

HOUSE BILL No. 4385

February 26, 1991, Introduced by Reps. Hickner, Hoekman, DeBeaussaert, DeMars, Middaugh, Middleton, Randall, Walberg, Strand, Munsell, Anthony and Oxender and referred to the Committee on Taxation.

A bill to amend section 12 of Act No. 116 of the Public Acts of 1974, entitled
"Farmland and open space preservation act,"
as amended by Act No. 148 of the Public Acts of 1980, being section 554.712 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 12 of Act No. 116 of the Public Acts of
2 1974, as amended by Act No. 148 of the Public Acts of 1980, being
3 section 554.712 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 12. (1) A development rights agreement shall be relin-
6 quished by the state at the expiration of the term of the agree-
7 ment unless renewed with the consent of the owner of the land.
8 If the owner of the land has complied with the requirements of
9 this act regarding development rights agreements, the owner shall

1 be entitled to automatic renewal of the agreement upon written
2 request of the landowner.

3 (2) A development rights agreement may be relinquished by
4 the state ~~prior to~~ BEFORE a termination date contained in the
5 instrument as follows:

6 (a) At any time the state determines that the development of
7 the land is in the public interest and in agreement with the
8 owner of the land.

9 (b) The owner of the land may submit an application to the
10 local governing body having jurisdiction under this act request-
11 ing that the development rights agreement be relinquished. The
12 application shall be made on a form prescribed by the state land
13 use agency. The request for relinquishment shall be processed
14 and shall be subject to the same provisions as provided for in
15 section 5 for review and approval.

16 (3) If the request for relinquishment of the development
17 rights agreement is approved, the state land use agency shall
18 prepare an instrument, subject to subsections (4), (5), (6), and
19 (7), and shall record it with the register of deeds of the county
20 in which the land is situated.

21 (4) At the time a development rights agreement is to be
22 relinquished pursuant to subsection (2)(b), the state land use
23 agency shall ~~cause to be prepared and recorded~~ PREPARE AND
24 RECORD a lien against the property formerly subject to the devel-
25 opment rights agreement for the total amount of the credit ~~in~~
26 ~~the state income tax~~ received by the owner ~~under section 10.~~
27 ~~The lien shall provide that~~ FOR THAT PROPERTY UNDER SECTION 10,

1 PLUS interest at the rate of 6% per annum compounded ~~shall be~~
2 ~~added to the credit~~ ANNUALLY from the time the credit was
3 received until it is paid. BEGINNING JANUARY 1, 1990, THE CREDIT
4 FOR EACH YEAR THE PROPERTY WAS SUBJECT TO THE AGREEMENT IS THE
5 ALLOCATED TAX CREDIT FOR THE AGREEMENT THAT INCLUDED THE PROPERTY
6 BEING WITHDRAWN FROM THE AGREEMENT. HOWEVER, IF THE PROPERTY
7 BEING WITHDRAWN FROM THE AGREEMENT IS LESS THAN ALL OF THE PROP-
8 ERTY SUBJECT TO THAT AGREEMENT, THE ALLOCATED TAX CREDIT FOR THE
9 AGREEMENT SHALL BE MULTIPLIED BY THE PROPERTY'S SHARE OF THE
10 ASSESSED VALUATION OF THE AGREEMENT. AS USED IN THIS

11 SUBSECTION:

12 (A) "THE ALLOCATED TAX CREDIT FOR THE AGREEMENT" MEANS THE
13 AMOUNT OBTAINED BY MULTIPLYING THE OWNER'S TOTAL FARMLAND PRESER-
14 VATION CREDIT CLAIMED IN THAT YEAR ON ALL AGREEMENTS BY THE QUO-
15 TIENT OF THE AD VALOREM PROPERTY TAX LEVIED IN THAT YEAR ON PROP-
16 ERTY SUBJECT TO THE DEVELOPMENT RIGHTS AGREEMENT THAT INCLUDED
17 THE PROPERTY BEING WITHDRAWN FROM THE AGREEMENT DIVIDED BY THE
18 TOTAL PROPERTY TAXES LEVIED ON PROPERTY SUBJECT TO ANY DEVELOP-
19 MENT RIGHTS AGREEMENT AND USED IN DETERMINING THE FARMLAND PRE-
20 SERVATION CREDIT IN THAT YEAR.

21 (B) "THE PROPERTY'S SHARE OF THE ASSESSED VALUE OF THE
22 AGREEMENT" MEANS THE QUOTIENT OF THE ASSESSED VALUE OF THE PROP-
23 ERTY BEING RELEASED FROM THE AGREEMENT DIVIDED BY THE TOTAL
24 ASSESSED VALUE OF PROPERTY SUBJECT TO THE DEVELOPMENT RIGHTS
25 AGREEMENT THAT INCLUDED THE PROPERTY BEING RELEASED FROM THE
26 AGREEMENT.

1 (5) The lien may be paid and discharged at any time and
2 shall become payable to the state by the owner of record at the
3 time the land or any portion of it is sold by the owner of
4 record, or if the land is converted to a use prohibited by the
5 former development rights agreement. The lien shall be dis-
6 charged upon renewal or reentry in a development rights agree-
7 ment, except that a subsequent lien shall not be less than the
8 lien discharged. The proceeds from the payment shall be used to
9 purchase development rights on land ~~which~~ THAT is ~~deemed~~
10 CONSIDERED by the state land use agency to be a unique or criti-
11 cal land area that should be preserved in its natural character,
12 but ~~which~~ THAT does not necessitate direct purchase of the fee
13 interest in the land.

14 (6) Upon termination of the development rights agreement
15 pursuant to subsection (2)(a), the development rights shall
16 revert back to the owner without penalty or interest.

17 (7) Upon the natural termination of the development rights
18 agreement pursuant to subsection (1), the state land use agency
19 shall ~~cause to be prepared and recorded~~ PREPARE AND RECORD a
20 lien against the property formerly subject to the development
21 rights agreement for the total amount of the credit ~~in the state~~
22 ~~income tax~~ of the last 7 years received by the owner under sec-
23 tion 10, INCLUDING THE YEAR OF NATURAL TERMINATION, ATTRIBUTABLE
24 TO THAT DEVELOPMENT RIGHTS AGREEMENT. BEGINNING JANUARY 1, 1990,
25 THE CREDIT FOR EACH YEAR SHALL BE DETERMINED BY MULTIPLYING THE
26 OWNER'S TOTAL FARMLAND PRESERVATION CREDIT ON ALL AGREEMENTS
27 CLAIMED IN THAT YEAR BY THE QUOTIENT OF THE AD VALOREM PROPERTY

1 TAX LEVIED ON PROPERTY SUBJECT TO THE EXPIRED DEVELOPMENT RIGHTS
2 AGREEMENT THAT WAS USED IN DETERMINING THE FARMLAND PRESERVATION
3 CREDIT IN THAT YEAR DIVIDED BY THE TOTAL PROPERTY TAXES LEVIED ON
4 PROPERTY SUBJECT TO ANY DEVELOPMENT RIGHTS AGREEMENT AND USED IN
5 DETERMINING THE FARMLAND PRESERVATION CREDIT IN THAT YEAR. The
6 lien shall be without interest or penalty and shall be payable
7 subject to subsection (5).

8 (8) Upon termination, the state land use agency shall notify
9 the department of treasury for their records.