

SENATE BILL No. 305

March 19, 2003, Introduced by Senators GILBERT, BIRKHOLZ, HARDIMAN, KUIPERS, SIKKEMA, HAMMERSTROM, BISHOP, GARCIA, VAN WOERKOM and GEORGE and referred to the Committee on Finance.

A bill to amend 1975 PA 228, entitled "Single business tax act," (MCL 208.1 to 208.145) by adding section 37e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 37e. (1) For tax years that begin after December 31,
2 2002, a taxpayer may claim a credit against the tax imposed by
3 this act equal to 50% of the taxable value of a qualified
4 donation of real property or an interest in real property located
5 in this state 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
10 donated shall be used for either of the following purposes:

11 (a) The protection of private lands for open space, natural

1 resources, biodiversity conservation, outdoor recreation,
2 farmland and forestland preservation, historic preservation, and
3 land conservation.

4 (b) The protection of a unique natural resource, wildlife
5 habitat, open space, agricultural or forested resource, or
6 historic resource of this state.

7 (4) The department of natural resources shall develop
8 criteria to determine if the donation qualifies for the credit
9 allowed under this section. A taxpayer that makes a donation
10 shall apply to the department of natural resources for a credit
11 certificate on a form provided by the department and shall submit
12 that application form to the department of natural resources
13 along with documentation that verifies that the taxpayer's
14 donation is a qualified donation, that he or she made the
15 donation in the tax year, and the purpose for which the donation
16 was made. The department of natural resources shall approve or
17 deny the application. If the department of natural resources
18 approves the application, the department of natural resources
19 shall issue a certificate that states that the donation is a
20 qualified donation, the value of the qualified donation, and the
21 total amount of the credit that the taxpayer is allowed to claim
22 under this section. If the department of natural resources
23 denies an application under this subsection, a taxpayer is not
24 prohibited from subsequently applying for the credit allowed
25 under this section.

26 (5) If the credit allowed under this section for the tax year
27 and any unused carryforward of the credit allowed under this

1 section exceed the tax liability of the taxpayer for the tax
2 year, the excess shall not be refunded, but may be carried
3 forward as an offset to the tax liability in subsequent tax years
4 for 20 tax years or until the excess credit is used up, whichever
5 occurs first.

6 (6) A taxpayer may transfer all or a portion of the tax
7 credit allowed under this section. A tax credit transfer under
8 this section is irrevocable and shall be made in the tax year in
9 which the qualified donation is made. A taxpayer may claim a
10 portion of a credit and transfer the remaining tax credit
11 amount. Except as otherwise provided in this subsection, if the
12 taxpayer both claims and transfers portions of the tax credit,
13 the taxpayer shall claim the portion it claims in the tax year in
14 which the qualified donation is made. If a taxpayer transfers
15 all or a portion of the tax credit to more than 1 taxpayer, the
16 taxpayer shall prorate the tax credit to each transferee. A
17 transferee shall not subsequently transfer a tax credit or any
18 portion of a tax credit transferred under this subsection. The
19 tax credit transfer under this subsection shall be made on a form
20 prescribed by the department. The transferee shall attach a copy
21 of the completed transfer form to its annual return required to
22 be filed under this act for the tax year in which the transfer is
23 made and the transferee first claims a credit, which shall be the
24 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 income tax act of 1967,

1 1967 PA 281, MCL 206.1 to 206.532.

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
9 code and the criteria under subsection (3), of either of the
10 following:

11 (a) A fee interest in real property.

12 (b) A less than fee interest in real property, including, but
13 not limited to, a conservation restriction, preservation
14 restriction, agricultural preservation restriction, or watershed
15 preservation restriction, if the less than fee interest qualifies
16 for a charitable contribution deduction under section 170(h) of
17 the internal revenue code.