SENATE BILL NO. 690

October 30, 2025, Introduced by Senators VICTORY, SINGH, DALEY, LAUWERS, SHINK and CHERRY and referred to Committee on Natural Resources and Agriculture.

A bill to amend 1994 PA 451, entitled

"Natural resources and environmental protection act,"

by amending section 36109 (MCL 324.36109), as amended by 2016 PA 265.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 36109. (1) An owner of farmland and related buildings subject to 1 or more development rights agreements under section 36104 or agricultural conservation easements or purchases of development rights under **subpart 11 of part 21**, section **36101(a)**, 36111b, or 36206**, or sections 506 to 509 of the Michigan zoning**

enabling act, 2006 PA 110, MCL 125.3506 to 125.3509, who is required or eligible to file a return as an individual or a claimant under the state income tax act may claim a credit against state income tax liability. **The credit may be claimed** for the amount by which the property taxes on the land and structures used in the farming operation, including the homestead, restricted by the development rights agreements, agricultural conservation easements, or purchases of development rights exceed 3.5% of ~~the household income as defined in section 508 of the income tax act of 1967, 1967 PA 281, MCL 206.508,~~ **all income received by all persons of a household in a tax year while members of a household**, excluding a deduction if taken under section 613 of the internal revenue code of 1986, 26 USC 613. For the purposes of this section, all of the following apply:

(a) A partner in a partnership is considered an owner of farmland and related buildings owned by the partnership and covered by a development rights agreement, agricultural conservation easement, or purchase of development rights. A partner is considered to pay a proportion of the property taxes on that property equal to the partner's share of ownership of capital or distributive share of ordinary income as reported by the partnership to the Internal Revenue Service or, if the partnership is not required to report that information to the Internal Revenue Service, as provided in the partnership agreement or, if there is no written partnership agreement, a statement signed by all the partners. A partner claiming a credit under this section based upon the partnership agreement or a statement shall file a copy of the agreement or statement with his or her income tax return. If the agreement or statement is not filed, the department of treasury shall deny the credit. All partners in a partnership claiming the credit allowed under this section shall compute the credit using the same basis for the apportionment of the property taxes.

(b) A shareholder of a corporation that has filed a proper election under subchapter S of chapter 1 of subtitle A of the internal revenue code of 1986, 26 USC 1361 to 1379, is considered an owner of farmland and related buildings covered by a development rights agreement that are owned by the corporation. A shareholder is considered to pay a proportion of the property taxes on that property equal to the shareholder's percentage of stock ownership for the tax year as reported by the corporation to the Internal Revenue Service. Except as provided in subsection (8), this subdivision applies to tax years beginning after 1987.

(c) Except as otherwise provided in this subdivision, an individual in possession of property for life under a life estate with remainder to another person or holding property under a life lease is considered the owner of that property if it is farmland and related buildings covered by a development rights agreement. Beginning January 1, 1986, if an individual in possession of property for life under a life estate with remainder to another person or holding property under a life lease enters into a written agreement with the person holding the remainder interest in that land and the written agreement apportions the property taxes in the same manner as revenue and expenses, the life lease or life estate holder and the person holding the remainder interest may claim the credit under this act as it is apportioned to them under the written agreement upon filing a copy of the written agreement with the return.

(d) If a trust holds farmland and related buildings covered by a development rights agreement and an individual is treated under subpart E of subchapter J ~~of subchapter A~~ of chapter 1 **of subtitle A** of the internal revenue code of 1986, 26 USC 671 to 679, as the owner of that portion of the trust that includes the farmland and related buildings, that individual is considered the owner of that property.

(e) An individual who is the sole beneficiary of a trust that is the result of the death of that individual's spouse is considered the owner of farmland and related buildings covered by a development rights agreement and held by the trust if the trust conforms to all of the following:

(*i*) One hundred percent of the trust income is distributed to the beneficiary in the tax year in which the trust receives the income.

(*ii*) The trust terms do not provide that any portion of the trust is to be paid, set aside, or otherwise used in a manner that would qualify for the deduction allowed by section 642(c) of the internal revenue code of 1986, 26 USC 642.

(f) A member in a limited liability company is considered an owner of farmland and related buildings covered by a development rights agreement that are owned by the limited liability company. A member is considered to pay a proportion of the property taxes on that property equal to the member's share of ownership or distributive share of ordinary income as reported by the limited liability company to the Internal Revenue Service.

(2) An owner of farmland and related buildings subject to 1 or more development rights agreements under section 36104 or agricultural conservation easements or purchases of development rights under **subpart 11 of part 21**, section **36101(a)**, 36111b, or

36206**, or sections 506 to 509 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3506 to 125.3509,** to whom subsection (1) does not apply may claim a credit under ~~the former single business tax act, 1975 PA 228, or~~ the Michigan business tax act, 2007 PA 36, MCL 208.1101 to ~~208.1601,~~ **208.1519,** for the amount by which the property taxes on the land and structures used in farming operations restricted by the development rights agreements, agricultural conservation easements, or purchases of development rights exceed 3.5% of ~~the adjusted business income of the owner as defined in section 36 of the former single business tax act, 1975 PA 228, or~~ the **owner's** business income tax base, ~~of the owner~~ as defined in section 201 of the Michigan business tax act, 2007 PA 36, MCL 208.1201, plus compensation to shareholders not included in adjusted business income or the business income tax base, excluding any deductions if taken under section 613 of the internal revenue code of 1986, 26 USC 613. ~~When calculating adjusted business income for tax years beginning before 1987, federal taxable income shall not be less than zero for the purposes of this subsection only.~~ A participant is not eligible to claim a credit and refund against ~~the former single business tax act, 1975 PA 228, or~~ the Michigan business tax act, 2007 PA 36, MCL 208.1101 to ~~208.1601,~~ **208.1519,** unless the participant demonstrates that the participant's agricultural gross receipts of the farming operation exceed 5 times the property taxes on the land for each of 3 out of the 5 tax years immediately preceding the year in which the credit is claimed. This eligibility requirement does not apply to those participants who executed farmland development rights agreements under this part before January 1, 1978. A participant may compare, during the contract period, the average of the most recent 3 years of agricultural gross receipts to property taxes in the first year that the participant entered the program under the present contract in calculating the gross receipts qualification. Once an election is made by the participant to compute the benefit in this manner, all future calculations shall be made in the same manner.

(3) If the farmland and related buildings covered by a development rights agreement under section 36104 or an agricultural conservation easement or purchase of development rights under **subpart 11 of part 21**, section **36101(a)**, 36111b, or 36206, **or sections 506 to 509 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3506 to 125.3509**, are owned by more than 1 owner, each owner is allowed to claim a credit under this section based upon that owner's share of the property tax payable on the farmland and related buildings. The department of treasury shall consider the property tax equally apportioned among the owners unless a written agreement signed by all the owners is filed with the return, which agreement apportions the property taxes in the same manner as all other items of revenue and expense. If the property taxes are considered equally apportioned, a husband and wife shall be considered 1 owner, and a person with respect to whom a deduction under section 151 of the internal revenue code of 1986, 26 USC 151, is allowable to another owner of the property shall not be considered an owner.

(4) A beneficiary of an estate or trust to which subsection (1) does not apply is entitled to the same percentage of the credit provided in this section as that person's percentage of all other distributions by the estate or trust.

(5) If the allowable amount of the credit claimed exceeds the state income tax or the state business tax otherwise due for the

tax year or if there is no state income tax or the state business tax due for the tax year, the amount of the claim not used as an offset against the state income tax or the state business tax, after examination and review, shall be approved for payment to the claimant pursuant to 1941 PA 122, MCL 205.1 to 205.31. The total credit allowable under this part and chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, ~~or the former single business tax act, 1975 PA 228,~~ or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to ~~208.1601,~~ **208.1519**, shall not exceed the total property tax due and payable by the claimant in that year. The amount the credit exceeds the property tax due and payable shall be deducted from the credit claimed under this part.

(6) For purposes of audit, review, determination, appeals, hearings, notices, assessments, and administration relating to the credit program provided by this section, the state income tax act, ~~the former single business tax act, 1975 PA 228,~~ or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to ~~208.1601,~~ **208.1519**, applies according to which tax the credit is claimed against. If an individual is allowed to claim a credit under subsection (1) based upon property owned or held by a partnership, S corporation, or trust, the department of treasury may require that the individual furnish it with a copy of a tax return, or portion of a tax return, and supporting schedules that the partnership, S corporation, or trust files under the internal revenue code.

(7) The department of treasury shall account separately for payments under this part and not combine them with other credit programs. A payment made to a claimant for a credit claimed under this part shall be issued by 1 or more warrants made out to the county treasurer in each county in which the claimant's property is

located and the claimant, unless the claimant specifies on the return that a copy of the receipt showing payment of the property taxes that became a lien in the year for which the credit is claimed, or that became a lien in the year before the year for which the credit is claimed, is attached to the income tax or business tax return filed by the claimant. If the claimant specifies that a copy of the receipt is attached to the return, the payment shall be made directly to the claimant. A warrant made out to a claimant and a county treasurer shall be used first to pay delinquent property taxes, interest, penalties, and fees on property restricted by the development rights agreement. If the warrant exceeds the amount of delinquent taxes, interest, penalties, and fees, the county treasurer shall remit the excess to the claimant. If a claimant falsely specifies that the receipt showing payment of the property taxes is attached to the return and if the property taxes on the land subject to that development rights agreement were not paid before the return was filed, all future payments to that claimant of credits claimed under this act attributable to that development rights agreement may be made payable to the county treasurer of the county in which the property subject to the development rights agreement is located and to that claimant.

(8) For property taxes levied after 1987, a person that was an S corporation and had entered into a development rights agreement before January 1, 1989, and paid property taxes on that property, may claim the credit allowed by this section as an owner eligible under subsection (2). ~~A subchapter S corporation claiming a credit as permitted by this subsection for taxes levied in 1988 through 1990 shall claim the credit by filing an amended return under the~~

~~former single business tax act, 1975 PA 228. If a subchapter S corporation files an amended return as permitted by this subsection and if a shareholder of the subchapter S corporation claimed a credit under subsection (1)(b) for the same property taxes, the shareholder shall file an amended return under the state income tax act. A subchapter S corporation is not entitled to a credit under this subsection until all of its shareholders file the amended returns required by this subsection. The department of treasury shall first apply a credit due to a subchapter S corporation under this subsection to repay credits claimed under this section by the subchapter S corporation's shareholders for property taxes levied in 1988 through 1990 and shall refund any remaining credit to the S corporation. Interest or penalty is not due or payable on an income tax liability resulting from an amended return required by this subsection.~~ A subchapter S corporation electing to claim a credit as an owner eligible under subsection (2) shall not claim a credit under subsection (1) for property taxes levied after 1987.

(9) The department shall maintain a record of each development rights agreement under section 36104 or agricultural conservation easement or purchase of development rights under subpart 11 of part 21, section 36101(a), 36111b, or 36206, or sections 506 to 509 of the Michigan zoning enabling act, 2006 PA 110, MCL 125.3506 to 125.3509, for which a credit is claimed as authorized by this subsection.

(10) A landowner shall submit a recorded copy of a permanent conservation easement to the department by November 1 for the purposes of obtaining a tax credit under this section for the current tax year. The submitted document must include the legal description of the land preserved in the conservation easement and

be accompanied by any application form required by the department. If the department finds that the applicant meets all applicable requirements, the department shall issue to the landowner an acknowledgment of the permanent conservation easement. The acknowledgment shall list a unique identification number for the easement, consistent with this state's development rights agreement tracking system. For the purpose of claiming a tax credit under this section, the identification number shall serve as confirmation that the land described in the easement is permanently preserved.

(11) If a person applied for a development rights agreement in 2017 and the state land use agency approved the application under section 3104(7) between 2023 and 2025, the person may, by December 31, 2026, claim a credit under this section for tax years 2017 and 2018.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 103rd Legislature are enacted into law:

(a) Senate Bill No. 688.

(b) Senate Bill No. 686.

(c) Senate Bill No. 689.

(d) Senate Bill No. 687.

(e) Senate Bill No. 685.