

Act No. 176
Public Acts of 2001
Approved by the Governor
December 11, 2001
Filed with the Secretary of State
December 11, 2001
EFFECTIVE DATE: December 11, 2001

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Rep. DeRossett

Reps. Allen, Basham, Birkholz, Bovin, Cameron Brown, Rich Brown, Cassis, Caul, Clark, DeVuyst, Hager, Hardman, Hart, Jacobs, Jamnick, Jansen, Jelinek, Julian, Kowall, Lemmons, Lockwood, McConico, Mead, Meyer, Minore, Murphy, Neumann, Newell, O'Neil, Pappageorge, Patterson, Pestka, Phillips, Reeves, Richardville, Rivet, Rocca, Sanborn, Shackleton, Sheltroun, Shulman, Spade, Stallworth, Stamas, Stewart, Tabor, Toy, Vander Roest, Vander Veen, Van Woerkom, Vear, Waters, Wojno and Zelenko were named co-sponsors

ENROLLED HOUSE BILL No. 5013

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," (MCL 324.101 to 324.90106) by adding part 82.

The People of the State of Michigan enact:

PART 82 CONSERVATION PRACTICES

Sec. 8201. As used in this part:

- (a) "Conservation easement" means that term as it is defined in section 2140.
- (b) "Conservation plan" means a plan approved by the department for all or a portion of a parcel of land that specifies the conservation practices to be undertaken and includes a schedule for implementation.
- (c) "Conservation practices" means practices, voluntarily implemented by the landowner, that protect and conserve water quality, soil, natural features, wildlife, or other natural resources and that meet 1 or more of the following:
 - (i) The practices comply with United States natural resource conservation service standards and specifications as approved by the department.
 - (ii) The practices are provided in rules promulgated by the department under this part.
 - (iii) The practices have been approved by the commission of agriculture.
- (d) "Department" means the department of agriculture or its authorized representatives.
- (e) "Fund" means the agriculture pollution prevention fund created in section 8206.
- (f) "Verification" or "verify" means a determination by the department that 1 or more conservation practices have been established and are being maintained in accordance with a conservation plan.

Sec. 8202. (1) The department may establish conservation programs designed to encourage the voluntary use of conservation practices in the state.

(2) In implementing the conservation programs established under this part, the department, in coordination with the departments of natural resources and environmental quality, may do 1 or more of the following:

- (a) Enter into contracts with 1 or more persons for the implementation of conservation practices on his or her land.
- (b) Enter into contracts or other agreements with 1 or more persons to administer or promote conservation programs, or to implement conservation practices.
- (c) Provide payments, financial incentives, or, upon verification of the implementation of conservation practices, reimbursement for rental payments or for costs of conservation practice implementation, or both.
- (d) Promote the use of conservation practices.
- (e) Recognize and provide awards for persons who have implemented conservation practices.
- (f) Monitor and verify compliance with conservation plans.
- (g) Enforce contracts or other agreements entered into under this part.
- (h) Terminate contracts or other agreements entered into under this part in accord with terms established in the contract or other agreement.

(3) In carrying out its responsibilities under this part, the department shall coordinate with the departments of natural resources and environmental quality and other applicable partners.

Sec. 8203. (1) As part of a conservation program established under this part, the department may provide for conservation practice verification. Conservation practice verification may be granted to a person if all of the following conditions are met:

- (a) The person has submitted a conservation plan in compliance with requirements of the department.
- (b) The person has established and is maintaining all conservation practices provided for in the conservation plan, according to the plan schedule.
- (c) The person has agreed to allow the department, after giving prior notice to the landowner, to conduct inspections of the applicable land and facilities.
- (d) The department has conducted an on-site inspection of the conservation practices and has determined that the person has established and is maintaining all conservation practices provided for in the conservation plan, according to the plan schedule.

(2) If the department determines at any time that the conservation practices provided in a conservation plan have not been established or are not being maintained, the department may revoke a person's conservation practice verification.

(3) If a person's conservation practice verification is revoked, the person may be subject to penalties and repayment of all or a portion of the payments, financial incentives, land rental payments, and reimbursement of costs paid for implementation of the conservation practice according to the terms of the contract.

Sec. 8204. (1) The department may purchase or otherwise acquire conservation easements in accordance with subpart 11 of part 21. A conservation easement purchased or otherwise acquired under this section may contain provisions for the allowable or required use of the land subject to the conservation easement, implementation of conservation practices on the land, maintenance of the conservation practices, opportunities for inspection of the land, penalties for noncompliance with the terms of the conservation easement, termination of the easement, and other terms agreed to by the department.

(2) If the department purchases or acquires a conservation easement under this section, the department shall record that conservation easement with the register of deeds for the county in which the land subject to the conservation easement is located. If that conservation easement is subsequently terminated, the department shall record a notice of that termination with the register of deeds for the county in which the land subject to the conservation easement is located.

(3) The department may enter into contracts with 1 or more persons to monitor and enforce the terms of conservation easements purchased or acquired under subsection (1).

Sec. 8205. Any money recovered by the department under this part, including, but not limited to, money paid to the department due to the termination of a contract, agreement, or conservation easement, shall be deposited into the fund.

Sec. 8206. (1) The agriculture pollution prevention fund is created in the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund, including state and federal revenues, gifts, bequests, and other donations. The state treasurer shall direct the investment of the fund and shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund or in any account within the fund at the close of the fiscal year shall remain in the fund or account and shall not lapse to the general fund.

(4) Money in the fund shall be expended, upon appropriation, only for 1 or more of the following:

(a) For payments, financial incentives, or reimbursement for rental payments for the implementation of conservation practices.

- (b) For payments required under contracts entered into under this part.
- (c) For the purchase of conservation easements.
- (d) For monitoring and enforcement of conservation easements.
- (e) For awards to participants in conservation programs established by the department under this part.
- (f) For the promotion of conservation programs established by the department under this part.

(g) Not more than 20% of the annual appropriations from the fund for the administrative costs of the department in implementing this part. As used in this subdivision, administrative costs include, but are not limited to, costs incurred in doing 1 or more of the following:

- (i) Developing and implementing conservation programs.
- (ii) Managing payments and financial incentives.
- (iii) Monitoring and verifying the implementation of conservation practices and enforcing contracts or agreements concerning conservation practices.
- (iv) Coordinating conservation programs with the United States department of agriculture and other state agencies with jurisdiction over conservation programs.

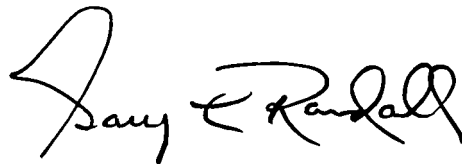
(5) The department shall annually prepare and submit to the standing committees of the senate and house of representatives with jurisdiction over issues related to agriculture and the senate and house of representatives appropriations committees a report that includes all of the following:

- (a) The amount of money received by the fund during the previous fiscal year.
- (b) The expenditures of money from the fund during the previous fiscal year broken down by the categories listed in subsection (4)(a) to (g).
- (c) The balance of the fund on the date of the report.
- (d) The number of acres in which conservation practices have been implemented.
- (e) The number of acres in which conservation easements have been purchased or acquired.

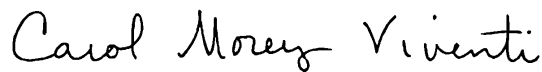
Sec. 8207. Any information voluntarily provided by a person in connection with the development, implementation, or verification of a conservation plan or conservation practices under this part is confidential, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and is not open to public inspection without the person's consent. Any such information that is released to a legislative body shall not contain information that identifies a specific person. The exemption provided in this section does not extend to any documents, communication, data, reports, or other information required to be collected, maintained, or made available or reported to a regulatory agency or any other person by statute, rule, ordinance, permit, order, consent agreement, or as otherwise provided by law.

Sec. 8208. The department may promulgate rules to implement this part.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.