

SENATE BILL No. 317

March 17, 2005, Introduced by Senators STAMAS, GOSCHKA, BARCIA, JOHNSON, KUIPERS, BISHOP, BIRKHOLZ and ALLEN and referred to the Committee on Finance.

A bill to amend 1967 PA 281, entitled
"Income tax act of 1967,"
(MCL 206.1 to 206.532) by adding section 272.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 272. (1) FOR TAX YEARS THAT BEGIN AFTER DECEMBER 31,
2 2004, A TAXPAYER MAY CLAIM A CREDIT AGAINST THE TAX IMPOSED BY THIS
3 ACT EQUAL TO 50% OF THE TAXABLE VALUE OF A QUALIFIED DONATION OF
4 REAL PROPERTY OR AN INTEREST IN REAL PROPERTY LOCATED IN THIS STATE
5 THAT IS CONVEYED BY THE TAXPAYER IN THE TAX YEAR.

6 (2) THE CREDIT ALLOWED UNDER THIS SECTION SHALL NOT EXCEED
7 \$100,000.00 PER TAX YEAR.

8 (3) TO QUALIFY FOR THE CREDIT ALLOWED UNDER THIS SECTION, THE
9 QUALIFIED DONATION OF REAL PROPERTY OR INTEREST IN REAL PROPERTY

1 DONATED SHALL BE USED FOR EITHER OF THE FOLLOWING PURPOSES:

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

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

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

27 (5) IF THE CREDIT ALLOWED UNDER THIS SECTION FOR THE TAX YEAR

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

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

25 (7) THE DONATION USED AS A BASIS FOR A CREDIT UNDER THIS
26 SECTION SHALL NOT BE USED AS A BASIS FOR ANY OTHER CREDIT OR
27 DEDUCTION UNDER THIS ACT OR UNDER THE SINGLE BUSINESS TAX ACT, 1975

1 PA 275, 208.1 TO 208.145.

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

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

10 (A) A FEE INTEREST IN REAL PROPERTY.

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