

# SENATE BILL No. 1246

May 4, 2000, Introduced by Senators MC MANUS, EMMONS, SIKKEMA, GOUGEON, STILLE, GAST, SCHWARZ, HAMMERSTROM and GOSCHKA and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to impose a state recapture tax on the change in use of certain agricultural property; to provide for the administration of this act; to prescribe the powers and duties of certain state and local officers; to provide for the collection and distribution of the recapture tax; and to prescribe penalties and provide remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

SENATE BILL No. 1246

1       Sec. 1. This act shall be known and may be cited as the  
2 "agricultural property recapture act".

3       Sec. 2. As used in this act:

4       (a) "Converted by a change in use" means that due to a  
5 change in use the property is no longer qualified agricultural  
6 property and a rescission form is required to be filed under  
7 section 7ee of the general property tax act, 1893 PA 206,  
8 MCL 211.7ee.

1 (b) "Person" means an individual, partnership, corporation,  
2 limited liability company, association, governmental entity, or  
3 other legal entity.

4 (c) "Qualified agricultural property" means that term as  
5 defined in section 7dd of the general property tax act, 1893  
6 PA 206, MCL 211.7dd.

7 (d) "Recapture tax" means the agricultural property recap-  
8 ture tax imposed under this act.

9 (e) "Treasurer" means the state treasurer.

10 (f) "True cash taxable value" means the taxable value the  
11 property would have had as determined under section 27a of the  
12 general property tax act, 1893 PA 206, MCL 211.27a, in the year  
13 in which the property is converted by a change in use if the  
14 property had not been subject to assessment under section 27e of  
15 the general property tax act, 1893 PA 206, MCL 211.27e.

16 Sec. 3. (1) Beginning January 1, 2002, a recapture tax is  
17 imposed on the owner of property that meets all of the following  
18 conditions:

19 (a) The property was qualified agricultural property on  
20 January 1, 2002 or became qualified agricultural property after  
21 January 1, 2002.

22 (b) The property is converted by a change in use.

23 (2) The person who is the owner of the property when the  
24 recapture tax is imposed is liable for the recapture tax imposed  
25 under this act. If the recapture tax is not paid within 90 days  
26 of the date it is imposed, the county treasurer in which the  
27 property is located or the treasurer may bring a civil action

1 against the owner of the property as of the date the recapture  
2 tax was imposed to collect the recapture tax.

3       (3) If a recapture tax is imposed under subsection (1), the  
4 recapture tax is a lien on the real property subject to the  
5 recapture tax until paid. If the recapture tax is not paid  
6 within 90 days of the date it is imposed, the recapture tax may  
7 be collected by the county treasurer of the county in which the  
8 property is located in the same manner as delinquent taxes are  
9 collected under the general property tax act, 1893 PA 206,  
10 MCL 211.1 to 211.157.

11       Sec. 4. The recapture tax imposed under section 3 is the  
12 product of both of the following:

13       (a) One half the number of mills levied in the local tax  
14 collecting unit where the qualified agricultural property is  
15 located in the year in which the qualified agricultural property  
16 is converted by a change in use multiplied by the difference  
17 between the true cash taxable value of the property and the  
18 property's taxable value determined under section 27e of the gen-  
19 eral property tax act, 1893 PA 206, MCL 211.27e.

20       (b) One of the following factors:

21       (i) If qualified agricultural property is converted by a  
22 change in use within the first year after the effective date of  
23 this act, 1.

24       (ii) If qualified agricultural property is converted by a  
25 change in use within the second year after the effective date of  
26 this act, 2.

1           (iii) If qualified agricultural property is converted by a  
2 change in use within the third year after the effective date of  
3 this act, 3.

4           (iv) If qualified agricultural property is converted by a  
5 change in use within the fourth year after the effective date of  
6 this act, 4.

7           (v) If qualified agricultural property is converted by a  
8 change in use within the fifth year after the effective date of  
9 this act, 5.

10          (vi) If qualified agricultural property is converted by a  
11 change in use within the sixth year after the effective date of  
12 this act, 6.

13          (vii) If qualified agricultural property is converted by a  
14 change in use within the seventh year after the effective date of  
15 this act or any year thereafter, 7.

16          Sec. 5. The recapture tax imposed under this act shall be  
17 collected by the county treasurer and deposited with the trea-  
18 surer as provided in this section. By the fifteenth day of each  
19 month, the county treasurer shall, on a form prescribed by the  
20 treasurer, itemize the recapture taxes collected the preceding  
21 month and transmit the form and the recapture taxes collected to  
22 the treasurer. The county treasurer may retain the interest  
23 earned on the money collected pursuant to this act while held by  
24 the county treasurer as reimbursement for the costs incurred by  
25 the county in collecting and transmitting the recapture tax  
26 imposed by this act. The money retained by the county treasurer  
27 under this section shall be deposited in the treasury of the

1 county in which the recapture tax is collected to the credit of  
2 the general fund.

3       Sec. 6. The treasurer shall credit the proceeds of the  
4 recapture tax collected by county treasurers under this act to  
5 the state treasury to the credit of the agricultural preservation  
6 fund.

7       Sec. 7. This act shall be administered by the revenue divi-  
8 sion of the department of treasury under 1941 PA 122, MCL 205.1  
9 to 205.31.

10       Sec. 8. (1) This state shall refund the recapture tax paid  
11 under this act if all of the following conditions are satisfied:

12       (a) The property that was subject to the recapture tax is  
13 exempt and has been exempt from taxes collected under the general  
14 property tax act, 1893 PA 206, MCL 211.1 to 211.157, from the  
15 date the recapture tax was paid.

16       (b) The person who paid the recapture tax claims a refund of  
17 the recapture tax under this section on a form and in the manner  
18 provided by the department of treasury.

19       (c) The person who paid the recapture tax claims a refund of  
20 the recapture tax under this section not sooner than 6 months or  
21 later than 18 months after the date the recapture tax was paid.

22       (2) This state shall pay a refund under subsection (1) to  
23 the person who paid the recapture tax.

24       Enacting section 1. This act does not take effect unless  
25 all of the following occur:

26       (a) Senate Bill No. 1245

27                       of the 90th Legislature is enacted into law.

1 (b) Senate Bill No. 1247

2 of the 90th Legislature is enacted into law.

3 (c) Senate Joint Resolution M of the 90th Legislature

4 becomes a part of the state constitution of 1963 as provided in

5 section 1 of article XII of the state constitution of 1963.