

**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 received on that property" means the sum of the  
5 number of mills levied in the local tax collecting unit on the  
6 qualified agricultural property in each year in which the  
7 qualified agricultural property is subject to assessment based on  
8 its agricultural use value as calculated under section 27e of the

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Senate Bill No. 1246 as amended May 31, 2000

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1 general property tax act, 1893 PA 206, MCL 211.27e, not to exceed  
2 the 7 years immediately preceding the year in which the qualified  
3 agricultural property is converted by a change in use, multiplied  
4 by the difference in each year between the true cash taxable  
5 value of the property and the property's taxable value determined  
6 under section 27e of the general property tax act, 1893 PA 206,  
7 MCL 211.27e.

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

9 (i) That due to a  
change in use the property is no longer qualified agricultural  
10 property and a rescission form is required to be filed under  
11 section 7ee of the general property tax act, 1893 PA 206,  
12 MCL 211.7ee.

(ii) If, prior to a transfer of qualified agricultural property,  
the purchaser files a notice of intent to rescind the qualified  
agricultural property exemption under section 7ee of the general  
property tax act, 1893 PA 206, MCL 211.7ee, with the local tax  
collecting unit and delivers a copy of that notice to the seller of  
the qualified agricultural property, the property has been converted  
by a change in use. The notice of intent to rescind the qualified  
agricultural property exemption shall be on a form prescribed by the  
department of treasury. If the sale is not consummated within 120  
days of the filing of the notice under this subdivision or within  
120 days of a subsequent filing of the notice under this  
subdivision, then the property is not converted by a change in use  
under this subdivision.

13 (c) "Person" means an individual, partnership, corporation,  
14 limited liability company, association, governmental entity, or  
15 other legal entity.

16 (d) "Qualified agricultural property" means that term as  
17 defined in section 7dd of the general property tax act, 1893  
18 PA 206, MCL 211.7dd.

19 (e) "Recapture tax" means the agricultural property recap-  
20 ture tax imposed under this act.

21 (f) "Treasurer" means the state treasurer.

22 (g) "True cash taxable value" means the taxable value the  
23 property would have had as determined under section 27a of the  
24 general property tax act, 1893 PA 206, MCL 211.27a, in each year  
25 in which the property was subject to assessment under section 27e  
26 of the general property tax act, 1893 PA 206, MCL 211.27e.

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1       Sec. 3. (1) Beginning January 1, 2003, a recapture tax is  
2 imposed as provided in this section if the qualified agricultural  
3 property meets all of the following conditions:

4       (a) The property was qualified agricultural property on  
5 January 1, 2003 or became qualified agricultural property after  
6 January 1, 2003.

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

8       (2) If a recapture tax is imposed because qualified  
9 agricultural property is converted by a change in use as  
10 described under subsection (2)(b)(i), the person who is the owner  
11 of the property when the recapture tax is imposed is liable for  
12 the recapture tax imposed under this act. If the recapture tax  
13 is not paid within 90 days of the date it is imposed, the county  
14 treasurer in which the property is located or the treasurer may  
15 bring a civil action against the owner of the property as of the  
16 date the recapture tax was imposed to collect the recapture tax.  
17 If a recapture tax is imposed on the owner of the property under  
18 this subsection, the recapture tax is a lien on the real property  
19 subject to the recapture tax until paid. If the recapture tax is  
20 not paid within 90 days of the date it is imposed, the recapture  
21 tax may be collected by the county treasurer of the county in  
22 which the property is located in the same manner as delinquent  
taxes are collected under the general property tax act, 1893 PA 206,  
MCL 211.1 to 211.157.

(3) If a recapture tax is imposed because qualified  
agricultural property is converted by a change in use as described in  
section 2(b)(ii), the recapture tax is an obligation of the person who  
owned the property prior to the transfer and the recapture tax is due  
when the instruments transferring the property are recorded with the  
register of deeds.

23       Sec. 4. The recapture tax imposed under section 3 is the  
24 benefit received on that property. The recapture tax shall not  
25 exceed the benefit received on that property.

26       Sec. 5. The recapture tax imposed under this act shall be  
27 collected by the county treasurer and deposited with the

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1 treasurer as provided in this section. By the fifteenth day of  
2 each month, the county treasurer shall, on a form prescribed by  
3 the treasurer, itemize the recapture taxes collected the preced-  
4 ing month and transmit the form and the recapture taxes collected  
5 to the treasurer. The county treasurer may retain the interest  
6 earned on the money collected pursuant to this act while held by  
7 the county treasurer as reimbursement for the costs incurred by  
8 the county in collecting and transmitting the recapture tax  
9 imposed by this act. The money retained by the county treasurer  
10 under this section shall be deposited in the treasury of the  
11 county in which the recapture tax is collected to the credit of  
12 the general fund.

13       Sec. 6. The treasurer shall credit the proceeds of the  
14 recapture tax collected by county treasurers under this act to  
15 the state treasury to the credit of the agricultural preservation  
16 fund.

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

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

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

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

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

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

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

11 (a) Senate Bill No. 1245 of the 90th Legislature is enacted  
12 into law.

13 (b) Senate Bill No. 1247 of the 90th Legislature is enacted  
14 into law.

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