

SENATE BILL No. 1247

May 4, 2000, Introduced by Senators SIKKEMA, MC MANUS, EMMONS, GOUGEON, STILLE, GAST, ROGERS, SCHWARZ, KOIVISTO, HAMMERSTROM and GOSCHKA 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 PRESERVATION FUND

2 SEC. 36201. AS USED IN THIS PART:

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

8 (B) "AGRICULTURAL USE" MEANS SUBSTANTIALLY UNDEVELOPED LAND
9 DEVOTED TO THE PRODUCTION OF PLANTS AND ANIMALS USEFUL TO HUMANS,
10 INCLUDING FORAGES AND SOD CROPS; GRAINS, FEED CROPS, AND FIELD
11 CROPS; DAIRY AND DAIRY PRODUCTS; POULTRY AND POULTRY PRODUCTS;

1 LIVESTOCK, INCLUDING BREEDING AND GRAZING OF CATTLE, SWINE,
2 CAPTIVE CERVIDAE, AND SIMILAR ANIMALS; BERRIES; HERBS; FLOWERS;
3 SEEDS; GRASSES; NURSERY STOCK; FRUITS; VEGETABLES; CHRISTMAS
4 TREES; AND OTHER SIMILAR USES AND ACTIVITIES. AGRICULTURAL USE
5 INCLUDES USE IN A FEDERAL ACREAGE SET-ASIDE PROGRAM OR A FEDERAL
6 CONSERVATION RESERVE PROGRAM. AGRICULTURAL USE DOES NOT INCLUDE
7 THE MANAGEMENT AND HARVESTING OF A WOODLOT.

8 (C) "BOARD" MEANS THE AGRICULTURAL PRESERVATION FUND BOARD
9 CREATED IN SECTION 36204.

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

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

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

15 (G) "DEVELOPMENT RIGHTS" MEANS AN INTEREST IN LAND THAT
16 INCLUDES THE RIGHT TO CONSTRUCT A BUILDING OR STRUCTURE, TO
17 IMPROVE LAND FOR DEVELOPMENT, OR TO DIVIDE A PARCEL FOR DEVELOP-
18 MENT PURPOSES.

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

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

22 (ii) A FARM OF 5 ACRES OR MORE IN 1 OWNERSHIP, BUT LESS THAN
23 40 ACRES, WITH 51% OR MORE OF THE LAND AREA DEVOTED TO AN AGRI-
24 CULTURAL USE, THAT HAS PRODUCED A GROSS ANNUAL INCOME FROM AGRI-
25 CULTURE OF \$200.00 PER YEAR OR MORE PER ACRE OF CLEARED AND TIL-
26 LABLE LAND. A FARM DESCRIBED IN THIS SUBPARAGRAPH ENROLLED IN A
27 FEDERAL ACREAGE SET ASIDE PROGRAM OR A FEDERAL CONSERVATION

1 RESERVE PROGRAM IS CONSIDERED TO HAVE PRODUCED A GROSS ANNUAL
2 INCOME FROM AGRICULTURE OF \$200.00 PER YEAR OR MORE PER ACRE OF
3 CLEARED AND TILLABLE LAND.

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

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

15 (I) "FUND" MEANS THE AGRICULTURAL PRESERVATION FUND CREATED
16 IN SECTION 36202.

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

19 (K) "OWNER" MEANS A PERSON HAVING A FREEHOLD ESTATE IN LAND
20 COUPLED WITH POSSESSION AND ENJOYMENT. IF LAND IS SUBJECT TO A
21 LAND CONTRACT, OWNER MEANS THE VENDEE IN AGREEMENT WITH THE
22 VENDOR.

23 (L) "PERMITTED USE" MEANS ANY USE EXPRESSLY AUTHORIZED
24 WITHIN AN AGRICULTURE CONSERVATION EASEMENT CONSISTENT WITH THE
25 FARMING OPERATION OR THAT DOES NOT ADVERSELY AFFECT THE PRODUC-
26 TIVITY OF THE FARMLAND. STORAGE, RETAIL OR WHOLESALE MARKETING,
27 OR PROCESSING OF AGRICULTURAL PRODUCTS IS A PERMITTED USE IN A

1 FARMING OPERATION IF MORE THAN 50% OF THE STORED, PROCESSED, OR
2 MERCHANDISED PRODUCTS ARE PRODUCED BY THE FARM OPERATOR FOR AT
3 LEAST 3 OF THE IMMEDIATELY PRECEDING 5 YEARS. PERMITTED USE
4 INCLUDES OIL AND GAS EXPLORATION AND EXTRACTION, BUT DOES NOT
5 INCLUDE OTHER MINERAL DEVELOPMENT THAT IS INCONSISTENT WITH AN
6 AGRICULTURAL USE.

7 SEC. 36202. (1) THE AGRICULTURAL PRESERVATION FUND IS CRE-
8 ATED WITHIN THE STATE TREASURY.

9 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
10 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND, INCLUDING GIFTS,
11 BEQUESTS, AND OTHER DONATIONS. THE STATE TREASURER SHALL DIRECT
12 THE INVESTMENT OF THE FUND AND SHALL CREDIT TO THE FUND INTEREST
13 AND EARNINGS FROM FUND INVESTMENTS.

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

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

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

24 (B) AFTER EXPENDITURES FOR THE ADMINISTRATIVE COSTS UNDER
25 SUBDIVISION (A), MONEY IN THE FUND MAY BE USED FOR THE FOLLOWING
26 PURPOSES:

1 (i) TO PROVIDE GRANTS TO COUNTIES PURSUANT TO
2 SECTION 36203.

3 (ii) FOR CREDITS UNDER SECTION 36205(5) IF AUTHORIZED UNDER
4 SECTION 36205(5).

5 (iii) FOR THE DEPARTMENT TO APPLY TOWARD THE LOCAL MATCH
6 REQUIRED OF COUNTIES UNDER PART 19 FOR A GRANT FROM THE NATURAL
7 RESOURCES TRUST FUND TO PURCHASE DEVELOPMENT RIGHTS ON FARMLAND.
8 HOWEVER, MONEY SHALL ONLY BE EXPENDED UNDER THIS SUBDIVISION IF
9 THE BOARD APPROVES ITS USE FOR THIS PURPOSE AT LEAST 120 DAYS
10 PRIOR TO THE DEADLINE FOR SUBMITTING AN APPLICATION FOR A GRANT
11 UNDER PART 19. IF MONEY IS APPROPRIATED FOR THE PURPOSE OF THIS
12 SUBDIVISION, THE AMOUNT THAT A COUNTY IS ELIGIBLE TO RECEIVE
13 SHALL NOT EXCEED 5% OF THE AMOUNT OF MONEY COLLECTED BY THE
14 COUNTY UNDER THE AGRICULTURAL PROPERTY RECAPTURE ACT.

15 (C) AFTER EXPENDITURES UNDER SUBDIVISIONS (A) AND (B) HAVE
16 BEEN MADE, IF THE AMOUNT OF REMAINING MONEY IN THE FUND EXCEEDS
17 \$10,000,000.00, MONEY IN THE FUND MAY BE USED PURSUANT TO
18 SECTION 36111B FOR THE ACQUISITION OF DEVELOPMENT RIGHTS OR AGRI-
19 CULTURAL CONSERVATION EASEMENTS.

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

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

26 (2) A GRANT APPLICATION SHALL BE SUBMITTED BY THE COUNTY
27 BOARD OF COMMISSIONERS OF THE COUNTY APPLYING FOR THE GRANT. A

1 COUNTY BOARD OF COMMISSIONERS IS ELIGIBLE TO SUBMIT A GRANT
2 APPLICATION UNDER THIS SECTION IF ALL OF THE FOLLOWING REQUIRE-
3 MENTS HAVE BEEN MET:

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

6 (B) THE COUNTY HAS ADOPTED A DEVELOPMENT RIGHTS ORDINANCE
7 PROVIDING FOR A PURCHASE OF DEVELOPMENT RIGHTS PROGRAM PURSUANT
8 TO THE COUNTY ZONING ACT, 1943 PA 183, MCL 125.201 TO 125.240,
9 THAT CONTAINS ALL OF THE FOLLOWING:

10 (i) AN APPLICATION PROCEDURE.

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

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

17 (iv) PRIORITY CONSIDERATION FOR TOWNSHIPS, CITIES, OR VIL-
18 LAGES THAT HAVE PROVIDED ADDITIONAL MATCHING FUNDS FOR THE PUR-
19 CHASE OF DEVELOPMENT RIGHTS OR HAVE ESTABLISHED AGRICULTURAL
20 DISTRICTS.

21 (C) THE COUNTY HAS ADOPTED, WITHIN THE LAST 10 YEARS, A COM-
22 PREHENSIVE LAND USE PLAN THAT INCLUDES A PLAN FOR AGRICULTURAL
23 PRESERVATION.

24 (3) AN APPLICATION FOR A GRANT SHALL BE SUBMITTED ON A FORM
25 PRESCRIBED BY THE DEPARTMENT. THE GRANT APPLICATION SHALL
26 INCLUDE AT A MINIMUM A LIST OF THE PARCELS PROPOSED FOR
27 ACQUISITION OF AGRICULTURAL CONSERVATION EASEMENTS, THE SIZE AND

1 LOCATION OF EACH PARCEL, THE AMOUNT OF LOCAL MATCHING FUNDS, AND
2 THE ESTIMATED ACQUISITION VALUE OF THE AGRICULTURAL CONSERVATION
3 EASEMENTS.

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

7 (5) A COUNTY MAY ESTABLISH A COUNTY AGRICULTURAL PRESERVA-
8 TION BOARD. A COUNTY AGRICULTURAL PRESERVATION BOARD SHALL CON-
9 SIST OF NOT MORE THAN 7 MEMBERS INCLUDING 1 MEMBER REPRESENTING
10 DEVELOPMENT INTERESTS AND 1 MEMBER OF A TOWNSHIP BOARD FROM A
11 TOWNSHIP WITHIN THE COUNTY. A MAJORITY OF MEMBERS OF THE COUNTY
12 AGRICULTURAL PRESERVATION BOARD SHALL REPRESENT AGRICULTURAL
13 INTERESTS. THE COUNTY AGRICULTURAL PRESERVATION BOARD SHALL PRO-
14 VIDE RECOMMENDATIONS, IN ACCORDANCE WITH THE COUNTY ORDINANCE, TO
15 THE COUNTY BOARD OF COMMISSIONERS ON THE SELECTION OF PARCELS TO
16 BE INCLUDED IN THE GRANT APPLICATION SUBMITTED UNDER THIS
17 SECTION.

18 SEC. 36204. (1) THE AGRICULTURAL PRESERVATION FUND BOARD IS
19 CREATED WITHIN THE DEPARTMENT.

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

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

22 (B) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR
23 HIS OR HER DESIGNEE.

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

25 (i) TWO INDIVIDUALS REPRESENTING AGRICULTURAL INTERESTS.

26 (ii) TWO INDIVIDUALS REPRESENTING CONSERVATION INTERESTS.

1 (iii) ONE INDIVIDUAL REPRESENTING THE GENERAL PUBLIC.

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

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

9 (4) MEMBERS OF THE BOARD APPOINTED UNDER SUBSECTION (2)(C)
10 AND (D) SHALL SERVE FOR TERMS OF 4 YEARS OR UNTIL A SUCCESSOR IS
11 APPOINTED, WHICHEVER IS LATER. HOWEVER, OF THE MEMBERS FIRST
12 APPOINTED UNDER SUBSECTION (2)(C), 1 SHALL BE APPOINTED FOR A
13 TERM OF 2 YEARS, 2 SHALL BE APPOINTED FOR TERMS OF 3 YEARS, AND 2
14 SHALL BE APPOINTED FOR TERMS OF 4 YEARS.

15 (5) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A
16 QUORUM FOR THE TRANSACTION OF BUSINESS AT A MEETING OF THE
17 BOARD. A MAJORITY OF THE MEMBERS PRESENT AND SERVING ARE
18 REQUIRED FOR OFFICIAL ACTION OF THE BOARD.

19 (6) MEMBERS OF THE BOARD SHALL SERVE WITHOUT COMPENSATION.
20 HOWEVER, MEMBERS OF THE BOARD MAY BE REIMBURSED FOR THEIR ACTUAL
21 AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR OFFI-
22 CIAL DUTIES AS MEMBERS OF THE BOARD.

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

25 (8) THE BOARD MAY REMOVE A MEMBER OF THE BOARD FOR INCOMPE-
26 TENCY, DERELICTION OF DUTY, MALFEASANCE, MISFEASANCE, OR
27 NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE.

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

3 SEC. 36205. (1) AN APPLICATION SUBMITTED TO THE BOARD UNDER
4 SECTION 36203 SHALL BE EVALUATED ACCORDING TO SELECTION CRITERIA
5 ESTABLISHED BY THE BOARD. THE CRITERIA SHALL PLACE A PRIORITY ON
6 THE PRESERVATION OF FARMLAND THAT MEETS 1 OR MORE OF THE
7 FOLLOWING:

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

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

14 (C) FARMLAND THAT IS LOCATED WITHIN AN AGRICULTURAL DISTRICT
15 ESTABLISHED UNDER PART 361 OR AN AREA THAT COMPLEMENTS OTHER LAND
16 PROTECTION EFFORTS BY CREATING A BLOCK OF FARMLAND THAT IS
17 SUBJECT TO AN AGRICULTURAL CONSERVATION EASEMENT UNDER THIS PART
18 OR PART 361 OR A RESOURCE CONSERVATION EASEMENT UNDER PART 19.

19 (D) FARMLAND THAT IS FACED WITH DEVELOPMENT PRESSURE THAT
20 WILL PERMANENTLY ALTER THE ABILITY FOR THAT FARMLAND TO BE USED
21 FOR PRODUCTIVE AGRICULTURAL ACTIVITY.

22 (E) FARMLAND IN WHICH A LARGER AMOUNT THAN THE MINIMUM
23 REQUIRED UNDER SUBSECTION (4) OF MATCHING FUNDS OR A LARGER PER-
24 CENTAGE OF THE AGRICULTURAL CONSERVATION EASEMENT VALUE IS PRO-
25 VIDED BY SOURCES OTHER THAN THE FUND.

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

1 (2) AFTER REVIEWING GRANT APPLICATIONS FOR THE ACQUISITION
2 OF AGRICULTURAL CONSERVATION EASEMENTS AND EVALUATING THEM
3 ACCORDING TO THE CRITERIA ESTABLISHED IN SUBSECTION (1), THE
4 BOARD SHALL DETERMINE WHICH GRANTS SHOULD BE APPROVED AND THE
5 AMOUNT OF THE GRANTS AND SHALL SUBMIT A REPORT CONTAINING THIS
6 INFORMATION TO THE COMMISSION.

7 (3) SUBJECT TO SUBSECTION (5), A GRANT SHALL NOT EXCEED 75%
8 OF THE PURCHASE PRICE OF AN AGRICULTURAL CONSERVATION EASEMENT.
9 THE BOARD MAY ESTABLISH A MAXIMUM AMOUNT PER ACRE THAT MAY BE
10 EXPENDED WITH MONEY FROM THE FUND FOR THE PURCHASE OF AGRICUL-
11 TURAL CONSERVATION EASEMENTS.

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

17 (5) AT LEAST 120 DAYS BEFORE THE DEADLINE FOR SUBMITTING
18 APPLICATIONS FOR GRANTS, THE BOARD MAY AUTHORIZE THE USE OF ADDI-
19 TIONAL MONEY FROM THE FUND AS A CREDIT TOWARD THE MATCH REQUIRED
20 IN SUBSECTION (4). THE AMOUNT OF THE CREDITS SHALL NOT EXCEED
21 20% OF THE REVENUE COLLECTED DURING THE PREVIOUS FISCAL YEAR BY
22 THE COUNTY SUBMITTING THE GRANT APPLICATION UNDER THE AGRICUL-
23 TURAL PROPERTY RECAPTURE ACT. A CREDIT UNDER THIS SUBSECTION
24 SHALL BE APPLIED TO ALL GRANT AWARDS MADE DURING THE AWARD
25 PERIOD.

26 SEC. 36206. (1) UPON APPROVAL BY THE BOARD, THE DEPARTMENT
27 SHALL DISTRIBUTE THE GRANTS TO THE COUNTIES AWARDED THE GRANTS.

1 THE DEPARTMENT SHALL CONDITION THE RECEIPT OF A GRANT UPON THE
2 DEPARTMENT'S APPROVAL OF THE AGRICULTURAL CONSERVATION EASEMENTS
3 BEING ACQUIRED.

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

7 (A) WHETHER THE PERMITTED USES ADVERSELY AFFECT THE PRODUC-
8 TIVITY OF FARMLAND.

9 (B) WHETHER THE PERMITTED USES MATERIALLY ALTER OR NEGA-
10 TIVELY AFFECT THE EXISTING CONDITIONS OR USE OF THE LAND.

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

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

15 (3) 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 (4) THE DEPARTMENT MAY ACCEPT CONTRIBUTIONS OF ALL OR A POR-
24 TION OF THE DEVELOPMENT RIGHTS TO 1 OR MORE PARCELS OF LAND AS
25 PART OF A TRANSACTION FOR THE PURCHASE OF AN AGRICULTURAL CONSER-
26 VATION EASEMENT.

1 (5) A COUNTY THAT PURCHASES AN AGRICULTURAL CONSERVATION
2 EASEMENT WITH MONEY FROM A GRANT MAY PURCHASE THE AGRICULTURAL
3 CONSERVATION EASEMENT THROUGH AN INSTALLMENT PURCHASE AGREEMENT
4 UNDER TERMS NEGOTIATED BY THE COUNTY.

5 SEC. 36208. THE DEPARTMENT MAY PROMULGATE RULES TO IMPL-
6 MENT THIS PART.

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

9 (a) Senate Bill No. 1245

10 of the 90th Legislature is enacted into law.

11 (b) Senate Bill No. 1246

12 of the 90th Legislature is enacted into law.

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