERVATION RESTRICTION, IF THE LESS THAN FEE INTEREST QUALIFIES
16 FOR A CHARITABLE CONTRIBUTION DEDUCTION UNDER SECTION 170(H) OF THE
17 INTERNAL REVENUE CODE.