

SENATE BILL NO. 29

January 13, 1999, Introduced by Senator SCHUETTE and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
(MCL 324.101 to 324.90106) by adding part 362.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 PART 362 AGRICULTURAL SECURITY AREAS

2 SEC. 36201. AS USED IN THIS PART:

3 (A) "AGRICULTURAL SECURITY AREA" OR "ASA" MEANS A UNIT OF
4 250 OR MORE ACRES OF CONTIGUOUS LAND IN AGRICULTURAL USE UNDER
5 THE OWNERSHIP OF 1 OR MORE PERSONS AND DESIGNATED AS AN ASA UNDER
6 THIS PART.

7 (B) "AGRICULTURAL USE" MEANS THE PRODUCTION OF PLANTS AND
8 ANIMALS USEFUL TO HUMANS, INCLUDING FORAGES AND SOD CROPS; GRAINS
9 AND FEED CROPS; DAIRY AND DAIRY PRODUCTS; LIVESTOCK, INCLUDING
10 BREEDING AND GRAZING; FRUITS; VEGETABLES; CHRISTMAS TREES; AND
11 OTHER SIMILAR USES AND ACTIVITIES ON SUBSTANTIALLY UNDEVELOPED

1 LAND. AGRICULTURAL USE DOES NOT INCLUDE FAMILY HOUSING OR
2 EMPLOYEE HOUSING EXCEPT HOUSING FOR SEASONAL OR MIGRANT FARM
3 LABORERS.

4 (C) "ASA AGREEMENT" MEANS A WRITTEN INSTRUMENT THAT MEETS
5 ALL OF THE FOLLOWING REQUIREMENTS:

6 (i) CREATES A COVENANT RUNNING WITH THE LAND BY WHICH THE
7 OWNERS OF A PARCEL OR TRACT OF LAND IN AN ASA, THE LOCAL GOVERN-
8 ING BODY, AND THE STATE LAND USE AGENCY AGREE THAT THERE SHALL BE
9 NO DEVELOPMENT ON THE LAND EXCEPT FOR THE FOLLOWING:

10 (A) A STRUCTURE OR LAND IMPROVEMENT FOR A PERMITTED USE.

11 (B) UTILITY TRANSMISSION OR DISTRIBUTION LINES.

12 (C) OTHER STRUCTURES OR LAND IMPROVEMENTS APPROVED BY THE
13 LOCAL GOVERNING BODY AND THE STATE LAND USE AGENCY.

14 (ii) CONTAINS A LEGAL DESCRIPTION OF THE BOUNDARIES OF THE
15 ASA AND OF THE PARCEL OR TRACT OF LAND SUBJECT TO THE ASA
16 AGREEMENT.

17 (iii) IS FOR A TERM OF 10 OR 25 YEARS.

18 (D) "DEVELOPMENT" MEANS THAT TERM AS DEFINED IN PART 361.

19 (E) "DEVELOPMENT RIGHTS" MEANS THAT TERM AS DEFINED IN PART
20 361.

21 (F) "FARMLAND" MEANS 1 OR MORE OF THE FOLLOWING:

22 (i) FORTY OR MORE ACRES OF LAND, IN 1 OWNERSHIP, DEVOTED
23 PRIMARILY TO AGRICULTURAL USE.

24 (ii) FIVE ACRES OR MORE BUT LESS THAN 40 ACRES OF LAND, IN 1
25 OWNERSHIP, WITH 51% OR MORE OF THE LAND AREA DEVOTED TO AGRICUL-
26 TURAL USE, THAT HAS PRODUCED A GROSS ANNUAL INCOME FROM
27 AGRICULTURE OF \$200.00 OR MORE PER ACRE OF CLEARED AND TILLABLE

1 LAND. ACREAGE ENROLLED IN A FEDERAL ACREAGE SET ASIDE PROGRAM OR
2 A FEDERAL CONSERVATION RESERVE PROGRAM IS CONSIDERED TO BE
3 DEVOTED TO AGRICULTURAL USE AND TO HAVE PRODUCED A GROSS ANNUAL
4 INCOME FROM AGRICULTURE OF \$200.00 OR MORE PER ACRE OF CLEARED
5 AND TILLABLE LAND.

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

13 (G) "LOCAL GOVERNING BODY" MEANS, FOR EACH LOCAL GOVERNMEN-
14 TAL UNIT, THE LEGISLATIVE BODY OF THAT LOCAL GOVERNMENTAL UNIT.

15 (H) "LOCAL GOVERNMENTAL UNIT" MEANS EACH OF THE FOLLOWING,
16 AS APPLICABLE:

17 (i) IF ALL OR PART OF AN ASA OR PROPOSED ASA IS LOCATED IN A
18 CITY, THE CITY.

19 (ii) IF ALL OR PART OF AN ASA OR PROPOSED ASA IS LOCATED IN
20 A VILLAGE, THE VILLAGE.

21 (iii) IF ALL OR PART OF AN ASA OR PROPOSED ASA IS LOCATED IN
22 A TOWNSHIP THAT HAS A ZONING ORDINANCE, THE TOWNSHIP.

23 (iv) IF ALL OR PART OF AN ASA OR PROPOSED ASA IS LOCATED IN
24 A TOWNSHIP THAT DOES NOT HAVE A ZONING ORDINANCE, THE COUNTY.

25 (I) "OWNER" MEANS THAT TERM AS DEFINED IN PART 361.

1 (J) "PERMITTED USE" MEANS ANY USE CONTAINED WITHIN AN ASA
2 AGREEMENT CONSISTENT WITH THE FARMING OPERATION OR THAT DOES NOT
3 ALTER THE OPEN SPACE CHARACTER OF THE LAND.

4 (K) "PERSON" INCLUDES AN INDIVIDUAL, PARTNERSHIP, CORPORA-
5 TION, ASSOCIATION, GOVERNMENTAL ENTITY OR OTHER LEGAL ENTITY, OR
6 2 OR MORE PERSONS HAVING A JOINT OR COMMON INTEREST IN THE LAND.

7 (L) "PLANNING COMMISSION" MEANS A PLANNING COMMISSION OR
8 OTHER AGENCY OF A LOCAL GOVERNMENTAL UNIT THAT HAS BEEN DESIG-
9 NATED BY THE LOCAL GOVERNING BODY TO ESTABLISH AND FOSTER A COM-
10 PREHENSIVE PLAN FOR LAND MANAGEMENT AND DEVELOPMENT WITHIN THE
11 LOCAL GOVERNMENTAL UNIT.

12 (M) "STATE LAND USE AGENCY" MEANS THAT TERM AS DEFINED IN
13 PART 361.

14 (N) "SUBSTANTIALLY UNDEVELOPED" MEANS WITHOUT DEVELOPMENT
15 EXCEPT FOR A DWELLING, BUILDING, OR OTHER STRUCTURE OR A ROAD OR
16 OTHER LAND IMPROVEMENT THAT IS INCIDENTAL TO AGRICULTURAL USE OR
17 OPEN SPACE USE.

18 SEC. 36202. (1) THE OWNER OR OWNERS OF 250 OR MORE CONTIGU-
19 OUS ACRES OF FARMLAND MAY APPLY FOR THE CREATION OF AN ASA THAT
20 INCLUDES THAT LAND.

21 (2) AN APPLICATION FOR CREATION OF AN ASA SHALL BE SUBMITTED
22 IN THE MANNER AND FORM AS MAY BE PRESCRIBED BY THE STATE LAND USE
23 AGENCY. AN APPLICATION SHALL INCLUDE ALL OF THE FOLLOWING:

24 (A) A DESCRIPTION OF THE PROPOSED ASA THAT MEETS ALL OF THE
25 FOLLOWING REQUIREMENTS:

26 (i) INCLUDES A COMPLETE AND ACCURATE LIST OF THE NAMES OF
27 EACH OWNER OF EACH PARCEL OF LAND INCLUDED IN THE PROPOSED ASA.

1 (ii) INCLUDES THE TAX PARCEL NUMBER AND THE NUMBER OF ACRES,
2 INCLUDING PARTIAL ACRES, TO THE NEAREST THOUSANDTH, OF EACH
3 PARCEL INCLUDED IN THE PROPOSED ASA.

4 (iii) USES COUNTY TAX MAP REFERENCES TO SPECIFY BOUNDARIES
5 OF EACH PARCEL, EXCEPT AS PROVIDED IN SUBPARAGRAPH (iv).

6 (iv) USES A SURVEY TO SPECIFY THE BOUNDARY OF A PARCEL THAT
7 REPRESENTS LESS THAN THE ENTIRE AMOUNT OF CONTIGUOUS LAND OWNED
8 BY AN OWNER.

9 (B) A MAP OF THE PROPOSED ASA. A PLAT MAP MAY BE USED TO
10 SATISFY THE REQUIREMENTS OF THIS SUBDIVISION.

11 (C) AN AERIAL PHOTOGRAPH OF THE PROPOSED ASA, IF AVAILABLE.

12 (D) THE TERM OF THE PROPOSED ASA, WHICH SHALL BE 10 OR 25
13 YEARS.

14 (E) A COMMITMENT BY THE OWNERS OF THE LAND IN THE PROPOSED
15 ASA TO ENTER AN ASA AGREEMENT APPROVED BY THE LOCAL GOVERNING
16 BODY IF BOTH OF THE FOLLOWING REQUIREMENTS ARE MET:

17 (i) EXCEPT FOR THE INCLUSION OF CONTIGUOUS FARMLAND UNDER
18 SECTION 36203(6), THE ASA AGREEMENT APPROVED BY THE LOCAL GOVERN-
19 ING BODY DOES NOT MODIFY THE BOUNDARIES OF THE PROPOSED ASA.

20 (ii) THE ASA AGREEMENT IS FOR THE DURATION SPECIFIED IN THE
21 APPLICATION.

22 (F) THE SIGNATURES OF THE OWNERS OF THE LAND IN THE PROPOSED
23 ASA.

24 (3) THE APPLICANT OR APPLICANTS FOR A PROPOSED ASA SHALL
25 SUBMIT THE APPLICATION AND A COPY OF THE APPLICATION TO THE CLERK
26 OF EACH LOCAL GOVERNING BODY OR HIS OR HER DESIGNEE. THE CLERK
27 OR HIS OR HER DESIGNEE SHALL SIGN AND DATE THE APPLICATION AND

1 THE COPY. THE CLERK OR HIS OR HER DESIGNEE SHALL RETAIN THE COPY
2 AND RETURN THE APPLICATION TO THE APPLICANT OR APPLICANTS.

3 (4) THE APPLICANT OR APPLICANTS FOR A PROPOSED ASA SHALL
4 SUBMIT THE APPLICATION SIGNED BY THE CLERK OF EACH LOCAL GOVERN-
5 ING BODY TO THE STATE LAND USE AGENCY. THE STATE LAND USE AGENCY
6 SHALL REVIEW THE APPLICATION FOR COMPLETENESS AND CONSISTENCY
7 WITH THIS PART. IF THE APPLICATION IS INCOMPLETE OR OTHERWISE
8 NOT CONSISTENT WITH THIS PART, THE DEPARTMENT SHALL RETURN THE
9 APPLICATION TO THE APPLICANT OR APPLICANTS WITH A WRITTEN EXPLA-
10 NATION OF HOW THE APPLICATION CAN BE MADE COMPLETE AND CONSISTENT
11 WITH THIS PART. THE APPLICANT OR APPLICANTS MAY MODIFY THE
12 APPLICATION ACCORDINGLY AND RESUBMIT IT UNDER SUBSECTION (3). IF
13 THE APPLICATION IS COMPLETE AND OTHERWISE CONSISTENT WITH THIS
14 PART, THE STATE LAND USE AGENCY SHALL FORWARD THE APPLICATION, OR
15 A COPY THEREOF, TO EACH LOCAL GOVERNMENTAL UNIT WITHIN 60 DAYS OF
16 THE DEPARTMENT'S RECEIPT OF THE APPLICATION.

17 (5) IF THE LANDS INCLUDED IN AN APPLICATION FOR AN ASA ARE
18 LOCATED IN DIFFERENT LOCAL GOVERNMENTAL UNITS, THE LOCAL GOVERN-
19 ING BODIES MAY COOPERATE IN THE REVIEW OF A PROPOSED ASA AND MAY
20 PROVIDE JOINT PUBLIC NOTICES AND A JOINT PUBLIC HEARING ON THE
21 PROPOSED ASA. A REJECTION BY A LOCAL GOVERNING BODY EXCLUDES
22 FROM THE PROPOSED ASA LAND ON THE BASIS OF WHICH THAT LOCAL GOV-
23 ERNMENTAL UNIT HAD JURISDICTION UNDER THIS PART. HOWEVER, THE
24 REJECTION DOES NOT PRECLUDE THE APPROVAL OF THE REMAINING PORTION
25 OF THE PROPOSED ASA BY ANY OTHER LOCAL GOVERNING BODY IF THE
26 REMAINING PORTION SATISFIES THE ACREAGE AND OTHER REQUIREMENTS OF
27 THIS PART.

1 (6) PARTICIPATION IN THE ASA IS AVAILABLE ON A VOLUNTARY
2 BASIS TO OWNERS, INCLUDING THOSE WHO WERE NOT ORIGINAL
3 APPLICANTS.

4 SEC. 36203. (1) AT THE NEXT REGULAR OR SPECIAL MEETING OF
5 THE LOCAL GOVERNING BODY, THE LOCAL GOVERNING BODY SHALL ACKNOWLEDGE
6 RECEIPT OF AN APPLICATION FOR CREATION OF AN ASA FROM THE
7 STATE LAND USE AGENCY AND REFER THE APPLICATION AND ANY PROPOSED
8 MODIFICATIONS TO THE PLANNING COMMISSION FOR REVIEW.

9 (2) NOT MORE THAN 60 DAYS AFTER THE REFERRAL UNDER SUBSECTION
10 (1), THE PLANNING COMMISSION SHALL REPORT TO THE LOCAL GOVERNING
11 BODY THE POTENTIAL EFFECT OF THE PROPOSAL AND ANY PROPOSED
12 MODIFICATIONS UPON THE LOCAL GOVERNMENTAL UNIT'S PLANNING POLICIES
13 AND OBJECTIVES AND SHALL RECOMMEND APPROVAL, MODIFICATION,
14 OR REJECTION OF THE PROPOSED ASA. THE FAILURE OF THE PLANNING
15 COMMISSION TO SUBMIT A REPORT WITHIN 60 DAYS SHALL BE CONSIDERED
16 TO CONSTITUTE APPROVAL OF THE APPLICATION BY THE PLANNING
17 COMMISSION. THE FOLLOWING FACTORS AND EVALUATION CRITERIA SHALL
18 BE CONSIDERED BY THE PLANNING COMMISSION:

19 (A) THE REQUIREMENT THAT AT LEAST 50% OF THE LAND PROPOSED
20 FOR INCLUSION IN AN ASA HAVE SOILS THAT ARE CONDUCIVE TO
21 AGRICULTURE.

22 (B) THE REQUIREMENT THAT USE OF LAND PROPOSED FOR INCLUSION
23 IN AN ASA BE COMPATIBLE WITH THE LOCAL GOVERNMENTAL UNIT'S COMPREHENSIVE
24 PLAN.

25 (C) THE EXTENT AND NATURE OF FARM IMPROVEMENTS.

26 (D) ANTICIPATED TRENDS IN AGRICULTURAL ECONOMIC AND
27 TECHNOLOGICAL CONDITIONS.

1 (E) ANY OTHER MATTER THAT THE PLANNING COMMISSION CONSIDERS
2 RELEVANT.

3 (3) NOT MORE THAN 60 DAYS AFTER RECEIPT OF THE REPORT FROM
4 THE PLANNING COMMISSION OR EXPIRATION OF THE 60-DAY PERIOD AS
5 PROVIDED IN SUBSECTION (2), THE GOVERNING BODY SHALL HOLD A
6 PUBLIC HEARING ON THE APPLICATION PURSUANT TO THE OPEN MEETINGS
7 ACT, 1976 PA 267, MCL 15.261 TO 15.275. NOTICE OF THE HEARING
8 SHALL BE GIVEN IN THE MANNER REQUIRED BY THE OPEN MEETINGS ACT,
9 1976 PA 267, MCL 15.261 TO 15.275. IN ADDITION, NOTICE MAY BE
10 GIVEN IN WRITING TO OWNERS WHOSE LAND IS INCLUDED IN OR CONTIGU-
11 OUS TO THE PROPOSED ASA OR INCLUDED IN OR CONTIGUOUS TO ADDITIONS
12 TO THE ASA PROPOSED BY THE PLANNING COMMISSION. THE NOTICE SHALL
13 CONTAIN ALL OF THE FOLLOWING INFORMATION:

14 (A) THE TIME, DATE, AND PLACE OF THE PUBLIC HEARING.

15 (B) A DESCRIPTION OF THE PROPOSED ASA, ANY PROPOSED ADDI-
16 TIONS OR DELETIONS, AND ANY RECOMMENDATIONS OF THE PLANNING
17 COMMISSION.

18 (C) A STATEMENT THAT A PUBLIC HEARING WILL BE HELD CONCERN-
19 ING THE APPLICATION AND ANY RECOMMENDATIONS OF THE PLANNING
20 COMMISSION.

21 (4) AT OR AFTER THE HEARING HELD PURSUANT TO SUBSECTION (3),
22 AND NOT MORE THAN 180 DAYS AFTER RECEIPT OF THE APPLICATION FROM
23 THE STATE LAND USE AGENCY, THE LOCAL GOVERNING BODY SHALL
24 APPROVE, APPROVE WITH MODIFICATIONS, OR REJECT THE APPLICATION.
25 MODIFICATIONS MAY CONSIST OF ANY CHANGES THE LOCAL GOVERNING BODY
26 CONSIDERS APPROPRIATE, SUCH AS THE INCLUSION OF CONTIGUOUS
27 FARMLAND IF THE OWNER OF THE CONTIGUOUS FARMLAND HAS SUBMITTED TO

1 THE LOCAL GOVERNING BODY AN APPLICATION AS DESCRIBED IN SECTION
2 36202(2) TO HAVE THAT FARMLAND INCLUDED IN THE ASA. FAILURE BY
3 THE GOVERNING BODY TO ACT WITHIN THIS 180-DAY PERIOD SHALL BE
4 CONSIDERED APPROVAL OF THE APPLICATION WITHOUT MODIFICATION.

5 (5) WITHIN 30 DAYS AFTER THE LOCAL GOVERNING BODY APPROVES
6 WITH MODIFICATION OR REJECTS THE APPLICATION, THE LOCAL GOVERNING
7 BODY SHALL SUBMIT TO THE OWNER OR OWNERS OF THE LAND A WRITTEN
8 DECISION STATING THE REASONS THE APPLICATION WAS MODIFIED OR
9 REJECTED AND A COPY OF THAT PORTION OF THE MINUTES OF THE MEETING
10 OF THE LOCAL GOVERNING BODY PERTAINING TO THE DECISION.

11 SEC. 36204. (1) WITHIN 30 DAYS AFTER THE LOCAL GOVERNING
12 BODY APPROVES THE APPLICATION OR APPROVES THE APPLICATION WITH
13 MODIFICATION UNDER SECTION 36203, THE LOCAL GOVERNING BODY SHALL
14 SUBMIT TO THE STATE LAND USE AGENCY THE APPLICATION AND A
15 DESCRIPTION OF THE ACTION TAKEN BY THE LOCAL GOVERNING BODY WITH
16 RESPECT TO THE PROPOSED ASA.

17 (2) FOR EACH PARCEL OR TRACT OF LAND IN THE PROPOSED ASA,
18 THE STATE LAND USE AGENCY SHALL DRAFT AN ASA AGREEMENT. THE
19 STATE LAND USE AGENCY SHALL OBTAIN THE SIGNATURES OF THE OWNERS
20 OF THAT LAND AND THE SIGNATURE OF THE CLERK OF THE LOCAL GOVERN-
21 ING BODY ON THE ASA AGREEMENT. AN OWNER SHALL NOT REFUSE TO SIGN
22 THE ASA AGREEMENT IF CONSISTENT WITH THE OWNER'S COMMITMENT UNDER
23 SECTION 36202(2)(E).

24 (3) AFTER THE SIGNATURES REQUIRED UNDER SUBSECTION (2) ARE
25 OBTAINED, AN AUTHORIZED OFFICIAL OF THE STATE LAND USE AGENCY
26 SHALL SIGN THE ASA AGREEMENT AND FILE THE ASA AGREEMENT WITH THE
27 PLANNING COMMISSIONS OF THE COUNTY AND THE LOCAL GOVERNMENTAL

1 UNIT AND WITH THE REGISTER OF DEEDS OF THE COUNTY. THE REGISTER
2 OF DEEDS SHALL RECORD THE ASA AGREEMENT IN A MANNER THAT IS SUFFICIENT TO GIVE NOTICE TO ALL PERSONS WHO HAVE, MAY ACQUIRE, OR
3 MAY SEEK TO ACQUIRE AN INTEREST IN LAND IN OR ADJACENT TO THE
4 ASA.

6 (4) THE EXISTENCE OF UTILITY FACILITIES ON THE PROPOSED ASA
7 DOES NOT PREVENT THE CREATION OF AN ASA. THE RIGHTS OF UTILITIES
8 WITH RESPECT TO THE EXISTING FACILITIES ARE NOT AFFECTED BY THE
9 CREATION OF THE ASA.

10 SEC. 36205. (1) NOT LESS THAN 120 OR MORE THAN 180 DAYS
11 BEFORE THE EXPIRATION OF THE TERM OF AN ASA, THE LOCAL GOVERNING
12 BODY SHALL GIVE NOTICE THAT THE LOCAL GOVERNMENTAL UNIT INTENDS
13 TO REVIEW THE ASA FOR RENEWAL PURSUANT TO THIS SECTION. THE
14 NOTICE SHALL BE GIVEN IN WRITING BY PERSONAL DELIVERY OR
15 FIRST-CLASS MAIL TO THE OWNERS OF LAND INCLUDED IN THE ASA OR
16 CONTIGUOUS TO THE ASA. THE NOTICE SHALL REQUEST EACH OWNER TO
17 NOTIFY THE LOCAL GOVERNING BODY WHETHER HE OR SHE DESIRES TO
18 ENTER AN ASA AGREEMENT FOR A RENEWED ASA. AN OWNER OF LAND CONTIGUOUS TO THE ASA WHO DESIRES TO ENTER AN ASA AGREEMENT SHALL
19 NOTIFY THE LOCAL GOVERNING BODY WITHIN 30 DAYS AFTER DELIVERY OF
20 THE LOCAL GOVERNING BODY'S NOTICE.

22 (2) UNLESS, BASED ON NOTIFICATIONS BY OWNERS THAT THEY DO
23 NOT DESIRE TO ENTER ASA AGREEMENTS, IT APPEARS THAT THE ASA
24 CANNOT BE RENEWED, THE LOCAL GOVERNING BODY SHALL REFER THE ISSUE
25 OF RENEWING THE ASA TO THE PLANNING COMMISSION FOR REVIEW. THE
26 PLANNING COMMISSION AND LOCAL GOVERNING BODY SHALL PROCEED AS
27 PROVIDED IN SECTION 36203(2) AND (3) AND SHALL ADOPT A RESOLUTION

1 PROPOSING TO RENEW THE ASA, WITH OR WITHOUT MODIFICATIONS, OR
2 PROPOSING TO ALLOW THE ASA TO TERMINATE.

3 (3) NOT MORE THAN 10 DAYS AFTER ADOPTION OF THE RESOLUTION,
4 THE LOCAL GOVERNING BODY SHALL SUBMIT TO THE STATE LAND USE
5 AGENCY NOTICE OF THE PROPOSED RENEWAL OR OF THE TERMINATION OF
6 THE ASA. IF THE LOCAL GOVERNING BODY PROPOSES RENEWAL OF THE
7 ASA, THE STATE LAND USE AGENCY, THE CLERK OF THE LOCAL GOVERNMEN-
8 TAL UNIT, AND THE REGISTER OF DEEDS SHALL PROCEED AS PROVIDED IN
9 SECTION 36204(2) AND (3). AN OWNER'S COMMITMENT TO ENTER AN
10 ORIGINAL ASA AGREEMENT UNDER SECTION 36202(2)(E) DOES NOT OBLI-
11 GATE THE OWNER TO ENTER AN ASA AGREEMENT FOR AN ASA PROPOSED FOR
12 RENEWAL UNDER THIS SECTION.

13 (4) UNLESS THE ASA WILL TERMINATE IN 3 OR FEWER YEARS, EACH
14 YEAR AT THE ANNIVERSARY DATE OF THE CREATION OF THE ASA, LAND
15 THAT IS CONTIGUOUS TO THE ASA MAY BE ADDED TO THE ASA. A PRO-
16 POSAL FOR AN ADDITION, AND THE APPROVAL OR DISAPPROVAL OF A PRO-
17 POSED ADDITION, SHALL FOLLOW ALL THE PROCEDURES AND REQUIREMENTS
18 OF THIS PART FOR PROPOSAL, CONSIDERATION, AND DECISION AS TO
19 APPROVAL OR DISAPPROVAL OF THE ORIGINAL ASA. THE ADDITION OF
20 LAND TO AN ASA DOES NOT CHANGE THE TERMINATION DATE OF THE ASA.

21 (5) THE DELETION OF LAND FROM AN ASA SHALL ONLY OCCUR AT THE
22 EXPIRATION OF THE ASA AGREEMENT.

23 SEC. 36206. ANY PARTY IN INTEREST AGGRIEVED BY A DECISION
24 OR ACTION OF THE GOVERNING BODY RELATING TO THE CREATION, COMPO-
25 SITION, MODIFICATION, REJECTION, OR TERMINATION OF AN ASA MAY
26 APPEAL TO THE CIRCUIT COURT, IN THE MANNER PROVIDED BY THE

1 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.101 TO
2 600.9948, WITHIN 30 DAYS AFTER THE DECISION OR ACTION.

3 SEC. 36207. (1) AN OWNER MAY VOLUNTARILY CONVEY DEVELOPMENT
4 RIGHTS OR ANY OTHER INTEREST IN LAND IN AN ASA WITHOUT PENALTY IF
5 THE USE OF THE LAND BY THE SUCCESSOR IN TITLE COMPLIES WITH THE
6 ASA AGREEMENT. THE SELLER SHALL NOTIFY THE STATE LAND USE AGENCY
7 AND THE LOCAL GOVERNING BODY OF THE CHANGE IN OWNERSHIP. THE
8 FACT THAT DEVELOPMENT RIGHTS TO LAND HAVE BEEN CONVEYED DOES NOT
9 DISQUALIFY THAT LAND FROM BEING INCLUDED IN AN EXISTING OR PRO-
10 POSED ASA.

11 (2) IF A STATE OR LOCAL GOVERNMENTAL ENTITY ACQUIRES DEVEL-
12 OPMENT RIGHTS TO LAND IN AN ASA, WHETHER OR NOT ANY OTHER INTER-
13 EST IN THE LAND IS ACQUIRED, THE APPRAISED VALUE OF THE DEVELOP-
14 MENT RIGHTS SHALL NOT BE CONSIDERED TO BE REDUCED BY THE ASA
15 AGREEMENT.

16 (3) LAND CONTAINING STRUCTURES THAT WERE PRESENT BEFORE THE
17 RECORDING OF THE ASA AGREEMENT MAY BE RELINQUISHED FROM THE
18 AGREEMENT, UPON REQUEST OF THE OWNER AND APPROVAL OF THE LOCAL
19 GOVERNING BODY AND THE STATE LAND USE AGENCY. NOT MORE THAN 2
20 ACRES MAY BE RELINQUISHED UNDER THIS SUBSECTION UNLESS ADDITIONAL
21 LAND AREA IS NEEDED TO ENCOMPASS ALL OF THE BUILDINGS LOCATED ON
22 THE PARCEL, IN WHICH CASE NOT MORE THAN 5 ACRES MAY BE
23 RELINQUISHED. IF THE PARCEL PROPOSED TO BE RELINQUISHED IS LESS
24 IN AREA THAN THE MINIMUM PARCEL SIZE REQUIRED BY LOCAL ZONING,
25 THE PARCEL MAY NOT BE RELINQUISHED UNLESS A VARIANCE IS OBTAINED
26 FROM THE LOCAL ZONING BOARD OF APPEALS TO ALLOW FOR THE SMALLER
27 PARCEL SIZE.

1 (4) THE LAND DESCRIBED IN AN ASA AGREEMENT MAY BE DIVIDED
2 INTO SMALLER PARCELS OF LAND THAT ARE NOT LESS THAN 40 ACRES IN
3 SIZE, EACH OF WHICH SHALL BE COVERED BY A SEPARATE ASA AGREEMENT
4 AND EACH OF WHICH SHALL BE ELIGIBLE FOR SUBSEQUENT RENEWAL. THE
5 SEPARATE ASA AGREEMENTS SHALL CONTAIN THE SAME TERMS AND CONDI-
6 TIONS AS THE ORIGINAL ASA AGREEMENT. LAND MAY BE DIVIDED ONCE
7 UNDER THIS SUBSECTION WITHOUT FEE BY THE STATE LAND USE AGENCY.
8 THE STATE LAND USE AGENCY MAY CHARGE A REASONABLE FEE NOT GREATER
9 THAN THE ACTUAL COST OF PREPARING SEPARATE ASA AGREEMENTS FOR ALL
10 SUBSEQUENT DIVISIONS OF THAT LAND. WHEN SEPARATE ASA AGREEMENTS
11 UNDER THIS SUBSECTION ARE EXECUTED AND RECORDED, THE STATE LAND
12 USE AGENCY SHALL NOTIFY THE ASSESSING OFFICE OF EACH LOCAL GOV-
13 ERNMENTAL UNIT, EACH LOCAL GOVERNING BODY, THE APPLICANT, ALL
14 REVIEWING AGENCIES, AND THE DEPARTMENT OF TREASURY.

15 SEC. 36208. UPON TERMINATION OF AN ASA AGREEMENT, THE LOCAL
16 GOVERNING BODY SHALL NOTIFY THE DEPARTMENT OF TREASURY FOR ITS
17 RECORDS.

18 SEC. 36209. THE DEVELOPMENT RIGHTS RESTRICTED UNDER AN ASA
19 AGREEMENT ARE EXEMPT FROM AD VALOREM TAXATION.

20 SEC. 36210. (1) EACH LOCAL GOVERNMENTAL UNIT WITHIN WHICH
21 AN ASA IS CREATED SHALL ENCOURAGE THE CONTINUITY, DEVELOPMENT,
22 AND VIABILITY OF AGRICULTURE WITHIN THE ASA BY NOT ENACTING ORDI-
23 NANCES THAT WOULD RESTRICT FARM STRUCTURES OR A FARM OPERATION
24 CONDUCTED USING GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT
25 PRACTICES AS DEFINED UNDER THE MICHIGAN RIGHT TO FARM ACT, 1981
26 PA 93, MCL 286.471 TO 286.474, WITHIN THE ASA, UNLESS SUCH
27 RESTRICTIONS BEAR A DIRECT RELATIONSHIP TO THE PUBLIC HEALTH OR

1 SAFETY. AN ORDINANCE OF A LOCAL GOVERNMENTAL UNIT DEFINING OR
2 PROHIBITING A PUBLIC NUISANCE SHALL EXCLUDE FROM THE DEFINITION
3 OF NUISANCE ANY AGRICULTURAL ACTIVITY OR FARM OPERATION CONDUCTED
4 USING GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRACTICES AS
5 DEFINED UNDER THE MICHIGAN RIGHT TO FARM ACT, 1981 PA 93, MCL
6 286.471 TO 286.474, WITHIN AN ASA, IF SUCH AGRICULTURAL ACTIVITY
7 OR FARM OPERATION DOES NOT BEAR A DIRECT RELATIONSHIP TO THE
8 PUBLIC HEALTH AND SAFETY.

9 (2) SPECIAL ASSESSMENTS ON LAND IN AN ASA ARE SUBJECT TO THE
10 SAME REQUIREMENTS AS SPECIAL ASSESSMENTS UNDER SECTION 36108.

11 (3) ALL STATE AGENCIES SHALL ENCOURAGE THE MAINTENANCE OF
12 VIABLE FARMING IN ASAS INSOFAR AS IS CONSISTENT WITH THE PROMO-
13 TION OF PUBLIC HEALTH AND SAFETY AND WITH THE PROVISIONS OF ANY
14 FEDERAL STATUTES, STANDARDS, CRITERIA, RULES, REGULATIONS, OR
15 POLICIES, AND ANY OTHER REQUIREMENTS OF FEDERAL AGENCIES, INCLUD-
16 ING PROVISIONS APPLICABLE ONLY TO OBTAINING FEDERAL GRANTS,
17 LOANS, OR OTHER FUNDING.

18 (4) THE LOCAL GOVERNING BODY SHALL CONSIDER THE IMPACT OF
19 PROPOSED DEVELOPMENTS UPON ADJACENT AGRICULTURAL OPERATIONS IN AN
20 ASA AND ENCOURAGE DESIGNS THAT WILL MINIMIZE THE IMPACT OF DEVEL-
21 OPMENT UPON ADJACENT AGRICULTURAL OPERATIONS AND INCORPORATE
22 ALTERNATIVE DEVELOPMENT OPTIONS INCLUDING, BUT NOT LIMITED TO,
23 BUFFER STRIPS, BARRIER OR BERM CONSTRUCTION, SETBACK REQUIRE-
24 MENTS, AND CLUSTER OR PLANNED UNIT DEVELOPMENT OPTIONS.

25 (5) A PERSON SHALL NOT SELL LAND THAT IS LOCATED WITHIN 1
26 MILE OF AN ASA UNLESS THE DEED CONTAINS SUBSTANTIALLY THE
27 FOLLOWING NOTICE:

1 "THIS PROPERTY IS LOCATED IN THE VICINITY OF A FARM OR FARM
2 OPERATION. GENERALLY ACCEPTED AGRICULTURAL AND MANAGEMENT PRAC-
3 TICES MAY BE UTILIZED BY THE FARM OR FARM OPERATION AND MAY GEN-
4 ERATE USUAL AND ORDINARY NOISE, DUST, ODORS, AND OTHER ASSOCIATED
5 CONDITIONS, AND THESE PRACTICES ARE PROTECTED BY THE MICHIGAN
6 RIGHT TO FARM ACT, 1981 PA 93, MCL 286.471 TO 286.474. THE
7 SELLER IS NOT REQUIRED TO DISCLOSE WHETHER GENERALLY ACCEPTED
8 AGRICULTURAL AND MANAGEMENT PRACTICES ARE BEING UTILIZED.".

9 SEC. 36211. (1) IF A STATE AGENCY PROPOSES A PUBLICLY
10 FUNDED, OWNED, AND MAINTAINED PROJECT THAT WOULD UTILIZE LAND IN
11 AN ASA, THE STATE AGENCY SHALL SUBMIT TO THE DEPARTMENT OF AGRI-
12 CULTURE AN ASSESSMENT OF THE IMPACT OF THE PROJECT UPON AGRICUL-
13 TURAL LANDS. THE DEPARTMENT OF AGRICULTURE SHALL SEEK THE
14 ASSISTANCE OF MICHIGAN STATE UNIVERSITY, THE NATURAL RESOURCES
15 CONSERVATION SERVICE OF THE UNITED STATES DEPARTMENT OF AGRICUL-
16 TURE, AND OTHER PROFESSIONAL AND INDUSTRY ORGANIZATIONS AND
17 REVIEW AND ASSESS THE IMPACT OF A PROPOSED PROJECT UPON AGRICUL-
18 TURAL LANDS BEFORE ANY LAND IS RELINQUISHED FROM THE ASA
19 AGREEMENTS. THIS REVIEW SHALL DO ALL OF THE FOLLOWING:

20 (A) EXAMINE THE EFFECT THE PROPOSED PROJECT WOULD HAVE UPON
21 THE PRESERVATION AND ENHANCEMENT OF AGRICULTURE OR COMMUNITY
22 RESOURCES WITHIN THE AREA.

23 (B) ENSURE THAT THERE ARE NO OTHER REASONABLE AND PRUDENT
24 ALTERNATIVES TO THE UTILIZATION OF LAND IN THE ASA FOR THE
25 PROJECT.

1 (C) SUGGEST ANY MODIFICATION TO THE PROPOSED PROJECT THAT
2 ENSURES THE INTEGRITY OF LAND IN THE ASA AGAINST NONFARM
3 ENCROACHMENT.

4 (2) IF A PUBLIC AGENCY CONDEMNS LAND IN AN ASA, ALL OF THE
5 FOLLOWING APPLY:

6 (A) THE VALUE OF THE LAND SHALL INCLUDE THE VALUE OF DEVEL-
7 OPMENT RIGHTS COVERED BY ASA AGREEMENTS.

8 (B) BEFORE THE AGENCY DEVELOPS THE PROPERTY CONDEMNED WITHIN
9 THE AGRICULTURAL SECURITY AREA, THE AGENCY SHALL PURCHASE FROM A
10 WILLING SELLER, AND SUBJECT TO LOCAL GOVERNMENTAL APPROVAL, THE
11 DEVELOPMENT RIGHTS TO AT LEAST TWICE AS MUCH LAND WITH COMPARABLE
12 CAPACITY FOR THE PRODUCTION OF AGRICULTURAL PRODUCTS AND LOCATED
13 IN OR IN THE VICINITY OF THE ASA. THE AGENCY SHALL TRANSFER THE
14 DEVELOPMENT RIGHTS TO THE STATE LAND USE AGENCY. THE CONDEMNNA-
15 TION AWARD FOR THE DEVELOPMENT RIGHTS SHALL BE PAID FROM FUNDS
16 FOR THE PROJECT FOR WHICH THE PROPERTY IS NEEDED, NOT FROM FUNDS
17 OF A PROGRAM FOR THE PURCHASE OF DEVELOPMENT RIGHTS.

18 (C) THE REQUIREMENTS OF SECTION 36207(2).