

HOUSE BILL No. 4158

February 4, 2009, Introduced by Rep. Mayes and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 36111 (MCL 324.36111), as amended by 2002 PA
75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36111. (1) A development rights agreement expires at the
2 expiration of the term of the agreement unless renewed with the
3 consent of the owner of the land. If the owner of the land has
4 complied with the requirements of this part regarding development
5 rights agreements, the owner is entitled to automatic renewal of
6 ~~the farmland covered by the agreement~~ upon written request of the
7 owner. A development rights agreement may be renewed for a term of
8 not less than 7 years. If a development rights agreement is
9 renewed, the state land use agency shall send a copy of the renewal
10 contract to the local governing body. ~~of the local unit of~~

~~government in which the farmland is located.~~

(2) A development rights agreement or a portion of the farmland covered by a development rights agreement may be relinquished as provided in this section and section 36111a. Farmland may be relinquished by this state before a termination date contained in the instrument under either of the following circumstances:

(a) If approved by the local governing body and the state land use agency, land containing structures that were present before the recording of the development rights agreement may be relinquished from the agreement. Not more than 2 acres may be relinquished under this subdivision unless additional land area is needed to encompass all of the buildings located on the parcel, in which case not more than 5 acres may be relinquished. If the **SIZE OF THE** parcel proposed to be relinquished is less ~~in area than the minimum parcel size~~ **THAN THAT** required by local zoning, the parcel ~~may~~ **SHALL** not be relinquished unless a variance is obtained from the local zoning board of appeals to allow for the smaller parcel size.

(b) If approved by the local governing body and the state land use agency, land may be relinquished from the agreement for the construction of a residence by an individual essential to the operation of the farm as defined in section 36110(5). Not more than 2 acres may be relinquished under this subdivision. If the **SIZE OF THE** parcel proposed to be relinquished is less ~~in area than the minimum parcel size~~ **THAN THAT** required by local zoning, the parcel ~~may~~ **SHALL** not be relinquished unless a variance is obtained from the local zoning board of appeals to allow for the smaller parcel

1 size.

2 (3) Until April 1, 1997, if an owner who entered into or
3 renewed a development rights agreement before April 15, 1994 makes
4 a request, in writing, to the state land use agency, to terminate
5 that development rights agreement with respect to all or a portion
6 of the farmland covered by the agreement, the state land use agency
7 shall approve the request and relinquish that farmland from the
8 development rights agreement. If farmland is relinquished under
9 this subsection, the state land use agency shall notify the local
10 governing body of the local unit of government in which the land is
11 located of the relinquishment.

12 (4) If the request for relinquishment of the development
13 rights agreement is approved, the state land use agency shall
14 prepare an instrument, subject to subsections (5) ~~, (6), (7), and~~
15 **TO** (8), and record it with the register of deeds of the county in
16 which the land is situated.

17 (5) If a development rights agreement or a portion of a
18 development rights agreement is to be relinquished pursuant to
19 subsection (2) or section 36111a, the state land use agency shall
20 record a lien against the property formerly subject to the
21 development rights agreement for the total amount of the allocated
22 tax credit of the last 7 years, including the year of termination,
23 received by an owner ~~for that property under the agreement under~~
24 section 36109 ~~, AND~~ attributable to the property formerly subject
25 to the development rights agreement, plus interest at the rate of
26 6% per annum simple interest from the time the credit was received
27 until the lien is placed on the property.

1 (6) If the property being relinquished from the development
2 rights agreement is less than all of the property subject to that
3 development rights agreement, the allocated tax credit for the
4 development rights agreement shall be multiplied by the property's
5 share of the taxable value of the agreement. As used in this
6 subsection:

7 (a) "The allocated tax credit" means the amount obtained by
8 multiplying the owner's total farmland preservation credit claimed
9 in that year on all agreements by the quotient of the ad valorem
10 property tax levied in that year on property subject to the
11 development rights agreement that included the property being
12 relinquished from the agreement divided by the total property taxes
13 levied on property subject to any development rights agreement and
14 used in determining the farmland preservation credit in that year.

15 (b) "The property's share of the taxable value of the
16 agreement" means the quotient of the taxable value of the property
17 being relinquished from the agreement divided by the total taxable
18 value of property subject to the development rights agreement that
19 included the property being relinquished from the agreement. For
20 years before 1995, taxable value means assessed value.

21 (7) Thirty days before the recording of a lien under this
22 section, the state land use agency shall notify the owner of the
23 farmland subject to the development rights agreement of the amount
24 of the lien, including interest, if any. If the lien amount is paid
25 before 30 days after the owner is notified, the lien shall not be
26 recorded. The lien may be paid and discharged at any time and is
27 payable to the state by the owner of record ~~at the time~~ **WHEN** the

1 land or any portion of it is sold by the owner of record, or if the
2 land is converted to a use prohibited by the former development
3 rights agreement. The lien shall be discharged upon renewal or
4 reentry in a development rights agreement, except that a subsequent
5 lien shall not be less than the lien discharged. **NOTWITHSTANDING**
6 **ANY OTHER PROVISION OF THIS SECTION, FROM JULY 1, 2009 TO DECEMBER**
7 **31, 2009, A LIEN UNDER THIS SECTION RECORDED BEFORE JANUARY 1, 2009**
8 **MAY BE PAID AT A VALUE THAT IS 10% LESS THAN THE FACE VALUE OF THE**
9 **LIEN.**

10 (8) Upon the termination of all or a portion of the
11 development rights agreement under subsection (3) ~~, the termination~~
12 ~~of a development rights agreement under subsection (13), or,~~
13 subject to subsection ~~(15)~~ **(14)**, the termination of a development
14 rights agreement under subsection (1), the state land use agency
15 shall prepare and record a lien, if any, against the property
16 formerly subject to the development rights agreement for the total
17 amount of the allocated tax credit of the last 7 years, including
18 the year of termination, received by the owner under section 36109,
19 attributable to the property formerly subject to the development
20 rights agreement **PLUS INTEREST AT THE CURRENT MONTHLY INTEREST RATE**
21 **OF 1 PERCENTAGE POINT ABOVE THE ADJUSTED PRIME RATE PER ANNUM FROM**
22 **THE TIME THE LIEN IS RECORDED UNTIL IT IS PAID. THE ADJUSTED PRIME**
23 **RATE SHALL BE DETERMINED AS PROVIDED IN SECTION 23 OF 1941 PA 122,**
24 **MCL 205.23.** The lien ~~shall be without interest or penalty and is~~
25 payable ~~subject to~~ **AS PROVIDED IN** subsection (7).

26 (9) ~~Upon termination of a development rights agreement, the~~
27 **THE** state land use agency shall notify the department of treasury

~~for their records~~ **OF THE TERMINATION OF A DEVELOPMENT RIGHTS
AGREEMENT.**

~~(10) Until October 1, 2000, the proceeds from lien payments made under this part shall be used by the state land use agency to administer this part and, pursuant to section 36111b, to purchase development rights on farmland that does not necessitate direct purchase of the fee interest in the land. Beginning on October 1, 2000, the~~ **THE** ~~unappropriated proceeds from lien payments made under this part shall be forwarded to the state treasurer for deposit in the agricultural preservation fund created in section 36202. On October 1, 2000, all unexpended proceeds from lien payments made under this part that are held by the state shall be transferred to the agricultural preservation fund created in section 36202.~~

(11) Upon the relinquishment of all of the farmland under section 36110(2) or a portion of the farmland under section 36110(3), the state land use agency shall prepare and record a lien against the property formerly subject to a development rights agreement in an amount calculated as follows:

(a) Establishing a term of years by multiplying 7 by a fraction, the numerator of which is the number of years the farmland was under the development rights agreement, including any extensions, and the denominator of which is the number representing the term of years of that agreement, including any extensions.

(b) The lien amount equals the total amount of the allocated tax credit claimed attributable to that development rights agreement in the immediately preceding term of years as determined in subdivision (a).

1 (12) When a lien is paid under this section, the state land
2 use agency shall prepare and record a discharge of lien with the
3 register of deeds in the county in which the land is located. The
4 discharge of lien shall specifically state that the lien has been
5 paid in full, that the lien is discharged, that the development
6 rights agreement and accompanying contract are terminated, and that
7 the state has no further interest in the land under that agreement.

8 ~~—— (13) An owner of farmland, upon written request to the state~~
9 ~~land use agency on or before April 1, 1997, may elect to have the~~
10 ~~remaining term of the development rights agreement reduced to 7~~
11 ~~years if the farmland has been subject to that development rights~~
12 ~~agreement for 10 or more years. If the farmland has not been~~
13 ~~subject to a development rights agreement for 10 or more years, an~~
14 ~~owner of farmland may, upon written request to the state land use~~
15 ~~agency on or before April 1, 1997, elect to have the term of the~~
16 ~~development rights agreement reduced to 17 years from the initial~~
17 ~~year of enrollment.~~

18 (13) ~~(14)~~ A farmland development rights agreement is
19 automatically relinquished when the farmland becomes subject to an
20 agricultural conservation easement or purchase of development
21 rights under section 36111b or 36206.

22 (14) ~~(15)~~ If, upon expiration of the term of a farmland
23 development rights agreement, the farmland becomes subject to an
24 agricultural conservation easement or purchase of development
25 rights under section 36111b or 36206 or if a farmland development
26 rights agreement is automatically relinquished under subsection
27 ~~(14)~~ (13), the farmland is not subject to a lien under this

1 section.