

SUBSTITUTE FOR
SENATE BILL NO. 1247

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 36101, 36111, and 36111b (MCL 324.36101, 324.36111, and 324.36111b), section 36101 as amended and section 36111b as added by 1996 PA 233 and section 36111 as amended by 1996 PA 567, and by adding part 362.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36101. As used in this part:

2 (A) "AGRICULTURAL CONSERVATION EASEMENT" MEANS A CONVEYANCE,
3 BY A WRITTEN INSTRUMENT, IN WHICH, SUBJECT TO PERMITTED USES, THE
4 OWNER RELINQUISHES TO THE PUBLIC IN PERPETUITY HIS OR HER DEVEL-
5 OPMENT RIGHTS AND MAKES A COVENANT RUNNING WITH THE LAND NOT TO
6 UNDERTAKE DEVELOPMENT.

7 (B) ~~(a)~~ "Agricultural use" means ~~substantially~~
8 ~~undeveloped land devoted to~~ the production of plants and animals

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1 useful to humans, including forages and sod crops; grains, feed
2 crops, and field crops; dairy and dairy products; poultry and
3 poultry products; livestock, including breeding and grazing of
4 cattle, swine, captive cervidae, and similar animals; berries;
5 herbs; flowers; seeds; grasses; nursery stock; fruits; vegeta-
6 bles; Christmas trees; and other similar uses and activities.

7 ~~The~~ AGRICULTURAL USE INCLUDES USE IN A FEDERAL ACREAGE
8 SET-ASIDE PROGRAM OR A FEDERAL CONSERVATION RESERVE PROGRAM.
9 AGRICULTURAL USE DOES NOT INCLUDE THE management and harvesting
10 of a woodlot. ~~is not an agricultural use under this act.~~

11 (C) "CONSERVATION DISTRICT BOARD" MEANS THAT TERM AS DEFINED
12 IN SECTION 9301.

13 (D) ~~(b)~~ "Development" means an activity that materially
14 alters or affects the existing conditions or use of any land.

15 (E) ~~(c)~~ "Development rights" means AN INTEREST IN LAND
16 THAT INCLUDES the right to construct a building or structure, to
17 improve land FOR DEVELOPMENT, TO DIVIDE A PARCEL FOR DEVELOPMENT,
18 or ~~the extraction of~~ TO EXTRACT minerals incidental to a per-
19 mitted use or as is set forth in an instrument recorded under
20 this part.

21 (F) ~~(d)~~ "Development rights agreement" means a restrictive
22 covenant, evidenced by an instrument in which the owner and the
23 state, for a term of years, agree to jointly hold the right to
24 ~~develop~~ UNDERTAKE DEVELOPMENT OF the land, ~~as may be expressly~~
25 ~~reserved in the instrument,~~ and that contains a covenant running
26 with the land, for a term of years, not to ~~develop, except as~~

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1 ~~this right is expressly reserved in the instrument~~ UNDERTAKE
2 DEVELOPMENT, SUBJECT TO PERMITTED USES.

3 (G) ~~(e)~~ "Development rights easement" means a grant, by an
4 instrument, in which the owner relinquishes to the public in per-
5 petuity or for a term of years the right to ~~develop~~ UNDERTAKE
6 DEVELOPMENT OF the land, ~~as may be expressly reserved in the~~
7 ~~instrument,~~ and that contains a covenant running with the land,
8 not to ~~develop, except as this right is expressly reserved in~~
9 ~~the instrument~~ UNDERTAKE DEVELOPMENT, SUBJECT TO PERMITTED
10 USES.

11 (H) ~~(f)~~ "Farmland" means 1 or more of the following:

12 (i) A farm of 40 or more acres in 1 ownership, with 51% or
13 more of the land area devoted to an agricultural use.

14 (ii) A farm of 5 acres or more in 1 ownership, but less than
15 40 acres, with 51% or more of the land area devoted to an agri-
16 cultural use, that has produced a gross annual income from agri-
17 culture of \$200.00 per year or more per acre of cleared and til-
18 lable land. A farm described in this subparagraph enrolled in a
19 federal acreage set aside program or a federal conservation
20 reserve program is considered to have produced a gross annual
21 income from agriculture of \$200.00 per year or more per acre of
22 cleared and tillable land.

23 (iii) A farm designated by the department of agriculture as
24 a specialty farm in 1 ownership that has produced a gross annual
25 income from an agricultural use of \$2,000.00 or more. Specialty
26 farms include, but are not limited to, greenhouses; equine
27 breeding and grazing; the breeding and grazing of cervidae,

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1 pheasants, and other game animals; bees and bee products;
2 mushrooms; aquaculture; and other similar uses and activities.

3 (iv) Parcels of land in 1 ownership that are not contiguous
4 but which constitute an integral part of a farming operation
5 being conducted on land otherwise qualifying as farmland may be
6 included in an application under this part.

7 (I) ~~(g)~~ "Local governing body" means 1 of the following:

8 (i) ~~The~~ WITH RESPECT TO FARMLAND OR OPEN SPACE LAND THAT
9 IS LOCATED IN A CITY OR VILLAGE, THE legislative body of ~~a~~ THE
10 city or village.

11 (ii) ~~The township board of~~ WITH RESPECT TO FARMLAND OR
12 OPEN SPACE LAND THAT IS NOT LOCATED IN A CITY OR VILLAGE BUT THAT
13 IS LOCATED IN a township having a zoning ordinance in effect as
14 provided by law, THE TOWNSHIP BOARD OF THE TOWNSHIP.

15 (iii) ~~The~~ WITH RESPECT TO FARMLAND OR OPEN SPACE LAND THAT
16 IS NOT DESCRIBED IN SUBPARAGRAPH (i) OR (ii), THE county board of
17 commissioners. ~~in all other areas.~~

18 (J) ~~(h)~~ "Open space land" means 1 of the following:

19 (i) Lands defined as 1 or more of the following:

20 (A) Any undeveloped site included in a national registry of
21 historic places or designated as a historic site pursuant to
22 state or federal law.

23 (B) Riverfront ownership subject to designation under part
24 305, to the extent that full legal descriptions may be declared
25 open space under the meaning of this part, if the undeveloped
26 parcel or government lot parcel or portions of the undeveloped

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1 parcel or government lot parcel as assessed and owned is affected
2 by that part and lies within 1/4 mile of the river.

3 (C) Undeveloped lands designated as environmental areas
4 under part 323, including unregulated portions of those lands.

5 (ii) Any other area approved by the local governing body,
6 the preservation of which area in its present condition would
7 conserve natural or scenic resources, including the promotion of
8 the conservation of soils, wetlands, and beaches; the enhancement
9 of recreation opportunities; the preservation of historic sites;
10 and idle potential farmland of not less than 40 acres that is
11 substantially undeveloped and because of its soil, terrain, and
12 location is capable of being devoted to agricultural uses as
13 identified by the department of agriculture.

14 (K) ~~(i)~~ "Owner" means a person having a freehold estate in
15 land coupled with possession and enjoyment. If land is subject
16 to a land contract, owner means the vendee in agreement with the
17 vendor.

18 (l) ~~(j)~~ "Permitted use" means any use ~~contained~~
19 EXPRESSLY AUTHORIZED within a development rights agreement, ~~or~~
20 ~~a~~ development rights easement, OR AGRICULTURE CONSERVATION EASE-
21 MENT THAT IS consistent with the farming operation or that does
22 not alter the open space character of the land. Storage, retail
23 or wholesale marketing, or processing of agricultural products is
24 a permitted use in a farming operation if more than 50% of the
25 stored, processed, or merchandised products are produced by the
26 farm operator for at least 3 of the immediately preceding 5

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1 years. The state land use agency shall determine whether a use
2 is a permitted use pursuant to section 36104a.

3 (M) ~~(k)~~ "Person" includes an individual, corporation,
4 limited liability company, business trust, estate, trust, part-
5 nership, or association, or 2 or more persons having a joint or
6 common interest in ~~the~~ land.

7 (N) "PLANNING COMMISSION" MEANS A PLANNING COMMISSION CRE-
8 ATED BY THE LOCAL GOVERNING BODY UNDER 1945 PA 282, MCL 125.101
9 TO 125.107, 1959 PA 168, MCL 125.321 TO 125.333, OR 1931 PA 285,
10 MCL 125.31 TO 125.45, AS APPLICABLE.

11 (O) ~~(l)~~ "Prohibited use" means a use that is not consis-
12 tent with an agricultural use for farmland subject to a develop-
13 ment rights agreement or is not consistent with the open space
14 character of the land for lands subject to a development rights
15 easement.

16 (P) ~~(m)~~ "Property taxes" means general ad valorem taxes
17 levied after January 1, 1974, on lands and structures in this
18 state, including collection fees, but not including special
19 assessments, penalties, or interest.

20 (Q) ~~(n)~~ "Regional planning commission" means a regional
21 planning commission created pursuant to ~~Act No. 281 of the~~
22 ~~Public Acts of 1945, being sections 125.11 to 125.25 of the~~
23 ~~Michigan Compiled Laws~~ 1945 PA 281, MCL 125.11 TO 125.25.

24 (R) ~~(o)~~ "Regional planning district" means the planning
25 and development regions as established by executive directive
26 1968-1, as amended, whose organizational structure is approved by
27 the regional council.

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1 ~~(p) "Soil conservation district" means a district created~~
2 ~~pursuant to part 93.~~

3 (S) ~~(q)~~ "State income tax act" means the income tax act of
4 1967, ~~Act No. 281 of the Public Acts of 1967, being sections~~
5 ~~206.1 to 206.532 of the Michigan Compiled Laws 1967 PA 281,~~
6 MCL 206.1 TO 206.532, and in effect during the particular year of
7 the reference to the act.

8 (T) ~~(r)~~ "State land use agency" means the ~~land use agency~~
9 ~~within the~~ department of ~~natural resources~~ AGRICULTURE.

10 (U) ~~(s)~~ "Substantially undeveloped" means any parcel or
11 area of land essentially unimproved except for a dwelling, build-
12 ing, structure, road, or other improvement that is incidental to
13 agricultural and open space uses.

14 (V) ~~(t)~~ "Unique or critical land area" means agricultural
15 or open space lands identified by the land use agency as an area
16 that should be preserved.

17 Sec. 36111. (1) A development rights agreement shall be
18 relinquished by the state at the expiration of the term of the
19 agreement unless renewed with the consent of the owner of the
20 land. If the owner of the land has complied with the require-
21 ments of this part regarding development rights agreements, the
22 owner is entitled to automatic renewal of the farmland covered by
23 the agreement upon written request of the owner. A development
24 rights agreement may be renewed for a term of not less than 7
25 years. If a development rights agreement is renewed, the state
26 land use agency shall send a copy of the renewal contract to the

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1 local governing body of the local unit of government in which the
2 farmland is located.

3 (2) A development rights agreement or a portion of the farm-
4 land covered by a development rights agreement may be relin-
5 quished as provided in this section and section 36111a. Farmland
6 may be relinquished by this state before a termination date con-
7 tained in the instrument under either of the following
8 circumstances:

9 (a) If approved by the local governing body and the state
10 land use agency, land containing structures that were present
11 before the recording of the development rights agreement may be
12 relinquished from the agreement. Not more than 2 acres may be
13 relinquished under this subdivision unless additional land area
14 is needed to encompass all of the buildings located on the
15 parcel, in which case not more than 5 acres may be relinquished.
16 If the parcel proposed to be relinquished is less in area than
17 the minimum parcel size required by local zoning, the parcel may
18 not be relinquished unless a variance is obtained from the local
19 zoning board of appeals to allow for the smaller parcel size.

20 (b) If approved by the local governing body and the state
21 land use agency, land may be relinquished from the agreement for
22 the construction of a residence by an individual essential to the
23 operation of the farm as defined in section 36110(5). Not more
24 than 2 acres may be relinquished under this subdivision. If the
25 parcel proposed to be relinquished is less in area than the mini-
26 mum parcel size required by local zoning, the parcel may not be

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1 relinquished unless a variance is obtained from the local zoning
2 board of appeals to allow for the smaller parcel size.

3 (3) Until April 1, 1997, if an owner who entered into or
4 renewed a development rights agreement before April 15, 1994
5 makes a request, in writing, to the state land use agency, to
6 terminate that development rights agreement with respect to all
7 or a portion of the farmland covered by the agreement, the state
8 land use agency shall approve the request and relinquish that
9 farmland from the development rights agreement. If farmland is
10 relinquished under this subsection, the state land use agency
11 shall notify the local governing body of the local unit of gov-
12 ernment in which the land is located of the relinquishment.

13 (4) If the request for relinquishment of the development
14 rights agreement is approved, the state land use agency shall
15 prepare an instrument, subject to subsections (5), (6), (7), and
16 (8), and record it with the register of deeds of the county in
17 which the land is situated.

18 (5) If a development rights agreement or a portion of a
19 development rights agreement is to be relinquished pursuant to
20 subsection (2) or section 36111a, the state land use agency shall
21 record a lien against the property formerly subject to the devel-
22 opment rights agreement for the total amount of the allocated tax
23 credit of the last 7 years, including the year of termination,
24 received by an owner for that property under the agreement under
25 section 36109, attributable to the property formerly subject to
26 the development rights agreement, plus interest at the rate of 6%

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1 per annum simple interest from the time the credit was received
2 until the lien is placed on the property.

3 (6) If the property being relinquished from the development
4 rights agreement is less than all of the property subject to that
5 development rights agreement, the allocated tax credit for the
6 development rights agreement shall be multiplied by the
7 property's share of the taxable value of the agreement. As used
8 in this subsection:

9 (a) "The allocated tax credit" means the amount obtained by
10 multiplying the owner's total farmland preservation credit
11 claimed in that year on all agreements by the quotient of the ad
12 valorem property tax levied in that year on property subject to
13 the development rights agreement that included the property being
14 relinquished from the agreement divided by the total property
15 taxes levied on property subject to any development rights agree-
16 ment and used in determining the farmland preservation credit in
17 that year.

18 (b) "The property's share of the taxable value of the
19 agreement" means the quotient of the taxable value of the prop-
20 erty being relinquished from the agreement divided by the total
21 taxable value of property subject to the development rights
22 agreement that included the property being relinquished from the
23 agreement. For years before 1995, taxable value means assessed
24 value.

25 (7) Thirty days before the recording of a lien under this
26 section, the state land use agency shall notify the owner of the
27 farmland subject to the development rights agreement of the

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1 amount of the lien, including interest, if any. If the lien
2 amount is paid before 30 days after the owner is notified, the
3 lien shall not be recorded. The lien may be paid and discharged
4 at any time and is payable to the state by the owner of record at
5 the time the land or any portion of it is sold by the owner of
6 record, or if the land is converted to a use prohibited by the
7 former development rights agreement. The lien shall be dis-
8 charged upon renewal or reentry in a development rights agree-
9 ment, except that a subsequent lien shall not be less than the
10 lien discharged.

11 (8) Upon the natural termination of the development rights
12 agreement under subsections (1) or (13), or the termination of
13 all or a portion of the development rights agreement under sub-
14 section (3), the state land use agency shall prepare and record a
15 lien, if any, against the property formerly subject to the devel-
16 opment rights agreement for the total amount of the allocated tax
17 credit of the last 7 years, including the year of natural termi-
18 nation, received by the owner under section 36109, attributable
19 to the property formerly subject to the development rights
20 agreement. The lien shall be without interest or penalty and is
21 payable subject to subsection (7).

22 (9) Upon termination, the state land use agency shall notify
23 the department of treasury for their records.

24 (10) ~~The~~ UNTIL OCTOBER 1, 2000, THE proceeds from lien
25 payments made under this part shall be used by the state land use
26 agency to administer this part ~~for fiscal years 1991-92 and~~
27 ~~through 1999-2000, to purchase development rights of unique or~~

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1 ~~critical land area that does not necessitate direct purchase of~~
2 ~~the fee interest in the land for which money was appropriated~~
3 ~~under Act No. 128 of the Public Acts of 1995,~~ and, pursuant to
4 section 36111b, to purchase development rights on farmland that
5 does not necessitate direct purchase of the fee interest in the
6 land. ~~It is the intent of the legislature that if the accumu-~~
7 ~~lated proceeds from lien payments received under this part fall~~
8 ~~below \$2,000,000.00, then the funds used to administer this part~~
9 ~~shall be appropriated from the general fund until the proceeds~~
10 ~~from the lien payments received under this part exceed~~
11 ~~\$2,000,000.00. However, the amount of lien payments used to~~
12 ~~administer this part shall not exceed \$600,000.00 in any fiscal~~
13 ~~year.~~ BEGINNING ON OCTOBER 1, 2000, THE PROCEEDS FROM LIEN PAY-
14 MENTS MADE UNDER THIS PART SHALL BE FORWARDED TO THE STATE TREA-
15 SURER FOR DEPOSIT IN THE AGRICULTURAL PRESERVATION FUND CREATED
16 IN SECTION 36202. ON OCTOBER 1, 2000, ALL UNEXPENDED PROCEEDS
17 FROM LIEN PAYMENTS MADE UNDER THIS PART THAT ARE HELD BY THE
18 STATE SHALL BE TRANSFERRED TO THE AGRICULTURAL PRESERVATION FUND
19 CREATED IN SECTION 36202.

20 (11) Upon the relinquishment of all of the farmland under
21 section 36110(2) or a portion of the farmland under
22 section 36110(3), the state land use agency shall prepare and
23 record a lien against the property formerly subject to a develop-
24 ment rights agreement in an amount calculated as follows:

25 (a) Establishing a term of years by multiplying 7 by a frac-
26 tion, the numerator of which is the number of years the farmland
27 was under the development rights agreement, including any

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1 extensions, and the denominator of which is the number
2 representing the term of years of that agreement, including any
3 extensions.

4 (b) The lien amount equals the total amount of the allocated
5 tax credit claimed attributable to that development rights agree-
6 ment in the immediately preceding term of years as determined in
7 subdivision (a).

8 (12) When a lien is paid under this section, the state land
9 use agency shall prepare and record a discharge of lien with the
10 register of deeds in the county in which the land is located.
11 The discharge of lien shall specifically state that the lien has
12 been paid in full, that the lien is discharged, that the develop-
13 ment rights agreement and accompanying contract are terminated,
14 and that the state has no further interest in the land under that
15 agreement.

16 (13) An owner of farmland, upon written request to the state
17 land use agency on or before April 1, 1997, may elect to have the
18 remaining term of the development rights agreement reduced to 7
19 years if the farmland has been subject to that development rights
20 agreement for 10 or more years. If the farmland has not been
21 subject to a development rights agreement for 10 or more years,
22 an owner of farmland may, upon written request to the state land
23 use agency on or before April 1, 1997, elect to have the term of
24 the development rights agreement reduced to 17 years from the
25 initial year of enrollment.

26 ~~(14) Within 60 days of June 5, 1996, the state land use~~
27 ~~agency shall notify, by first-class mail, all owners of farmland~~

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1 ~~that have a development rights agreement in effect as determined~~
2 ~~by the state land use agency on June 5, 1996 about all of the~~
3 ~~following:~~

4 ~~(a) The ability to terminate an agreement under subsection~~
5 ~~(3).~~

6 ~~(b) The ability to reduce the termination agreement under~~
7 ~~subsection (13).~~

8 ~~(c) All other significant changes in law contained in the~~
9 ~~amendatory act that added this subsection.~~

10 Sec. 36111b. (1) An application submitted under section
11 36111(10) for PURCHASE OF development rights OR acquisition OF
12 AGRICULTURAL CONSERVATION EASEMENTS shall be evaluated and ranked
13 according to selection criteria and a scoring system approved
14 ~~jointly by the commission of natural resources and the com-~~
15 ~~mission of agriculture.~~ In developing a point system for select-
16 ing the parcels for purchase of development rights OR THE ACQUI-
17 SITION OF AGRICULTURAL CONSERVATION EASEMENTS, the ~~state land~~
18 ~~use agency and~~ department of agriculture shall seek the assist-
19 ance of THE DEPARTMENT OF NATURAL RESOURCES, Michigan state uni-
20 versity, the United States department of agriculture-natural
21 resources conservation service, and other appropriate profes-
22 sional and industry organizations. The selection criteria shall
23 give consideration to the quality and physical characteristics of
24 the parcel as well as surrounding land uses and threat of
25 development.

26 (2) The ~~state land use agency~~ DEPARTMENT OF AGRICULTURE
27 shall prepare a notification to those individuals whose farmland

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1 development rights agreements are expiring in the year of
2 application or expiring 1 year after the year of application.
3 The notice shall be completed not less than 90 days before an
4 application deadline set by the ~~state land use agency~~
5 DEPARTMENT OF AGRICULTURE and shall include written information
6 and details regarding the program. Applications for THE PURCHASE
7 OF development rights OR THE acquisition OF AGRICULTURAL CONSER-
8 VATION EASEMENTS shall be submitted to the ~~state land use~~
9 ~~agency~~ DEPARTMENT OF AGRICULTURE by the owner of that land and
10 must include written support by the local governing body.

11 (3) In developing a scoring system, points shall be given to
12 farmland that meets 1 or more of the following criteria, with
13 subdivision (a) given priority over subdivisions (b) to (e):

14 (a) Productive capacity of farmland suited for the produc-
15 tion of feed, food, and fiber, including, but not limited to,
16 prime or unique farmland or farmland of local importance, as
17 defined by the United States department of agriculture-natural
18 resources conservation service.

19 (b) Lands that are enrolled under this act.

20 (c) Prime agricultural lands that are faced with development
21 pressure that will permanently alter the ability for that land to
22 be used for productive agricultural activity.

23 (d) Parcels that would complement and are part of a docu-
24 mented, long-range effort or plan for land preservation by the
25 local governing body.

26 (e) Parcels with available matching funds from the local
27 governing body, private organizations, or other sources.

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1 (4) For purposes of ~~this section~~ SUBSECTIONS (7) AND (8),
2 THE VALUE OF development rights ~~value~~ IN THE PURCHASE OF DEVEL-
3 OPMENT RIGHTS OR THE ACQUISITION OF AGRICULTURAL CONSERVATION
4 EASEMENTS shall be determined by subtracting the current fair
5 market value of the property without the development rights from
6 the current fair market value of the property with all develop-
7 ment rights.

8 (5) The ~~director of the department of natural resources in~~
9 ~~consultation with the~~ director of the department of agriculture
10 shall approve individual parcels for the purchase of development
11 rights OR THE ACQUISITION OF AGRICULTURAL CONSERVATION EASEMENTS
12 based upon the adopted selection criteria and scoring process.
13 The ~~commission of natural resources and the~~ commission of agri-
14 culture shall approve a method to establish the price to be paid
15 for THE PURCHASE OF development rights OR THE ACQUISITION OF
16 AGRICULTURAL CONSERVATION EASEMENTS, such as via appraisal, ~~or~~
17 bidding, OR A FORMULA-BASED process and shall establish the maxi-
18 mum price to be paid on a per purchase basis from the lien fund.
19 The director of the department of ~~natural resources~~
20 AGRICULTURE, after negotiations with the landowner, shall approve
21 the price to be paid for purchase of development rights OR THE
22 ACQUISITION OF THE AGRICULTURAL CONSERVATION EASEMENTS. Proper
23 releases from mortgage holders and lienholders must be obtained
24 and executed to ensure that all development rights are purchased
25 free and clear of all encumbrances.

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1 (6) THE DEPARTMENT MAY PURCHASE THE AGRICULTURAL
2 CONSERVATION EASEMENT THROUGH AN INSTALLMENT PURCHASE AGREEMENT
3 UNDER TERMS NEGOTIATED BY THE DEPARTMENT.

4 (7) ~~(6) All development rights easements~~ AN AGRICULTURAL
5 CONSERVATION EASEMENT shall include appropriate provisions for
6 the protection of the farmland and other unique and critical
7 benefits. ~~Development rights easements created under this~~
8 ~~section~~ AN AGRICULTURAL CONSERVATION EASEMENT may be terminated
9 if the land, as determined by the ~~natural resources~~ commission
10 OF AGRICULTURE, meets 1 or more of the criteria described in sec-
11 tion ~~36111a(1)(a)(i) through (iv)~~ 36111A(1)(A) TO (D). An
12 AGRICULTURAL CONSERVATION easement or portion of an AGRICULTURAL
13 CONSERVATION easement shall not be terminated unless approved by
14 the local governing body and the commission of natural resources
15 and the commission of agriculture. If an AGRICULTURAL
16 CONSERVATION easement is terminated, the current fair market
17 value of the development rights, at the time of termination,
18 shall be paid to the state land use agency. Any payment received
19 by the state land use agency under this part shall be used to
20 ~~purchase development rights~~ ACQUIRE AGRICULTURAL CONSERVATION
21 EASEMENTS on additional farmland ~~in accordance with the provi-~~
22 ~~sions of~~ UNDER section 36111(10).

23 (8) ~~(7)~~ Whenever a public entity, authority, or political
24 subdivision exercises the power of eminent domain and condemns
25 land enrolled under this act, the value of the land shall include
26 the value of development rights covered by development rights
27 agreements OR AGRICULTURAL CONSERVATION EASEMENTS. If the

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1 development rights have been purchased OR AGRICULTURAL
2 CONSERVATION EASEMENTS HAVE BEEN ACQUIRED under section
3 36111(10), the value of the development rights at the time of
4 condemnation shall be paid to the state land use agency and any
5 payment received by the state land use agency shall be used to
6 ~~purchase development rights~~ ACQUIRE AGRICULTURAL CONSERVATION
7 EASEMENTS on additional land under section 36111(10).

8 PART 362 AGRICULTURAL PRESERVATION FUND

9 SEC. 36201. AS USED IN THIS PART:

10 (A) "AGRICULTURAL CONSERVATION EASEMENT" MEANS A CONVEYANCE,
11 BY A WRITTEN INSTRUMENT, IN WHICH, SUBJECT TO PERMITTED USES, THE
12 OWNER RELINQUISHES TO THE PUBLIC IN PERPETUITY HIS OR HER DEVEL-
13 OPMENT RIGHTS AND MAKES A COVENANT RUNNING WITH THE LAND NOT TO
14 UNDERTAKE DEVELOPMENT.

15 (B) "AGRICULTURAL USE" MEANS SUBSTANTIALLY UNDEVELOPED LAND
16 DEVOTED TO THE PRODUCTION OF PLANTS AND ANIMALS USEFUL TO HUMANS,
17 INCLUDING FORAGES AND SOD CROPS; GRAINS, FEED CROPS, AND FIELD
18 CROPS; DAIRY AND DAIRY PRODUCTS; POULTRY AND POULTRY PRODUCTS;
19 LIVESTOCK, INCLUDING BREEDING AND GRAZING OF CATTLE, SWINE, CAP-
20 TIVE CERVIDAE, AND SIMILAR ANIMALS; BERRIES; HERBS; FLOWERS;
21 SEEDS; GRASSES; NURSERY STOCK; FRUITS; VEGETABLES; CHRISTMAS
22 TREES; AND OTHER SIMILAR USES AND ACTIVITIES. AGRICULTURAL USE
23 INCLUDES USE IN A FEDERAL ACREAGE SET-ASIDE PROGRAM OR A FEDERAL
24 CONSERVATION RESERVE PROGRAM. AGRICULTURAL USE DOES NOT INCLUDE
25 THE MANAGEMENT AND HARVESTING OF A WOODLOT.

26 (C) "BOARD" MEANS THE AGRICULTURAL PRESERVATION FUND BOARD
27 CREATED IN SECTION 36204.

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1 (D) "COMMISSION" MEANS THE COMMISSION OF AGRICULTURE.

2 (E) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

3 (F) "DEVELOPMENT" MEANS AN ACTIVITY THAT MATERIALLY ALTERS
4 OR AFFECTS THE EXISTING CONDITIONS OR USE OF ANY LAND IN A MANNER
5 THAT IS INCONSISTENT WITH AN AGRICULTURAL USE.

6 (G) "DEVELOPMENT RIGHTS" MEANS AN INTEREST IN LAND THAT
7 INCLUDES THE RIGHT TO CONSTRUCT A BUILDING OR STRUCTURE, TO
8 IMPROVE LAND FOR DEVELOPMENT, OR TO DIVIDE A PARCEL FOR DEVELOP-
9 MENT PURPOSES.

10 (H) "FARMLAND" MEANS 1 OR MORE OF THE FOLLOWING:

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

13 (ii) A FARM OF 5 ACRES OR MORE IN 1 OWNERSHIP, BUT LESS THAN
14 40 ACRES, WITH 51% OR MORE OF THE LAND AREA DEVOTED TO AN AGRI-
15 CULTURAL USE, THAT HAS PRODUCED A GROSS ANNUAL INCOME FROM AGRI-
16 CULTURE OF \$200.00 PER YEAR OR MORE PER ACRE OF CLEARED AND TIL-
17 LABLE LAND. A FARM DESCRIBED IN THIS SUBPARAGRAPH ENROLLED IN A
18 FEDERAL ACREAGE SET ASIDE PROGRAM OR A FEDERAL CONSERVATION
19 RESERVE PROGRAM IS CONSIDERED TO HAVE PRODUCED A GROSS ANNUAL
20 INCOME FROM AGRICULTURE OF \$200.00 PER YEAR OR MORE PER ACRE OF
21 CLEARED AND TILLABLE LAND.

22 (iii) A FARM DESIGNATED BY THE DEPARTMENT OF AGRICULTURE AS
23 A SPECIALTY FARM IN 1 OWNERSHIP THAT HAS PRODUCED A GROSS ANNUAL
24 INCOME OF \$2,000.00 OR MORE FROM AN AGRICULTURAL USE. SPECIALTY
25 FARMS INCLUDE, BUT ARE NOT LIMITED TO, GREENHOUSES; EQUINE BREED-
26 ING AND GRAZING; THE BREEDING AND GRAZING OF CERVIDAE, PHEASANTS,

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1 AND OTHER GAME ANIMALS; BEES AND BEE PRODUCTS; MUSHROOMS;

2 AQUACULTURE; AND OTHER SIMILAR USES AND ACTIVITIES.

3 (iv) PARCELS OF LAND IN 1 OWNERSHIP THAT ARE NOT CONTIGUOUS
4 BUT WHICH CONSTITUTE AN INTEGRAL PART OF A FARMING OPERATION
5 BEING CONDUCTED ON LAND OTHERWISE QUALIFYING AS FARMLAND MAY BE
6 INCLUDED IN AN APPLICATION UNDER THIS PART.

7 (I) "FUND" MEANS THE AGRICULTURAL PRESERVATION FUND CREATED
8 IN SECTION 36202.

9 (J) "GRANT" MEANS A GRANT FOR THE PURCHASE OF AN AGRICULTURE
10 CONSERVATION EASEMENT UNDER THIS PART.

11 (K) "OWNER" MEANS A PERSON HAVING A FREEHOLD ESTATE IN LAND
12 COUPLED WITH POSSESSION AND ENJOYMENT. IF LAND IS SUBJECT TO A
13 LAND CONTRACT, OWNER MEANS THE VENDEE IN AGREEMENT WITH THE
14 VENDOR.

15 (L) "PERMITTED USE" MEANS ANY USE EXPRESSLY AUTHORIZED
16 WITHIN AN AGRICULTURE CONSERVATION EASEMENT CONSISTENT WITH THE
17 FARMING OPERATION OR THAT DOES NOT ADVERSELY AFFECT THE PRODUC-
18 TIVITY OF THE FARMLAND. STORAGE, RETAIL OR WHOLESALE MARKETING,
19 OR PROCESSING OF AGRICULTURAL PRODUCTS IS A PERMITTED USE IN A
20 FARMING OPERATION IF MORE THAN 50% OF THE STORED, PROCESSED, OR
21 MERCHANDISED PRODUCTS ARE PRODUCED BY THE FARM OPERATOR FOR AT
22 LEAST 3 OF THE IMMEDIATELY PRECEDING 5 YEARS. PERMITTED USE
23 INCLUDES OIL AND GAS EXPLORATION AND EXTRACTION, BUT DOES NOT
24 INCLUDE OTHER MINERAL DEVELOPMENT THAT IS INCONSISTENT WITH AN
25 AGRICULTURAL USE.

26 SEC. 36202. (1) THE AGRICULTURAL PRESERVATION FUND IS
27 CREATED WITHIN THE STATE TREASURY.

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1 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
2 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND, INCLUDING FEDERAL
3 FUNDS, OTHER STATE REVENUES, GIFTS, BEQUESTS, AND OTHER
4 DONATIONS. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF
5 THE FUND AND SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM
6 FUND INVESTMENTS.

7 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
8 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

9 (4) MONEY IN THE FUND MAY BE EXPENDED, UPON APPROPRIATION,
10 FOLLOWING APPROVAL OF THE BOARD AND THE COMMISSION, AS FOLLOWS:

11 (A) NOT MORE THAN \$700,000.00 ANNUALLY FOR THE ADMINISTRA-
12 TIVE COSTS OF THE DEPARTMENT AND THE BOARD IN IMPLEMENTING THIS
13 PART AND PART 361. HOWEVER, IF DEPOSITS INTO THE FUND DURING ANY
14 GIVEN FISCAL YEAR EXCEED \$8,750,000.00, UP TO 8% OF THE DEPOSITS
15 MAY BE EXPENDED FOR ADMINISTRATIVE COSTS PURSUANT TO THIS
16 SUBDIVISION.

17 (B) AFTER EXPENDITURES FOR THE ADMINISTRATIVE COSTS UNDER
18 SUBDIVISION (A), MONEY IN THE FUND MAY BE USED FOR THE FOLLOWING
19 PURPOSES:

20 (i) TO PROVIDE GRANTS TO COUNTIES PURSUANT TO
21 SECTION 36203.

22 (ii) FOR CREDITS UNDER SECTION 36205(5) IF AUTHORIZED UNDER
23 SECTION 36205(5).

24 (iii) FOR THE DEPARTMENT TO APPLY TOWARD THE LOCAL MATCH
25 REQUIRED OF COUNTIES UNDER PART 19 FOR A GRANT FROM THE NATURAL
26 RESOURCES TRUST FUND TO PURCHASE DEVELOPMENT RIGHTS ON FARMLAND.
27 HOWEVER, MONEY SHALL ONLY BE EXPENDED UNDER THIS SUBPARAGRAPH IF

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1 THE BOARD APPROVES ITS USE FOR THIS PURPOSE AT LEAST 120 DAYS
2 PRIOR TO THE DEADLINE FOR SUBMITTING AN APPLICATION FOR A GRANT
3 UNDER PART 19. IF MONEY IS APPROPRIATED FOR THE PURPOSE OF THIS
4 SUBPARAGRAPH, THE AMOUNT THAT A COUNTY IS ELIGIBLE TO RECEIVE
5 SHALL NOT EXCEED 5% OF THE AMOUNT OF MONEY COLLECTED BY THE
6 COUNTY UNDER THE AGRICULTURAL PROPERTY RECAPTURE ACT.

7 (C) AFTER EXPENDITURES UNDER SUBDIVISIONS (A) AND (B) HAVE
8 BEEN MADE, IF THE AMOUNT OF MONEY REMAINING IN THE FUND EXCEEDS
9 \$10,000,000.00, MONEY IN THE FUND MAY BE USED PURSUANT TO
10 SECTION 36111B FOR THE PURCHASE OF DEVELOPMENT RIGHTS OR THE
11 ACQUISITION OF AGRICULTURAL CONSERVATION EASEMENTS.

12 (5) EXPENDITURES OF MONEY IN THE FUND AS PROVIDED IN THIS
13 PART ARE CONSISTENT WITH THE STATE'S INTEREST IN PRESERVING FARM-
14 LAND AND ARE DECLARED TO BE FOR AN IMPORTANT PUBLIC PURPOSE.

15 SEC. 36203. (1) THE DEPARTMENT SHALL ESTABLISH A GRANT PRO-
16 GRAM TO PROVIDE GRANTS TO ELIGIBLE COUNTIES FOR THE PURCHASE OF
17 AGRICULTURAL CONSERVATION EASEMENTS.

18 (2) A GRANT APPLICATION SHALL BE SUBMITTED BY THE COUNTY
19 BOARD OF COMMISSIONERS OF THE COUNTY APPLYING FOR THE GRANT. A
20 COUNTY BOARD OF COMMISSIONERS IS ELIGIBLE TO SUBMIT A GRANT
21 APPLICATION UNDER THIS SECTION IF ALL OF THE FOLLOWING REQUIRE-
22 MENTS HAVE BEEN MET:

23 (A) THE COUNTY HAS ESTABLISHED A COUNTY AGRICULTURAL PRESER-
24 VATION BOARD UNDER SUBSECTION (5).

25 (B) THE COUNTY HAS ADOPTED A DEVELOPMENT RIGHTS ORDINANCE
26 PROVIDING FOR A PURCHASE OF DEVELOPMENT RIGHTS PROGRAM PURSUANT

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1 TO THE COUNTY ZONING ACT, 1943 PA 183, MCL 125.201 TO 125.240,
2 THAT CONTAINS ALL OF THE FOLLOWING:

3 (i) AN APPLICATION PROCEDURE.

4 (ii) THE CRITERIA FOR A SCORING SYSTEM, TO BE APPROVED BY
5 BOTH THE COUNTY AGRICULTURAL PRESERVATION BOARD AND THE COUNTY
6 BOARD OF COMMISSIONERS, FOR PARCEL SELECTIONS WITHIN THE COUNTY.

7 (iii) A METHOD TO ESTABLISH THE PRICE TO BE PAID FOR DEVEL-
8 OPMENT RIGHTS, WHICH MAY INCLUDE AN APPRAISAL, BIDDING, OR
9 FORMULA-BASED PROCESS.

10 (iv) PRIORITY CONSIDERATION FOR TOWNSHIPS, CITIES, OR VIL-
11 LAGES THAT HAVE PROVIDED ADDITIONAL MATCHING FUNDS FOR THE PUR-
12 CHASE OF DEVELOPMENT RIGHTS OR HAVE ESTABLISHED AGRICULTURAL
13 DISTRICTS.

14 (C) THE COUNTY HAS ADOPTED, WITHIN THE LAST 10 YEARS, A COM-
15 PREHENSIVE LAND USE PLAN THAT INCLUDES A PLAN FOR AGRICULTURAL
16 PRESERVATION OR THE COUNTY IS INCLUDED WITHIN A REGIONAL PLAN THAT
17 WAS PREPARED WITHIN THE LAST 10 YEARS THAT INCLUDES A PLAN FOR
18 AGRICULTURAL PRESERVATION.

19 (3) AN APPLICATION FOR A GRANT SHALL BE SUBMITTED ON A FORM
20 PRESCRIBED BY THE DEPARTMENT. THE GRANT APPLICATION SHALL
21 INCLUDE AT A MINIMUM A LIST OF THE PARCELS PROPOSED FOR ACQUI-
22 SITION OF AGRICULTURAL CONSERVATION EASEMENTS, THE SIZE AND LOCA-
23 TION OF EACH PARCEL, THE AMOUNT OF LOCAL MATCHING FUNDS, AND THE
24 ESTIMATED ACQUISITION VALUE OF THE AGRICULTURAL CONSERVATION
25 EASEMENTS.

26 (4) UPON RECEIPT OF GRANT APPLICATIONS PURSUANT TO
SUBSECTION (3), THE DEPARTMENT SHALL FORWARD THOSE GRANT APPLICA-
TIONS TO THE BOARD FOR CONSIDERATION UNDER SECTION 36205.

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1 (5) A COUNTY MAY ESTABLISH A COUNTY AGRICULTURAL
2 PRESERVATION BOARD. A COUNTY AGRICULTURAL PRESERVATION BOARD
3 SHALL CONSIST OF NOT MORE THAN 7 MEMBERS INCLUDING 1 MEMBER REP-
4 RESENTING DEVELOPMENT INTERESTS AND 1 MEMBER OF A TOWNSHIP BOARD
5 FROM A TOWNSHIP WITHIN THE COUNTY. A MAJORITY OF MEMBERS OF THE
6 COUNTY AGRICULTURAL PRESERVATION BOARD SHALL REPRESENT AGRICUL-
7 TURAL INTERESTS. THE COUNTY AGRICULTURAL PRESERVATION BOARD
8 SHALL PROVIDE RECOMMENDATIONS, IN ACCORDANCE WITH THE COUNTY
9 ORDINANCE, TO THE COUNTY BOARD OF COMMISSIONERS ON THE SELECTION
10 OF PARCELS TO BE INCLUDED IN THE GRANT APPLICATION SUBMITTED
11 UNDER THIS SECTION.

12 SEC. 36204. (1) THE AGRICULTURAL PRESERVATION FUND BOARD IS
13 CREATED WITHIN THE DEPARTMENT.

14 (2) THE BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS:

15 (A) THE DIRECTOR OF THE DEPARTMENT OR HIS OR HER DESIGNEE.

16 (B) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR
17 HIS OR HER DESIGNEE.

18 (C) FIVE INDIVIDUALS APPOINTED BY THE GOVERNOR AS FOLLOWS:

19 (i) TWO INDIVIDUALS REPRESENTING AGRICULTURAL INTERESTS.

20 (ii) ONE INDIVIDUAL REPRESENTING CONSERVATION INTERESTS.

21 (iii) ONE INDIVIDUAL REPRESENTING DEVELOPMENT INTERESTS.

22 (iv) ONE INDIVIDUAL REPRESENTING THE GENERAL PUBLIC.

23 (D) IN ADDITION TO THE MEMBERS DESCRIBED IN SUBDIVISIONS (A)
24 TO (C), THE DIRECTOR OF THE DEPARTMENT MAY APPOINT 2 INDIVIDUALS
25 WITH KNOWLEDGE AND EXPERTISE IN AGRICULTURE OR LAND USE, OR LOCAL
26 GOVERNMENT, AS NONVOTING MEMBERS.

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1 (3) THE MEMBERS FIRST APPOINTED TO THE BOARD SHALL BE
2 APPOINTED WITHIN 60 DAYS AFTER THE EFFECTIVE DATE OF THIS
3 SECTION.

4 (4) MEMBERS OF THE BOARD APPOINTED UNDER SUBSECTION (2)(C)
5 AND (D) SHALL SERVE FOR TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS
6 APPOINTED, WHICHEVER IS LATER. HOWEVER, OF THE MEMBERS FIRST
7 APPOINTED UNDER SUBSECTION (2)(C), 1 SHALL BE APPOINTED FOR A
8 TERM OF 2 YEARS, 2 SHALL BE APPOINTED FOR TERMS OF 3 YEARS, AND 2
9 SHALL BE APPOINTED FOR TERMS OF 4 YEARS.

10 (5) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A
11 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
12 BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE
13 REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

14 (6) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION.
15 HOWEVER, MEMBERS OF THE BOARD MAY BE REIMBURSED FOR THEIR ACTUAL
16 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFI-
17 CIAL DUTIES AS MEMBERS OF THE BOARD.

18 (7) THE BOARD SHALL ANNUALLY ELECT A CHAIRPERSON AND A
19 VICE-CHAIRPERSON FROM AMONG ITS MEMBERS.

20 (8) THE BOARD MAY REMOVE A MEMBER OF THE BOARD FOR INCOMPE-
21 TENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR NONFEA-
22 SANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

23 (9) A VACANCY ON THE BOARD SHALL BE FILLED FOR THE UNEXPIRED
24 TERM IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

25 SEC. 36205. (1) AN APPLICATION SUBMITTED TO THE BOARD UNDER
26 SECTION 36203 SHALL BE EVALUATED ACCORDING TO SELECTION CRITERIA
27 ESTABLISHED BY THE BOARD. THE CRITERIA SHALL PLACE A PRIORITY ON

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1 THE PRESERVATION OF FARMLAND THAT MEETS 1 OR MORE OF THE
2 FOLLOWING:

3 (A) FARMLAND THAT HAS A PRODUCTIVE CAPACITY SUITED FOR THE
4 PRODUCTION OF FEED, FOOD, AND FIBER.

5 (B) FARMLAND THAT WOULD COMPLEMENT AND IS PART OF A DOCU-
6 MENTED, LONG-RANGE EFFORT OR PLAN FOR LAND PRESERVATION BY THE
7 COUNTY IN WHICH THE FARMLAND IS LOCATED CONSISTENT WITH THE
8 COUNTY'S COMPREHENSIVE LAND USE PLAN.

9 (C) FARMLAND THAT IS LOCATED WITHIN AN AREA THAT COMPLEMENTS
10 OTHER LAND PROTECTION EFFORTS BY CREATING A BLOCK OF FARMLAND
11 THAT IS SUBJECT TO AN AGRICULTURAL CONSERVATION EASEMENT UNDER
12 THIS PART OR A DEVELOPMENT RIGHTS AGREEMENT UNDER PART 361.

13 (D) FARMLAND IN WHICH A LARGER AMOUNT THAN THE MINIMUM
14 REQUIRED UNDER SUBSECTION (4) OF MATCHING FUNDS OR A LARGER PER-
15 CENTAGE OF THE AGRICULTURAL CONSERVATION EASEMENT VALUE IS PRO-
16 VIDED BY SOURCES OTHER THAN THE FUND.

17 (F) OTHER FACTORS CONSIDERED IMPORTANT BY THE BOARD.

18 (2) AFTER REVIEWING GRANT APPLICATIONS FOR THE ACQUISITION
19 OF AGRICULTURAL CONSERVATION EASEMENTS AND EVALUATING THEM
20 ACCORDING TO THE CRITERIA ESTABLISHED IN SUBSECTION (1), THE
21 BOARD SHALL DETERMINE WHICH GRANTS SHOULD BE AWARDED AND THE
22 AMOUNT OF THE GRANTS. UPON MAKING ITS DETERMINATION, THE BOARD
23 SHALL NOTIFY THE DEPARTMENT AND SHALL SUBMIT A REPORT CONTAINING
24 THIS INFORMATION TO THE COMMISSION.

25 (3) SUBJECT TO SUBSECTION (5), A GRANT SHALL NOT EXCEED 75%
26 OF THE PURCHASE PRICE OF AN AGRICULTURAL CONSERVATION EASEMENT.
27 THE BOARD MAY ESTABLISH A MAXIMUM AMOUNT PER ACRE THAT MAY BE

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1 EXPENDED WITH MONEY FROM THE FUND FOR THE PURCHASE OF
2 AGRICULTURAL CONSERVATION EASEMENTS.

3 (4) SUBJECT TO SUBSECTION (5), A GRANT SHALL REQUIRE THAT AT
4 LEAST 25% OF THE COST OF ACQUIRING AN AGRICULTURAL CONSERVATION
5 EASEMENT SHALL BE PROVIDED BY THE COUNTY BOARD OF COMMISSIONERS,
6 THE GOVERNING BODY OF A MUNICIPALITY WITHIN THE COUNTY, THE LAND-
7 OWNER, OR ANOTHER PERSON.

8 (5) AT LEAST 120 DAYS BEFORE THE DEADLINE FOR SUBMITTING
9 APPLICATIONS FOR GRANTS, THE BOARD MAY AUTHORIZE THE USE OF ADDI-
10 TIONAL MONEY FROM THE FUND AS A CREDIT TOWARD THE MATCH REQUIRED
11 IN SUBSECTION (4). THE AMOUNT OF THE CREDITS SHALL NOT EXCEED
12 20% OF THE REVENUE COLLECTED DURING THE PREVIOUS FISCAL YEAR BY
13 THE COUNTY SUBMITTING THE GRANT APPLICATION UNDER THE AGRICUL-
14 TURAL PROPERTY RECAPTURE ACT. A CREDIT UNDER THIS SUBSECTION
15 SHALL BE APPLIED TO ALL GRANT AWARDS MADE DURING THE AWARD
16 PERIOD.

17 SEC. 36206. (1) AFTER THE BOARD DETERMINES WHICH GRANTS
18 SHOULD BE AWARDED AND THE AMOUNT OF THE GRANTS, THE DEPARTMENT
19 SHALL DISTRIBUTE THE GRANTS TO THE COUNTIES AWARDED THE GRANTS.
20 THE DEPARTMENT SHALL CONDITION THE RECEIPT OF A GRANT UPON THE
21 DEPARTMENT'S APPROVAL OF THE AGRICULTURAL CONSERVATION EASEMENTS
22 BEING ACQUIRED.

23 (2) IN REVIEWING PERMITTED USES CONTAINED WITHIN AN AGRICUL-
24 TURAL CONSERVATION EASEMENT UNDER SUBSECTION (1), THE DEPARTMENT
25 SHALL CONSIDER ALL OF THE FOLLOWING:

26 (A) WHETHER THE PERMITTED USES ADVERSELY AFFECT THE
27 PRODUCTIVITY OF FARMLAND.

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1 (B) WHETHER THE PERMITTED USES MATERIALLY ALTER OR
2 NEGATIVELY AFFECT THE EXISTING CONDITIONS OR USE OF THE LAND.

3 (C) WHETHER THE PERMITTED USES RESULT IN A MATERIAL ALTER-
4 ATION OF AN EXISTING STRUCTURE TO A NONAGRICULTURAL USE.

5 (D) WHETHER THE PERMITTED USES CONFORM WITH ALL APPLICABLE
6 FEDERAL, STATE, AND LOCAL LAWS AND ORDINANCES.

7 (3) THE DEPARTMENT MAY ACCEPT CONTRIBUTIONS OF ALL OR A POR-
8 TION OF THE DEVELOPMENT RIGHTS TO 1 OR MORE PARCELS OF LAND AS
9 PART OF A TRANSACTION FOR THE PURCHASE OF AN AGRICULTURAL CONSER-
10 VATION EASEMENT.

11 (4) A COUNTY THAT PURCHASES AN AGRICULTURAL CONSERVATION
12 EASEMENT WITH MONEY FROM A GRANT MAY PURCHASE THE AGRICULTURAL
13 CONSERVATION EASEMENT THROUGH AN INSTALLMENT PURCHASE AGREEMENT
14 UNDER TERMS NEGOTIATED BY THE COUNTY.

15 (5) AN AGRICULTURAL CONSERVATION EASEMENT ACQUIRED UNDER
16 THIS PART SHALL BE HELD JOINTLY BY THE STATE AND THE COUNTY BOARD
17 OF COMMISSIONERS OF THE COUNTY IN WHICH THE LAND SUBJECT TO THE
18 AGRICULTURAL CONSERVATION EASEMENT IS LOCATED. HOWEVER, THE
19 STATE MAY DELEGATE ENFORCEMENT AUTHORITY OF 1 OR MORE AGRICUL-
20 TURAL CONSERVATION EASEMENTS TO THE COUNTY BOARDS OF COMMISSION-
21 ERS OF THE COUNTIES IN WHICH THE AGRICULTURAL CONSERVATION EASE-
22 MENTS ARE LOCATED.

23 (6) AN AGRICULTURAL CONSERVATION EASEMENT ACQUIRED UNDER
24 THIS PART MAY BE TRANSFERRED TO THE OWNER OF THE PROPERTY SUBJECT
25 TO THE AGRICULTURAL CONSERVATION EASEMENT IF THE STATE AND THE
26 LOCAL UNIT OF GOVERNMENT HOLDING THE AGRICULTURAL CONSERVATION
27 EASEMENT AGREE TO THE TRANSFER AND THE TERMS OF THE TRANSFER.

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1 SEC. 36208. THE DEPARTMENT MAY PROMULGATE RULES TO
2 IMPLEMENT THIS PART.

3 Enacting section 1. This amendatory act does not take
4 effect unless all of the following occur:

5 (a) Senate Bill No. 1245 of the 90th Legislature is enacted
6 into law.

7 (b) Senate Bill No. 1246 of the 90th Legislature is enacted
8 into law.

9 (c) Senate Joint Resolution M of the 90th Legislature
10 becomes a part of the state constitution of 1963 as provided in
11 section 1 of article XII of the state constitution of 1963.