

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1246

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:**

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) "Benefit period" means the period in years between the  
5 date of the first exempt transfer and the conversion by a change  
6 in use, not to exceed the 7 years immediately preceding the year  
7 in which the qualified agricultural property is converted by a  
8 change in use.

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1       (b) "Benefit received on that property" means the sum of the  
2 number of mills levied in the local tax collecting unit on the  
3 qualified agricultural property in each year of the benefit  
4 period, multiplied by the difference in each year of the benefit  
5 period between the true cash taxable value of the property and  
6 the property's taxable value as determined under section 27a of  
7 the general property tax act, 1893 PA 206, MCL 211.27a.

8       (c) "Converted by a change in use" means 1 or more of the  
9 following:

10       (i) That due to a change in use the property is no longer  
11 qualified agricultural property as determined by the assessor of  
12 the local tax collecting unit.

13       (ii) If, prior to a transfer of qualified agricultural prop-  
14 erty, the purchaser files a notice of intent to rescind the qual-  
15 ified agricultural property exemption under section 7ee of the  
16 general property tax act, 1893 PA 206, MCL 211.7ee, with the  
17 local tax collecting unit and delivers a copy of that notice to  
18 the seller of the qualified agricultural property, the property  
19 has been converted by a change in use. The notice of intent to  
20 rescind the qualified agricultural property exemption shall be on  
21 a form prescribed by the department of treasury. If the sale is  
22 not consummated within 120 days of the filing of the notice under  
23 this subdivision or within 120 days of a subsequent filing of the  
24 notice under this subdivision, then the property is not converted  
25 by a change in use under this subdivision.

1 (d) "Exempt transfer" means a conveyance of property that is  
2 not a transfer of ownership pursuant to section 27a(7)(n) of the  
3 general property tax act, 1893 PA 206, MCL 211.27a.

4 (e) "Person" means an individual, partnership, corporation,  
5 limited liability company, association, governmental entity, or  
6 other legal entity.

7 (f) "Qualified agricultural property" means that term as  
8 defined in section 7dd of the general property tax act, 1893  
9 PA 206, MCL 211.7dd.

10 (g) "Recapture tax" means the agricultural property recap-  
11 ture tax imposed under this act.

12 (h) "Treasurer" means the state treasurer.

13 (i) "True cash taxable value" means the taxable value the  
14 property would have had if section 27a(7)(n) of the general prop-  
15 erty tax act, 1893 PA 206, MCL 211.27a, were not in effect.

16 Sec. 3. (1) Beginning January 1, 2001, the agricultural  
17 property recapture tax provided under section 4 is imposed as  
18 provided in this section if the property meets all of the follow-  
19 ing conditions:

20 (a) The property was transferred after December 31, 1999.

21 (b) The taxable value of the property was not adjusted under  
22 section 27a(3) of the general property tax act, 1893 PA 206,  
23 MCL 211.27a, after the transfer described in subdivision (a) due  
24 to the provisions of section 27a(7)(n) of the general property  
25 tax act, 1893 PA 206, MCL 211.27a.

26 (c) The property is converted by a change in use after  
27 December 31, 2000.

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1           (2) If a recapture tax is imposed because qualified  
2 agricultural property is converted by a change in use described  
3 under section 2(c)(i), the recapture tax is the obligation of the  
4 person who owned the property at the time the property was con-  
5 verted by a change in use. If a recapture tax is imposed on the  
6 owner of the property under this subsection, the recapture tax is  
7 a lien on the property subject to the recapture tax until paid.  
8 If the recapture tax is not paid within 90 days of the date the  
9 property was converted by a change in use, the treasurer may  
10 bring a civil action against the owner of the property as of the  
11 date the property was converted by a change in use. If the  
12 recapture tax remains unpaid on the March 1 in the year immedi-  
13 ately succeeding the year in which the property is converted by a  
14 change in use, the property on which the recapture tax is due  
15 shall be returned as delinquent to the county treasurer of the  
16 county in which the property is located. Property returned as  
17 delinquent under this section, and upon which the recapture tax,  
18 interest, penalties, and fees remain unpaid after the property is  
19 returned as delinquent to the county treasurer, is subject to  
20 forfeiture, foreclosure, and sale for the enforcement and collec-  
21 tion of the delinquent taxes as provided in sections 78 to 79a of  
22 the general property tax act, 1893 PA 206, MCL 211.78 to  
23 211.79a.

24           (3) If a recapture tax is imposed because qualified agricul-  
25 tural property is converted by a change in use as described in  
26 section 2(c)(ii), the recapture tax is an obligation of the  
27 person who owned the property prior to the transfer and the

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1 recapture tax is due when the instruments transferring the  
2 property are recorded with the register of deeds. The register  
3 of deeds shall not record an instrument transferring the property  
4 before the recapture tax is paid.

5       Sec. 4. The recapture tax imposed under section 3 is the  
6 benefit received on that property.

7       Sec. 5. (1) The recapture tax shall be collected by the  
8 county treasurer and deposited with the treasurer as provided in  
9 this section. By the fifteenth day of each month, the county  
10 treasurer shall, on a form prescribed by the treasurer, itemize  
11 the recapture taxes collected the preceding month and transmit  
12 the form and the recapture taxes collected to the treasurer. The  
13 county treasurer may retain the interest earned on the money col-  
14 lected pursuant to this act while held by the county treasurer as  
15 reimbursement for the costs incurred by the county in collecting  
16 and transmitting the recapture tax. The money retained by the  
17 county treasurer under this section shall be deposited in the  
18 treasury of the county in which the recapture tax is collected to  
19 the credit of the general fund.

20       (2) The assessor of the local tax collecting unit shall  
21 notify the county treasurer of the date the property is converted  
22 by a change in use.

23       Sec. 6. The treasurer shall credit the proceeds of the  
24 recapture tax collected by county treasurers under this act to  
25 the fund in which the proceeds from lien payments made under part  
26 361 of the natural resources and environmental protection act,  
27 1994 PA 451, MCL 324.36101 to 324.36117, are deposited.

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1       Sec. 7. This act shall be administered by the revenue  
2 division of the department of treasury under 1941 PA 122,  
3 MCL 205.1 to 205.31.

4       Enacting section 1. This act does not take effect unless  
5 Senate Bill No. 709 of the 90th Legislature is enacted into law.