



HOUSE BILL No. 4133

February 3, 1993, Introduced by Reps. Wetters, Anthony, Stallworth, Agee, Bobier, Byrum, Shepich, Harder, Rhead, Gnodtke, Bender, Randall, Curtis, Scott, DeMars, Middleton and Goschka and referred to the Committee on Agriculture and Forestry.

A bill to amend sections 2, 4, 5, 6, 7, 10, 11, 12, 13, and 14 of Act No. 116 of the Public Acts of 1974, entitled "Farmland and open space preservation act," section 2 as amended by Act No. 159 of the Public Acts of 1982, sections 5, 13, and 14 as amended by Act No. 148 of the Public Acts of 1980, section 10 as amended by Act No. 89 of the Public Acts of 1991, and section 12 as amended by Act No. 112 of the Public Acts of 1991, being sections 554.702, 554.704, 554.705, 554.706, 554.707, 554.710, 554.711, 554.712, 554.713, and 554.714 of the Michigan Compiled Laws; and to add section 12a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Sections 2, 4, 5, 6, 7, 10, 11, 12, 13, and 14 of Act No. 116 of the Public Acts of 1974, section 2 as amended by Act No. 159 of the Public Acts of 1982, sections 5, 13, and 14 as amended by Act No. 148 of the Public Acts of 1980, section 10

1 as amended by Act No. 89 of the Public Acts of 1991, and section
2 12 as amended by Act No. 112 of the Public Acts of 1991, being
3 sections 554.702, 554.704, 554.705, 554.706, 554.707, 554.710,
4 554.711, 554.712, 554.713, and 554.714 of the Michigan Compiled
5 Laws, are amended and section 12a is added to read as follows:

6 Sec. 2. (1) "Agricultural use" means substantially undevel-
7 oped land devoted to the production of plants and animals useful
8 to man, including forages and sod crops; grains and feed crops;
9 dairy and dairy products; livestock, including breeding and graz-
10 ing; fruits; vegetables; Christmas trees; and other similar uses
11 and activities.

12 (2) "DESIGNATED OPEN SPACE" MEANS OPEN SPACE LAND AS DEFINED
13 IN SUBSECTION (11)(A).

14 (3) ~~-(2)-~~ "Development" means an activity ~~which~~ THAT mate-
15 rially alters or affects the existing conditions or use of any
16 land.

17 (4) ~~-(3)-~~ "Development rights" means the right to construct
18 a building or structure, to improve land, or the extraction of
19 minerals incidental to a permitted use or as ~~shall be~~ IS set
20 forth in an instrument recorded pursuant to this act.

21 (5) ~~-(4)-~~ "Development rights agreement" means a restrictive
22 covenant, evidenced by an instrument whereby the owner and the
23 state, for a term of years, agree to jointly hold the right to
24 develop the land as may be expressly reserved in the instrument,
25 and ~~which~~ THAT contains a covenant running with the land, for a
26 term of years, not to develop, except as this right is expressly
27 reserved in the instrument.

1 (6) ~~-(5)-~~ "Development rights easement" means a grant, by an
 2 instrument, whereby the owner relinquishes to the public in per-
 3 petuity or for a term of years ~~—~~ the right to develop the land
 4 as may be expressly reserved in the instrument, and ~~which~~ THAT
 5 contains a covenant running with the land, not to develop, except
 6 as this right is expressly reserved in the instrument.

7 (7) "FARM COMMODITIES" MEANS FARM PRODUCTS THAT HAVE BEEN
 8 GROWN OR RAISED ON FARMLAND ENROLLED UNDER THIS ACT.

9 (8) ~~-(6)-~~ "Farmland" means 1 OR MORE OF THE FOLLOWING:

10 (a) A farm of 40 or more acres, in 1 ownership ~~which has~~
 11 ~~been~~ WITH 51% OR MORE OF THE LAND AREA devoted ~~primarily~~ to an
 12 agricultural use.

13 (b) A farm of 5 acres or more in 1 ownership, but less than
 14 40 acres, WITH 51% OR MORE OF THE LAND AREA devoted ~~primarily~~
 15 to an agricultural use, ~~which~~ THAT has produced a gross annual
 16 income from agriculture of \$200.00 per year or more per acre of
 17 cleared and tillable land.

18 (c) A farm designated by the department of agriculture as a
 19 specialty farm in ~~one~~ 1 ownership ~~which~~ THAT has produced a
 20 gross annual income from an agricultural use of \$2,000.00 or
 21 more.

22 (d) Parcels of land in ~~one~~ 1 ownership ~~which~~ THAT are
 23 not contiguous but ~~which~~ THAT constitute an integral part of a
 24 farming operation being conducted on land otherwise qualifying as
 25 farmland may be included in an application under this act.

26 (9) ~~-(7)-~~ "Local governing body" means 1 OF THE FOLLOWING:

1 (a) The legislative body of a city or village.

2 (b) The township board of a township having a zoning
3 ordinance in effect as provided by law.

4 (c) The county board of commissioners in all other areas.

5 (10) "LOCAL OPEN SPACE" MEANS OPEN SPACE LAND AS DEFINED IN
6 SUBSECTION (11)(B).

7 (11) ~~-(8)-~~ "Open space land" means 1 OF THE FOLLOWING:

8 (a) Lands defined as 1 OR MORE OF THE FOLLOWING:

9 (i) Any undeveloped site included in a national registry of
10 historic places or designated as an historic site pursuant to
11 state or federal law.

12 (ii) Riverfront ownership subject to designation under THE
13 NATURAL RIVER ACT OF 1970, Act No. 231 of the Public Acts of
14 1970, being sections 281.761 to 281.776 of the Michigan Compiled
15 Laws, to the extent that full legal descriptions may be declared
16 open space under the meaning of this act, if the undeveloped
17 parcel or government lot parcel or portions thereof as assessed
18 and owned is affected by that act and lies within 1/4 mile of the
19 river.

20 (iii) Undeveloped lands designated as environmental areas
21 under THE SHORELANDS PROTECTION AND MANAGEMENT ACT OF 1970, Act
22 No. 245 of the Public Acts of 1970, as amended, being sections
23 281.631 to 281.644 of the Michigan Compiled Laws, including
24 unregulated portions of those lands.

25 (iv) UNDEVELOPED LANDS DEFINED AS A SAND DUNE AREA UNDER
26 SECTION 2 OF THE SAND DUNE PROTECTION AND MANAGEMENT ACT, ACT
27 NO. 222 OF THE PUBLIC ACTS OF 1976, BEING SECTION 281.652 OF THE

1 MICHIGAN COMPILED LAWS, INCLUDING UNREGULATED PORTIONS OF THOSE
2 LANDS.

3 (b) Any other area approved by the local governing body, the
4 preservation of which area in its present condition would con-
5 serve natural or scenic resources, including ~~the~~ the promotion of
6 the conservation of soils, wetlands, and beaches; the enhancement
7 of recreation opportunities; the preservation of historic sites;
8 and idle potential farmland of not less than 40 acres ~~which~~
9 THAT is substantially undeveloped and, ~~which~~ because of its
10 soil, terrain, and location, is capable of being devoted to agri-
11 cultural uses as identified by the department of agriculture.

12 (12) ~~(9)~~ "Owner" means a person having a freehold estate
13 in land coupled with possession and enjoyment. ~~However, where~~
14 IF land is subject to a land contract, ~~it~~ OWNER means the
15 ~~vendor~~ VENDEE in agreement with the ~~vendee~~ VENDOR.

16 (13) ~~(10)~~ "Permitted use" means any use contained within a
17 development rights agreement or a development rights easement
18 THAT IS essential to the farming operation or ~~which~~ THAT does
19 not alter the open space character of the land.

20 (14) ~~(11)~~ "Person" includes an individual, corporation,
21 business trust, estate, trust, partnership, or association, or 2
22 or more persons having a joint or common interest in the land.

23 (15) ~~(12)~~ "Property taxes" means general ad valorem taxes
24 levied after January 1, 1974, on lands and structures in this
25 state, including collection fees, but not including special
26 assessments, penalties, or interest.

1 (16) ~~(+3)~~ "Regional planning commission" means a regional
2 planning commission created pursuant to Act No. 281 of the Public
3 Acts of 1945, as amended, being sections 125.11 to 125.25 of the
4 Michigan Compiled Laws.

5 (17) ~~(+4)~~ "Regional planning district" means the planning
6 and development regions as established by executive directive
7 1968-1, as amended, whose organizational structure is approved by
8 the regional council.

9 (18) ~~(+5)~~ "Soil conservation district" means a district
10 created pursuant to THE SOIL CONSERVATION DISTRICTS LAW, Act
11 No. 297 of the Public Acts of 1937, as amended, being sections
12 282.1 to 282.16 of the Michigan Compiled Laws.

13 (19) ~~(+6)~~ "State income tax act" means THE INCOME TAX ACT
14 OF 1967, Act No. 281 of the Public Acts of 1967, as amended,
15 being sections 206.1 to 206.532 of the Michigan Compiled Laws,
16 and in effect during the particular year of the reference to the
17 act.

18 (20) ~~(+7)~~ "State land use agency" means the land use
19 agency within the department of natural resources.

20 (21) ~~(+8)~~ "Substantially undeveloped" means any parcel or
21 area of land essentially unimproved except for a dwelling, build-
22 ing, structure, road, or other improvement that is incidental to
23 agricultural and open space uses.

24 (22) ~~(+9)~~ "Unique or critical land area" means agricul-
25 tural or open space lands identified by the land use agency as an
26 area ~~which~~ THAT should be preserved. ~~in its natural~~
27 ~~condition.~~

1 Sec. 4. (1) The execution and acceptance of a development
2 rights agreement or easement by the state or local governing body
3 and the owner ~~shall constitute a dedication~~ DEDICATES to the
4 public ~~of~~ the development rights in the land for the term spec-
5 ified in the instrument. A development rights agreement or ease-
6 ment shall be for a term of not less than 10 years AND NOT MORE
7 THAN 90 YEARS.

8 (2) The state or local governing body shall not sell, trans-
9 fer, convey, relinquish, vacate, or otherwise dispose of a devel-
10 opment rights agreement or easement except with the ~~mutual~~
11 agreement of the owner as provided in sections 12, 13, and 14.

12 (3) An agreement or easement ~~shall~~ DOES not supersede any
13 prior lien, lease, or interest ~~which~~ THAT is properly recorded
14 with the county register of deeds.

15 (4) A lien created under this act in favor of the state or a
16 local governing body ~~shall be~~ IS subordinate to a lien of a
17 mortgage ~~which~~ THAT is recorded in the office of the register
18 of deeds before the recording of the lien of the state or local
19 governing body.

20 Sec. 5. (1) An owner of land desiring a farmland develop-
21 ment rights agreement may apply by filing an application with the
22 local governing body having jurisdiction under this act. The
23 ~~application shall be made~~ OWNER SHALL APPLY on a form pre-
24 scribed by the state land use agency. The application shall con-
25 tain information reasonably necessary to properly classify the
26 land as farmland. This information shall include a land survey
27 or a legal description of the land, and a map showing the

1 significant natural features and all structures and physical
2 improvements located on the land. ~~The application shall include~~
3 ~~the soil classification of the land if known.~~

4 (2) Upon receipt of the application, the local governing
5 body shall notify the county planning commission or the regional
6 planning commission and the soil conservation district agency.
7 If the county has jurisdiction, it shall also notify the township
8 board of the township in which the land is situated. If the land
9 is within 3 miles of the boundary of a city or within 1 mile of
10 the boundary of a village, the county or township governing body
11 having jurisdiction shall notify the governing body of the city
12 or village.

13 (3) An agency or local governing body receiving notice shall
14 have 30 days to review, comment, and make recommendations to the
15 local governing body with whom the application is filed. These
16 reviewing agencies do not have an approval or rejection power
17 over the application.

18 (4) After considering the comments and recommendations of
19 the reviewing agencies and local governing bodies, the local gov-
20 erning body holding the application shall approve or reject the
21 application within 45 days after the application is received
22 unless ~~time~~ THAT PERIOD is extended by ~~mutual~~ agreement of
23 the parties involved. The local governing body's approval or
24 rejection of the application shall be based upon, and consistent
25 with, rules promulgated by the state land use agency pursuant to
26 section 17.

1 (5) If an application for a farmland development rights
2 agreement is approved by the local governing body having
3 jurisdiction, THE LOCAL GOVERNING BODY SHALL FORWARD a copy,
4 along with the comments and recommendations of the reviewing
5 bodies, ~~shall be forwarded~~ to the state land use agency. The
6 application shall contain a statement from the assessing officer
7 where the property is located specifying the current fair market
8 value of the land and structures in compliance with the agricul-
9 tural section of the Michigan state tax commission assessor
10 manual. If action is not taken by the local governing body
11 within the time prescribed or agreed upon, the applicant may pro-
12 ceed as provided in subsection (6) as if the application was
13 rejected.

14 (6) If the application for a farmland development rights
15 agreement is rejected by the local governing body, ~~it~~ THE LOCAL
16 GOVERNING BODY shall return the application to the applicant with
17 a written statement regarding the reasons for rejection. Within
18 30 days after receipt of the rejected application, the applicant
19 may appeal the rejection to the state land use agency. The state
20 land use agency shall have 60 days to approve or reject the
21 application pursuant to subsection (7).

22 (7) The state land use agency, within 60 days after the
23 farmland development rights agreement application ~~has been~~ IS
24 received, shall approve or reject the application. ~~The state~~
25 ~~land use agency shall forward a copy of the information received~~
26 ~~from the local assessing officer and a copy of the application to~~
27 ~~the state tax commission for its review. The state tax~~

1 ~~commission shall make its review, including property description~~
2 ~~and value verification, and submit its comments to the state land~~
3 ~~use agency within 60 days after receipt of the application. A~~
4 rejection of an application for a farmland development rights
5 agreement ~~which~~ THAT has been approved by a local governing
6 body by the state land use agency shall be for nonconformance
7 with section ~~2(6)~~ 2(8) only. If THE APPLICATION IS approved by
8 the state land use agency, ~~it~~ THE LOCAL GOVERNING BODY shall
9 prepare a farmland development rights agreement ~~which shall~~
10 ~~include~~ THAT INCLUDES ALL OF the following provisions:

11 (a) A structure shall not be built on the land except for
12 use consistent with farm operations or lines for utility trans-
13 mission or distribution purposes or with the approval of the
14 local governing body and the state land use agency.

15 (b) Land improvements shall not be made except for use con-
16 sistent with farm operations or with the approval of the local
17 governing body and the state land use agency.

18 (c) Any interest in the land shall not be sold except a
19 scenic, access, or utility easement ~~which~~ THAT does not sub-
20 stantially hinder farm operations.

21 (d) Public access ~~shall not be~~ IS NOT permitted on the
22 land unless agreed to by the owner.

23 (e) Any other condition and restriction on the land as
24 agreed to by the parties ~~that is deemed~~ AND CONSIDERED neces-
25 sary to preserve the land or appropriate portions of it as
26 farmland.

1 (F) RETAIL SALES OF AGRICULTURAL PRODUCTS FROM FARMLAND
2 COVERED BY A DEVELOPMENT RIGHTS AGREEMENT MAY OCCUR IF 75% OF THE
3 AGRICULTURAL PRODUCTS ARE FARM COMMODITIES THAT ARE GROWN AND
4 SOLD PURSUANT TO LOCAL ZONING REQUIREMENTS.

5 (8) A copy of the approved application and the farmland
6 development rights agreement shall be forwarded to the applicant
7 for execution. An application ~~which~~ THAT is approved by the
8 local governing body by November 1 shall take effect for the cur-
9 rent tax year.

10 (9) ~~(8)~~ If the owner executes the farmland development
11 rights agreement, the owner shall return it to the state land use
12 agency for execution on behalf of the state. IF A LAND CONTRACT
13 VENDEE ENTERS INTO AN AGREEMENT, THE VENDOR SHALL SIGN THE APPLI-
14 CATION FOR ENROLLMENT AND THE AGREEMENT INDICATING THAT CONSENT
15 WAS GIVEN TO MAKE APPLICATION AND TO ENTER INTO THE AGREEMENT.
16 The state land use agency shall record the executed development
17 rights agreement with the register of deeds of the county in
18 which the land is situated and shall notify the applicant, the
19 local governing body and its assessing office, all reviewing
20 agencies, and the department of treasury.

21 (10) ~~(9)~~ If an application for a farmland development
22 rights agreement is rejected by the state land use agency, ~~it~~
23 THE STATE LAND USE AGENCY shall notify the affected local govern-
24 ing body, all reviewing agencies concerned, and the applicant
25 with a written statement containing the reasons for rejection,
26 An applicant receiving a rejection from the state land use agency
27 may appeal the rejection pursuant to THE ADMINISTRATIVE

1 PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of 1969,
2 as amended, being sections 24.201 to ~~24.315~~ 24.328 of the
3 Michigan Compiled Laws.

4 (11) ~~(10)~~ An applicant may reapply for a farmland develop-
5 ment rights agreement following a 1-year waiting period.

6 (12) ~~(11)~~ The value of the jointly owned development
7 rights as expressed in a farmland development rights agreement
8 ~~shall~~ IS not ~~be~~ exempt from ad valorem taxation and shall be
9 assessed to the owner of the land as part of the value of that
10 land.

11 Sec. 6. (1) If an owner of open space land desires an open
12 space development rights easement, and the land is subject to the
13 provisions of section ~~2(8)(a)~~ 2(11)(A), the procedures for
14 filing an application provided by the state land use agency shall
15 follow ~~as provided in~~ section 5, except subsections (7) and
16 ~~(11)~~ (12) OF SECTION 5.

17 (2) The state land use agency, within 60 days after the open
18 space development rights easement application ~~has been~~ IS
19 received, shall approve or reject the application. If THE APPLI-
20 CATION IS approved by the state land use agency, ~~it~~ THE STATE
21 LAND USE AGENCY shall prepare an open space development rights
22 easement ~~which shall include~~ THAT INCLUDES ALL OF the following
23 provisions:

24 (a) A structure shall not be built on the land without the
25 approval of the state land use agency.

26 (b) Improvement to the land shall not be made without the
27 approval of the state land use agency.

1 (c) Any interest in the land shall be sold only for a
2 scenic, access, or utility easement ~~which~~ THAT does not sub-
3 stantially hinder the character of the open space land.

4 (d) Access to the open space land may be provided if ACCESS
5 IS agreed ~~upon~~ TO by the owner and will not jeopardize the con-
6 ditions of the land.

7 (e) Any other condition or restriction on the land as agreed
8 to by the parties ~~that is deemed~~ AND CONSIDERED necessary to
9 preserve the land or appropriate portions of it as open space
10 land.

11 (3) Upon receipt of the application, the state land use
12 agency shall notify the state tax commission. Upon notification,
13 the state tax commission shall within 60 days make an on-site
14 appraisal of the land in compliance with the Michigan state tax
15 commission assessors manual. The application shall contain a
16 statement specifying the current fair market value of the land
17 and the current fair market value of the development rights. The
18 state land use agency shall submit TO THE LEGISLATURE each appli-
19 cation for an open space development rights easement and an anal-
20 ysis of its cost to the state. ~~to the legislature.~~ The appli-
21 cation shall be approved in both houses by a resolution concurred
22 in by a majority of the members elected and serving in each
23 house. The amount of the cost shall be returned to the local
24 governing body ~~where~~ IF lost revenues are indicated. A copy of
25 the approved application and the open space development rights
26 easement shall be forwarded by the state land use agency to the

1 applicant for execution and to the local assessing office where
2 the land is situated.

3 (4) The development rights held by the state as expressed in
4 an open space development rights easement under this section
5 ~~shall be~~ ARE exempt from ad valorem taxation.

6 Sec. 7. (1) An owner of open space land desiring an open
7 space development rights easement whose land is subject to the
8 provisions of section ~~2(8)(b),~~ 2(11)(B) may apply by filing an
9 application with the local governing body having jurisdiction
10 under this act. The application shall be made on a form pre-
11 scribed by the state land use agency. The application shall con-
12 tain information reasonably necessary to properly identify the
13 land as open space. This information shall include a land survey
14 or a legal description of the land, and a map showing the signif-
15 icant natural features and all structures and physical improve-
16 ments located on the land. ~~The map shall include the soil clas-~~
17 ~~sification of the land if known.~~

18 (2) Upon receipt of an application, the local governing body
19 shall notify the county planning commission, the regional plan-
20 ning commission, and the soil conservation district agency. If
21 the county has jurisdiction, it shall also notify the township
22 board of the township in which the land is situated. If the land
23 is within 3 miles of the boundary of a city or within 1 mile of
24 the boundary of a village, the county shall notify the governing
25 body of the city or village.

1 (3) An agency or local governing body receiving notice shall
2 have 30 days to review, comment, and make recommendations to the
3 local governing body with whom the application was filed.

4 (4) After considering the comments and recommendations of
5 the reviewing agencies, the local governing body shall approve or
6 reject the application within 45 days after the application has
7 been received by it unless time is extended by ~~mutual~~ agreement
8 of the parties involved. The local governing body's approval or
9 rejection of the application shall be based upon, and consistent
10 with, rules promulgated by the state land use agency pursuant to
11 section 17. If the local governing body does not act within the
12 time prescribed or agreed upon, the applicant may proceed as pro-
13 vided in subsection ~~(8)~~ (9) as if the application was
14 rejected.

15 (5) If the application is approved by the local governing
16 body or the state land use agency on appeal, the local governing
17 body shall prepare an appropriate easement ~~which shall include~~
18 THAT INCLUDES ALL OF the following provisions:

19 (a) A structure shall not be built on the land without the
20 approval of the local governing body.

21 (b) An improvement to the land shall not be made without the
22 approval of the local governing body.

23 (c) Any interest in the land shall not be sold except for
24 scenic, access, or utility easements ~~which~~ THAT do not substan-
25 tially hinder the character of the open space land.

1 (d) Public access to the open space land may be provided if
2 agreed upon by the owner and will not jeopardize the conditions
3 of the land.

4 (e) Any other condition or restriction on the land as agreed
5 to by both parties that is ~~deemed~~ CONSIDERED necessary to pre-
6 serve the land or appropriate portions of it as open space land.

7 (6) Upon receipt of the application, the local governing
8 body shall direct either the local assessing officer or an inde-
9 pendent certified assessor to make an on-site appraisal ~~within~~
10 ~~30 days~~ of the land WITHIN 30 DAYS in compliance with the
11 Michigan state tax commission assessors manual. The approved
12 application shall contain a statement specifying the current fair
13 market value of the land and the current fair market value of the
14 development rights, if any. A copy of the approved application
15 and the development rights easement shall be forwarded to the
16 applicant for his OR HER execution.

17 (7) ~~(6)~~ If the owner of the land executes the approved
18 easement, it shall be returned to the local governing body for
19 its execution. The local governing body shall record the ~~open~~
20 ~~space~~ development rights easement with the register of deeds of
21 the county. A copy of the approved easement shall be forwarded
22 to the local assessing office and to the state land use agency
23 for their information. ~~The state land use agency shall submit~~
24 ~~to the legislature and the department of management and budget a~~
25 ~~listing of all easements in effect by October 31 of each year.~~

1 (8) ~~(7)~~ The decision of the local governing body having
2 jurisdiction under this act may be appealed to the state land use
3 agency, pursuant to subsection ~~(8)~~ (9).

4 (9) ~~(8)~~ If an application for an open space development
5 rights easement is rejected by the local governing body, ~~it~~ THE
6 LOCAL GOVERNING BODY shall notify the applicant and all reviewing
7 agencies concerned with a written statement regarding the reasons
8 for rejection. Within 30 days after receipt of the rejected
9 application, the applicant may appeal the rejection to the state
10 land use agency. The state land use agency shall have 60 days to
11 approve or reject the application. The state land use agency
12 shall submit each approved application for an open space develop-
13 ment rights easement and an analysis of its cost to the
14 legislature. The application shall be approved in both houses by
15 a resolution concurred in by a majority of the members elected
16 and serving in each house. The amount of the cost shall be
17 returned to the local governing body where lost revenues are
18 indicated. A copy of the approved application and an appropriate
19 easement shall be forwarded by the state land use agency to the
20 applicant for execution and to the local governing body where the
21 land is situated.

22 (10) ~~(9)~~ An applicant may reapply for an open space devel-
23 opment rights easement following a 1-year waiting period.

24 (11) ~~(10)~~ The development rights held by the local govern-
25 ing body as expressed in an open space development rights ease-
26 ment ~~shall be~~ ARE exempt from ad valorem taxation.

1 Sec. 10. (1) An owner of farmland and related buildings
2 covered by 1 or more development rights agreements meeting the
3 requirements of this act who is required or eligible to file a
4 return as an individual or a claimant under the state income tax
5 act may claim a credit against the state income tax liability for
6 the amount by which the property taxes on the land and structures
7 used in the farming operation, including the homestead,
8 restricted by the development rights agreements exceed 7% of the
9 household income as defined in chapter 9 of the state income tax
10 act, excluding a deduction if taken under section 613 of the
11 internal revenue code of 1986, 26 U.S.C. 613. For the purposes
12 of this section, all of the following apply:

13 (a) A partner in a partnership is considered an owner of
14 farmland and related buildings covered by a development rights
15 agreement that are owned by the partnership. A partner is con-
16 sidered to pay a proportion of the property taxes on that prop-
17 erty equal to the partner's share of ownership of capital or dis-
18 tributive share of ordinary income as reported by the partnership
19 to the internal revenue service or, if the partnership is not
20 required to report that information to the internal revenue serv-
21 ice, as provided in the partnership agreement or, if there is no
22 written partnership agreement, a statement signed by all the
23 partners. A partner claiming a credit under this section based
24 upon the partnership agreement or a statement shall file a copy
25 of the agreement or statement with his or her income tax return.
26 If the agreement or statement is not filed, the department of
27 treasury shall deny the credit. All partners in a partnership

1 claiming the credit allowed under this section shall compute the
2 credit using the same basis for the apportionment of the property
3 taxes.

4 (b) A shareholder of a corporation that has filed a proper
5 election under subchapter S of chapter 1 of subtitle A of the
6 internal revenue code of 1986, 26 U.S.C. 1361 to 1379 is consid-
7 ered an owner of farmland and related buildings covered by a
8 development rights agreement that are owned by the corporation.
9 A shareholder is considered to pay a proportion of the property
10 taxes on that property equal to the shareholder's percentage of
11 stock ownership for the tax year as reported by the corporation
12 to the internal revenue service. Except as provided in
13 subsection (8), this subdivision applies to tax years beginning
14 after 1987.

15 (c) An individual in possession of property for life under a
16 life estate with remainder to another person or holding property
17 under a life lease is considered the owner of that property if it
18 is farmland and related buildings covered by a development rights
19 agreement UNLESS A WRITTEN AGREEMENT SIGNED BY ALL THE OWNERS AND
20 THE HOLDER OF THE LIFE ESTATE OR LIFE LEASE IS FILED WITH THE
21 RETURN, AND THE AGREEMENT APPORTIONS THE PROPERTY TAXES IN THE
22 SAME MANNER AS REVENUE AND EXPENSES.

23 (d) If a trust holds farmland and related buildings covered
24 by a development rights agreement and an individual is treated
25 under subpart E of subchapter J of the internal revenue code of
26 1986, 26 U.S.C. 671 to 679 as the owner of that portion of the

1 trust that includes the farmland and related buildings, that
2 individual is considered the owner of that property.

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

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

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

15 (2) An owner of farmland and related buildings covered by 1
16 or more development rights agreements meeting the requirements of
17 this act to whom subsection (1) does not apply may claim a credit
18 under the single business tax act, Act No. 228 of the Public Acts
19 of 1975, as amended, being sections 208.1 to 208.145 of the
20 Michigan Compiled Laws, for the amount by which the property
21 taxes on the land and structures used in farming operations
22 restricted by the development rights agreements exceed 7% of the
23 adjusted business income of the owner as defined in section 36 of
24 Act No. 228 of the Public Acts of 1975, being section 208.36 of
25 the Michigan Compiled Laws, plus compensation to shareholders not
26 included in adjusted business income, excluding any deductions if
27 taken under section 613 of the internal revenue code of 1986, 26

1 U.S.C. 613. When calculating adjusted business income for tax
2 years beginning before 1987, federal taxable income shall not be
3 less than zero for the purposes of this subsection only. A par-
4 ticipant is not eligible to claim a credit and refund against the
5 state single business tax unless the participant demonstrates
6 that the participant's agricultural gross receipts of the farming
7 operation exceed 5 times the property taxes on the land for each
8 of 3 out of the 5 tax years immediately preceding the year in
9 which the credit is claimed. This eligibility requirement does
10 not apply to those participants who executed farmland development
11 rights agreements under this act before January 1, 1978. A par-
12 ticipant may compare, during the contract period, the average of
13 the most recent 3 years of agricultural gross receipts to prop-
14 erty taxes in the first year that the participant entered the
15 program under the present contract in calculating the gross
16 receipts qualification. Once an election is made by the partici-
17 pant to compute the benefit in this manner, all future calcula-
18 tions shall be made in the same manner.

19 (3) If the farmland and related buildings covered by a
20 development rights agreement are owned by more than 1 owner, each
21 owner is allowed to claim a credit under this section based upon
22 that owner's share of the property tax payable on the farmland
23 and related buildings. The department of treasury shall consider
24 the property tax equally apportioned among the owners unless a
25 written agreement signed by all the owners is filed with the
26 return, which agreement apportions the property taxes in the same
27 manner as all other items of revenue and expense. If the

1 property taxes are considered equally apportioned, a husband and
2 wife shall be considered 1 owner, and a person with respect to
3 whom a deduction under section 151 of the internal revenue code
4 of 1986, 26 U.S.C. 151 is allowable to another owner of the prop-
5 erty shall not be considered an owner.

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

10 (5) If the allowable amount of the credit claimed exceeds
11 the state income tax or the state single business tax otherwise
12 due for the tax year or if there is no state income tax or the
13 state single business tax due for the tax year, the amount of the
14 claim not used as an offset against the state income tax or the
15 state single business tax, after examination and review, shall be
16 approved for payment to the claimant ~~in accordance with~~
17 PURSUANT TO Act No. 122 of the Public Acts of 1941, being sec-
18 tions 205.1 to 205.31 of the Michigan Compiled Laws. The total
19 credit allowable under this act and chapter 9 of the state income
20 tax act or the single business tax act, Act No. 228 of the Public
21 Acts of 1975, as amended, shall not exceed the total property tax
22 due and payable by the claimant in that year. The amount BY
23 WHICH the credit exceeds the property tax due and payable shall
24 be deducted from the credit claimed under this act.

25 (6) For purposes of audit, review, determination, appeals,
26 hearings, notices, assessments, and administration relating to
27 the credit program provided by this section, the state income tax

1 act or single business tax act, Act No. 228 of the Public Acts of
2 1975, applies according to which tax the credit is claimed
3 against. If an individual is allowed to claim a credit under
4 subsection (1) based upon property owned or held by a partner-
5 ship, S corporation, or trust, the department of treasury may
6 require that the individual furnish to the department a copy of a
7 tax return, or portion of a tax return, and supporting schedules
8 that the partnership, S corporation, or trust files under the
9 internal revenue code.

10 (7) The department of treasury shall account separately for
11 payments under this act and not combine them with other credit
12 programs. A payment made to a claimant for a credit claimed
13 under this act shall be issued by 1 or more warrants made out to
14 the county treasurer in each county in which the claimant's prop-
15 erty is located and the claimant unless THE CLAIMANT SPECIFIES ON
16 THE RETURN THAT a copy of the receipt showing payment of the
17 property taxes that became a lien in the year for which the
18 credit is claimed, or that became a lien in the year before the
19 year for which the credit is claimed, is attached to the income
20 tax or single business tax return filed by the claimant. If THE
21 CLAIMANT SPECIFIES THAT a copy of the receipt is attached to the
22 return, the payment shall be made directly to the claimant. A
23 warrant made out to a claimant and a county treasurer shall be
24 used first to pay delinquent property taxes, interest, penalties,
25 and fees on property restricted by the development rights
26 agreement. If the warrant exceeds the amount of delinquent
27 taxes, interest, penalties, and fees, the county treasurer shall

1 remit the excess to the claimant. IF THE CLAIMANT FALSELY
2 SPECIFIES THAT THE RECEIPT SHOWING PAYMENT OF THE PROPERTY TAXES
3 IS ATTACHED TO THE RETURN AND IF THE PROPERTY TAXES ON THE LAND
4 SUBJECT TO THAT DEVELOPMENT RIGHTS AGREEMENT WERE NOT PAID BEFORE
5 THE RETURN WAS FILED, ALL FUTURE PAYMENTS TO CLAIMANT OF CREDITS
6 CLAIMED UNDER THIS ACT ATTRIBUTABLE TO THAT DEVELOPMENT RIGHTS
7 AGREEMENT MAY BE MADE OUT TO THE COUNTY TREASURER OF THE COUNTY
8 IN WHICH THE PROPERTY SUBJECT TO THE DEVELOPMENT RIGHTS AGREEMENT
9 IS LOCATED AND THE CLAIMANT.

10 (8) For property taxes levied after 1987, a person that was
11 an S corporation and had entered into a development rights agree-
12 ment before January 1, 1989, and paid property taxes on that
13 property may claim the credit allowed by this section as an owner
14 eligible under subsection (2). An S corporation claiming a
15 credit as permitted by this subsection for taxes levied in 1988
16 through 1990 shall claim the credit by filing an amended return
17 under the single business tax act, Act No. 228 of the Public Acts
18 of 1975. If an S corporation files an amended return as permit-
19 ted by this subsection and if a shareholder of the S corporation
20 claimed a credit under subsection (1)(b) for the same property
21 taxes, the shareholder shall file an amended return under the
22 state income tax act. An S corporation is not entitled to a
23 credit under this subsection until all of its shareholders file
24 the amended returns required by this subsection. The department
25 of treasury shall first apply a credit due to an S corporation
26 under this subsection to repay credits claimed under this section
27 by the S corporation's shareholders for property taxes levied in

1 1988 through 1990 and shall refund any remaining credit to the S
2 corporation. Interest or penalty is not due or payable on an
3 income tax liability resulting from an amended return required by
4 this subsection. An S corporation electing to claim a credit as
5 an owner eligible under subsection (2) shall not claim a credit
6 under subsection (1) for property taxes levied after 1987.

7 Sec. 11. (1) Land subject to a development rights agreement
8 or easement may be sold without penalty under sections 12, 13,
9 and 14, if the use of the land by the successor in title complies
10 with the provisions contained in the development rights agreement
11 or easement. The seller shall notify the governmental authority
12 having jurisdiction over the development rights of the change in
13 ownership.

14 (2) When the owner of land subject to a development rights
15 agreement or easement dies or is totally and permanently disabled
16 OR WHEN AN INDIVIDUAL ESSENTIAL TO THE OPERATION OF THE FARM DIES
17 OR IS TOTALLY AND PERMANENTLY DISABLED, the land may be
18 ~~released~~ RELINQUISHED from the program under this act and
19 ~~shall be~~ IS subject to a proration pursuant to sections ~~+2(7)~~
20 12(9), 13(7) and 14(7). A REQUEST FOR RELINQUISHMENT UNDER THIS
21 SECTION SHALL BE MADE WITHIN 3 YEARS FROM THE DATE OF DEATH OR
22 DISABILITY.

23 (3) THE LAND DESCRIBED IN A DEVELOPMENT RIGHTS AGREEMENT MAY
24 BE DIVIDED INTO SMALLER AGREEMENTS ONCE DURING THE TERM OF THE
25 AGREEMENT. SMALLER AGREEMENTS CREATED BY THE DIVISION MUST MEET
26 THE MINIMUM REQUIREMENTS FOR BEING ENROLLED UNDER THIS ACT TO BE
27 CONSIDERED AS A SEPARATE AGREEMENT. FARMLAND DESCRIBED IN A

1 DEVELOPMENT RIGHTS AGREEMENT SHALL NOT BE DIVIDED INTO SMALLER
2 AGREEMENTS DURING THE LAST YEAR OF THE TERM OF THE AGREEMENT.
3 BEFORE A DIVISION IS MADE UNDER THIS SUBSECTION, THE STATE LAND
4 USE AGENCY SHALL GIVE THE LOCAL GOVERNING BODY IN WHICH THE LAND
5 TO BE DIVIDED IS LOCATED NOT LESS THAN 30 DAYS' NOTICE OF THE
6 PROPOSED DIVISION.

7 (4) AS USED IN THIS SECTION, "INDIVIDUAL ESSENTIAL TO THE
8 OPERATION OF THE FARM" MEANS A CO-OWNER, PARTNER, SHAREHOLDER, OR
9 FAMILY MEMBER, WHO, TO A MATERIAL EXTENT, CULTIVATES, OPERATES,
10 OR MANAGES FARMLAND UNDER THIS ACT. AN INDIVIDUAL IS CONSIDERED
11 INVOLVED TO A MATERIAL EXTENT IF THAT INDIVIDUAL DOES 1 OR MORE
12 OF THE FOLLOWING:

13 (A) HAS A FINANCIAL INTEREST EQUAL TO OR GREATER THAN 1/2
14 THE COST OF PRODUCING THE CROPS, LIVESTOCK, OR PRODUCTS AND
15 INSPECTS, ADVISES, AND CONSULTS WITH THE OWNER ON PRODUCTION
16 ACTIVITIES.

17 (B) WORKS 1,040 HOURS OR MORE ANNUALLY IN ACTIVITIES CON-
18 NECTED WITH PRODUCTION OF THE FARMING OPERATION.

19 (5) THE STATE LAND USE AGENCY MAY CHARGE AND COLLECT A FEE
20 OF \$25.00 TO PROCESS EACH CHANGE OF OWNERSHIP UNDER SUBSECTION
21 (1) OR EACH DIVISION UNDER SUBSECTION (3).

22 Sec. 12. (1) A development rights agreement shall be relin-
23 quished by ~~the~~ THIS state at the expiration of the term of the
24 agreement unless renewed with the consent of the owner of the
25 land. If the owner of the land has complied with the require-
26 ments of this act regarding development rights agreements, the
27 owner is entitled to automatic renewal of the agreement upon

1 written request of the ~~landowner~~ OWNER. A DEVELOPMENT RIGHTS
 2 AGREEMENT MAY BE RENEWED FOR A TERM OF NOT LESS THAN 10 YEARS AND
 3 NOT MORE THAN 90 YEARS.

4 (2) A development rights agreement OR A PORTION OF THE FARM-
 5 LAND COVERED BY A DEVELOPMENT RIGHTS AGREEMENT may be relin-
 6 quished by the state before a termination date contained in the
 7 instrument ~~as follows~~ UNDER 1 OR MORE OF THE FOLLOWING
 8 CIRCUMSTANCES:

9 (a) ~~At any time~~ IF the state ~~determines that the develop-~~
 10 ~~ment of the land is in the public interest and in agreement with~~
 11 ~~the owner of the land~~ AND THE LANDOWNER MUTUALLY DETERMINE THAT
 12 THERE IS A NECESSARY PUBLIC PURPOSE FOR RELINQUISHMENT OF THE
 13 FARMLAND COVERED BY THE AGREEMENT TO FACILITATE THE SALE OF THE
 14 FARMLAND TO A PUBLIC BODY WHICH WILL OWN, OPERATE, AND MAINTAIN
 15 THE LAND FOR THAT PUBLIC PURPOSE.

16 (b) ~~The owner of the land may submit an application to the~~
 17 ~~local governing body having jurisdiction under this act request-~~
 18 ~~ing that the development rights agreement be relinquished. The~~
 19 ~~application shall be made on a form prescribed by the state land~~
 20 ~~use agency. The request for relinquishment shall be processed~~
 21 ~~and is subject to the same provisions as provided for in section~~
 22 ~~5 for review and approval.~~ IF THE LOCAL GOVERNING BODY AND THE
 23 STATE LAND USE AGENCY DETERMINE THAT 1 OR MORE OF THE FOLLOWING
 24 CONDITIONS EXIST:

25 (i) THE QUALITY OF THE FARMLAND ITSELF IS SUCH THAT AGRICUL-
 26 TURAL PRODUCTION CANNOT BE MADE ECONOMICALLY VIABLE WITH OPTIMAL

1 AGRICULTURAL PRACTICES AND THE BENEFITS CONFERRED BY THE
2 DEVELOPMENT RIGHTS AGREEMENT.

3 (ii) SURROUNDING CONDITIONS IMPOSE PHYSICAL OBSTACLES TO THE
4 AGRICULTURAL OPERATION OR PROHIBIT ESSENTIAL AGRICULTURAL
5 PRACTICES.

6 (iii) THERE ARE SIGNIFICANT NATURAL PHYSICAL CHANGES IN THE
7 FARMLAND THAT ARE GENERALLY IRREVERSIBLE AND PERMANENTLY LIMIT
8 THE PRODUCTIVITY OF THE FARMLAND.

9 (iv) WHEN A COURT ORDER OR CONSENT JUDGMENT RESTRICTS THE
10 USE OF THE FARMLAND SO THAT AGRICULTURAL PRODUCTION CANNOT BE
11 MADE ECONOMICALLY VIABLE.

12 (C) IF APPROVED BY THE LOCAL GOVERNING BODY AND THE STATE
13 LAND USE AGENCY, LAND CONTAINING STRUCTURES THAT WERE PRESENT
14 BEFORE THE RECORDING OF THE DEVELOPMENT RIGHTS AGREEMENT MAY BE
15 RELINQUISHED FROM THE AGREEMENT. A MAXIMUM OF 2 ACRES MAY BE
16 RELINQUISHED UNDER THIS SUBSECTION UNLESS ADDITIONAL LAND AREA IS
17 NEEDED TO ENCOMPASS ALL OF THE BUILDINGS LOCATED ON THE PARCEL OR
18 IT IS NECESSARY TO COMPLY WITH LOCAL ZONING REQUIREMENTS FOR MIN-
19 IMUM LOT SIZE.

20 (D) IF APPROVED BY THE LOCAL GOVERNING BODY AND THE STATE
21 LAND USE AGENCY, LAND MAY BE RELINQUISHED FROM THE AGREEMENT FOR
22 THE CONSTRUCTION OF A RESIDENCE BY THE OWNER'S SON, DAUGHTER,
23 STEPSON, STEPDAUGHTER, SON-IN-LAW, OR DAUGHTER-IN-LAW WHO IS AN
24 INDIVIDUAL ESSENTIAL TO THE OPERATION OF THE FARM AS DEFINED IN
25 SECTION 11(4). A MAXIMUM OF 2 ACRES MAY BE RELINQUISHED UNDER
26 THIS SUBSECTION UNLESS ADDITIONAL LAND AREA IS NECESSARY TO
27 COMPLY WITH LOCAL ZONING REQUIREMENTS FOR MINIMUM LOT SIZE.

1 (3) AS USED IN SUBSECTION (2), "ECONOMIC VIABILITY" MEANS
2 THAT THE CASH FLOW RETURNING TO THE FARMING OPERATION IS
3 POSITIVE. THE DETERMINATION SHALL BE MADE BY THE STATE LAND USE
4 AGENCY UPON ITS EVALUATION OF THE APPLICATION FOR RELINQUISHMENT
5 BASED ON THE FOLLOWING CALCULATION:

6 (A) ESTIMATE CROP, LIVESTOCK, OR PRODUCT VALUE OF THE FARM-
7 LAND USING LOCALLY ESTABLISHED MANAGEMENT PRACTICES AND SOIL CON-
8 SERVATION DISTRICT SERVICE YIELD CAPABILITIES FOR THE SPECIFIC
9 SOIL TYPES AND AVERAGE PRICE FOR CROP LIVESTOCK OR PRODUCT OVER
10 THE PAST 5 YEARS.

11 (B) ADD ESTIMATED PROPERTY TAX CREDITS AFFORDED BY THE
12 DEVELOPMENT RIGHTS AGREEMENT.

13 (C) SUBTRACT ESTIMATED EXPENSES DIRECTLY ATTRIBUTED TO THE
14 PRODUCTION OF THE CROP, LIVESTOCK, OR PRODUCT, INCLUDING, BUT NOT
15 LIMITED TO, SEED, FERTILIZER, INSECTICIDE, BUILDING AND MACHINERY
16 REPAIR, DRYING, TRUCKING, AND PROPERTY TAXES.

17 (D) SUBTRACT THE ESTIMATED COST OF THE OPERATOR'S LABOR AND
18 MANAGEMENT TIME AT RATES ESTABLISHED BY THE UNITED STATES DEPART-
19 MENT OF AGRICULTURE FOR "ALL LABOR", GREAT LAKES AREA AS PUB-
20 LISHED IN UNITED STATES DEPARTMENT OF AGRICULTURE LABOR REPORTS.

21 (E) SUBTRACT CAPITAL REPLACEMENT COST OF NONLAND ASSETS
22 USING A USEFUL LIFE DEPRECIATION RATE.

23 (4) ~~(3)~~ If the request for relinquishment of the develop-
24 ment rights agreement is approved, the state land use agency
25 shall prepare an instrument, subject to subsections ~~(4)~~, (5),
26 (6), ~~and~~ (7), (8), AND (9), and record it with the register of
27 deeds of the county in which the land is situated.

1 (5) ~~(4) At the time~~ IF a development rights agreement is
2 to be relinquished pursuant to subsection (2)(b), the state land
3 use agency shall ~~prepare and~~ record a lien against the property
4 formerly subject to the development rights agreement for the
5 total amount of the credit received by the owner for that prop-
6 erty under section 10, plus interest at the rate of 6% per annum
7 compounded annually from the time the credit was received until
8 it is paid. Beginning January 1, 1989, the credit for each year
9 the property was subject to the agreement is the allocated tax
10 credit for the agreement that included the property being with-
11 drawn from the agreement. However, if the property being with-
12 drawn from the agreement is less than all of the property subject
13 to that agreement, the allocated tax credit for the agreement
14 shall be multiplied by the property's share of the assessed valu-
15 ation of the agreement. As used in this subsection:

16 (a) "The allocated tax credit for the agreement" means the
17 amount obtained by multiplying the owner's total farmland preser-
18 vation credit claimed in that year on all agreements by the quo-
19 tient of the ad valorem property tax levied in that year on prop-
20 erty subject to the development rights agreement that included
21 the property being withdrawn from the agreement divided by the
22 total property taxes levied on property subject to any develop-
23 ment rights agreement and used in determining the farmland pre-
24 servation credit in that year.

25 (b) "The property's share of the assessed value of the
26 agreement" means the quotient of the assessed value of the
27 property being released from the agreement divided by the total

1 assessed value of property subject to the development rights
2 agreement that included the property being released from the
3 agreement.

4 (6) IF A DEVELOPMENT RIGHTS AGREEMENT IS TO BE RELINQUISHED
5 PURSUANT TO SUBSECTION (2)(C), THE STATE LAND USE AGENCY SHALL
6 RECORD A LIEN AGAINST THE PROPERTY FORMERLY SUBJECT TO THE DEVEL-
7 OPMENT RIGHTS AGREEMENT FOR THE TOTAL AMOUNT OF THE CREDIT UNDER
8 THE STATE INCOME TAX ACT FOR THE LAST 7 YEARS RECEIVED BY THE
9 OWNER UNDER SECTION 10 PLUS INTEREST AT A RATE OF 6% PER ANNUM
10 COMPOUNDED ANNUALLY FROM THE TIME THE CREDIT WAS RECEIVED UNTIL
11 IT IS PAID.

12 (7) ~~(5)~~ THIRTY DAYS BEFORE THE RECORDING OF THE LIEN, THE
13 STATE LAND USE AGENCY SHALL NOTIFY THE OWNER OF THE FARMLAND
14 SUBJECT TO THE DEVELOPMENT RIGHTS AGREEMENT OF THE AMOUNT OF THE
15 LIEN, INCLUDING INTEREST, IF ANY. IF THE LIEN AMOUNT IS PAID
16 BEFORE 30 DAYS AFTER THE OWNER IS NOTIFIED, THE LIEN SHALL NOT BE
17 RECORDED. The lien may be paid and discharged at any time and is
18 payable to the state by the owner of record at the time the land
19 or any portion of it is sold by the owner of record, or if the
20 land is converted to a use prohibited by the former development
21 rights agreement. The lien shall be discharged upon renewal or
22 reentry in a development rights agreement, except that a subse-
23 quent lien shall not be less than the lien discharged. UPON
24 REQUEST, THE STATE LAND USE AGENCY SHALL RECORD A STATEMENT OF
25 NONINTEREST IN ANY LAND THAT WAS FORMERLY SUBJECT TO THIS ACT AND
26 ON WHICH THERE IS NO LIEN PURSUANT TO THIS ACT.

1 (8) ~~-(6)-~~ Upon termination of the development rights
2 agreement pursuant to subsection (2)(a), the development rights
3 shall revert back to the owner without penalty or interest.

4 (9) ~~-(7)-~~ Upon the natural termination of the development
5 rights agreement pursuant to subsection (1), the state land use
6 agency shall prepare and record a lien against the property
7 formerly subject to the development rights agreement for the
8 total amount of the credit of the last 7 years, INCLUDING THE
9 YEAR OF NATURAL TERMINATION, received by the owner under section
10 10, ~~including the year of natural termination,~~ attributable to
11 that development rights agreement. Beginning January 1, 1989,
12 the credit for each year shall be determined by multiplying the
13 owner's total farmland preservation credit on all agreements
14 claimed in that year by the quotient of the ad valorem property
15 tax levied on property subject to the expired development rights
16 agreement that was used in determining the farmland preservation
17 credit in that year divided by the total property taxes levied on
18 property subject to any development rights agreement and used in
19 determining the farmland preservation credit in that year. The
20 lien shall be without interest or penalty and is payable subject
21 to subsection ~~-(5)-~~ (7).

22 (10) ~~-(8)-~~ Upon termination OF A DEVELOPMENT RIGHTS
23 AGREEMENT, the state land use agency shall notify the department
24 of treasury for their records.

25 (11) ~~-(9)-~~ The proceeds from lien payments made under this
26 act shall be used BY THE STATE LAND USE AGENCY to administer this
27 act ~~by the state land use agency~~ for fiscal years 1991-92

1 through 1994-95 and to purchase development rights on land that
2 is considered by the state land use agency to be a unique or
3 critical land area, ~~that should be preserved in its natural~~
4 ~~character,~~ but ~~which~~ THAT does not necessitate direct purchase
5 of the fee interest in the land. It is the intent of the legis-
6 lature that if the accumulated proceeds from lien payments
7 received under this act fall below \$2,000,000.00, then the funds
8 used to administer this act shall be appropriated from the gen-
9 eral fund until the proceeds from the lien payments received
10 under this act exceed \$2,000,000.00. However, the amount of lien
11 payments used to administer this act shall not exceed \$600,000.00
12 in any fiscal year.

13 SEC. 12A. (1) IN ADDITION TO ANY OTHER RIGHTS OF REVIEW OR
14 APPEAL UNDER THIS ACT, AN APPLICANT WHO DISAGREES WITH A DECISION
15 OF THE STATE LAND USE AGENCY UNDER SECTION 12(2)(A) OR (B) MAY
16 REQUEST A REVIEW BY AN ADVISORY REVIEW PANEL PROVIDED FOR IN
17 SUBSECTION (2).

18 (2) THE ADVISORY REVIEW PANEL SHALL REVIEW DECISIONS AND
19 PROVIDE ADVISORY OPINIONS AS PROVIDED BY THIS SECTION. THE
20 ADVISORY REVIEW PANEL SHALL CONSIST OF THE FOLLOWING 6 MEMBERS:

21 (A) THE DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES OR
22 HIS OR HER DESIGNEE.

23 (B) THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE OR HIS OR
24 HER DESIGNEE.

25 (C) THE DIRECTOR OF COMMERCE OR HIS OR HER DESIGNEE.

1 (D) AN INDIVIDUAL APPOINTED BY THE DIRECTOR OF THE
2 DEPARTMENT OF NATURAL RESOURCES WHO HAS EXPERTISE IN PRODUCTION
3 AGRICULTURE.

4 (E) AN INDIVIDUAL APPOINTED BY THE DIRECTOR OF THE DEPART-
5 MENT OF NATURAL RESOURCES WHO HAS EXPERTISE IN FARM MANAGEMENT.

6 (F) AN INDIVIDUAL APPOINTED BY THE DIRECTOR OF THE DEPART-
7 MENT OF NATURAL RESOURCES WHO IS A TOWNSHIP OR COUNTY OFFICIAL.

8 Sec. 13. (1) An open space development rights easement pur-
9 suant to section 6 shall be relinquished by ~~the~~ THIS state at
10 the expiration of the term of the easement unless renewed with
11 the consent of the owner of the land. If the owner of the land
12 has complied with the requirements of this act regarding open
13 space development rights easements, the owner ~~shall be~~ IS enti-
14 tled to automatic renewal of the agreement upon written request
15 of the ~~landowner~~ OWNER. A DESIGNATED OPEN SPACE DEVELOPMENT
16 RIGHTS EASEMENT THAT IS RENEWED SHALL BE RENEWED FOR A PERIOD OF
17 NOT LESS THAN 10 YEARS AND NOT MORE THAN 90 YEARS.

18 (2) An open space development rights easement may be relin-
19 quished by ~~the~~ THIS state ~~prior to~~ BEFORE a termination date
20 contained in the instrument as follows:

21 (a) ~~At any time~~ IF the state determines that the develop-
22 ment of the land is in the public interest and in agreement with
23 the owner of the land.

24 (b) The owner of the land may submit an application to the
25 local governing body where the original application for an open
26 space development rights easement was submitted requesting that
27 the development rights easement be relinquished. The application

1 shall be made on a form prescribed by the state land use agency.
2 The request for relinquishment shall be processed and ~~shall be~~
3 IS subject to the provisions as provided in sections 5 and 6 for
4 review and approval.

5 (3) If the request for relinquishment of the development
6 rights easement is approved, the state land use agency shall pre-
7 pare an instrument providing for the relinquishment of the open
8 space development rights easement, subject to subsections (4),
9 (5), (6), and (7), and shall record it with the register of deeds
10 of the county in which the land is situated.

11 (4) ~~At the time~~ IF a development rights easement is to be
12 relinquished pursuant to subsection (2)(b), the state land use
13 agency shall ~~cause to be prepared and recorded~~ RECORD a lien
14 against the property formerly subject to the development rights
15 easement for the total amount of the ad valorem taxes not paid on
16 the development rights during the period it was held by the
17 state, if any. The lien shall provide that interest at the rate
18 of 6% per annum compounded shall be added to the ad valorem taxes
19 not paid from the time the exemption was received until it is
20 paid.

21 (5) The lien ~~shall become~~ IS payable to the state by the
22 owner of record ~~at the time~~ IF the land or any portion of it is
23 sold by the owner of record, or if the land is converted to a use
24 prohibited by the former open space development rights easement.

25 (6) Upon the termination of the open space development
26 rights easement pursuant to subsection (2)(a), the development

1 rights shall revert back to the owner without penalty or
2 interest.

3 (7) Upon the natural termination of the open space develop-
4 ment rights easement pursuant to subsection (1), the state land
5 use agency shall ~~cause to be prepared and recorded~~ RECORD a
6 lien against the property formerly subject to the open space
7 development rights easement. The amount of the lien shall be the
8 total amount of the last 7 years ad valorem taxes not paid on the
9 development rights during the period it was held by ~~the~~ THIS
10 state, if any. The lien shall be without penalty or interest and
11 shall be payable subject to subsection (5)..

12 (8) A copy of the renewal or relinquishment of an open space
13 development rights easement shall be sent to the local governing
14 body's assessing office.

15 Sec. 14. (1) An open space development rights easement pur-
16 suant to section 7 shall be relinquished by the local governing
17 body at the expiration of the term of the easement unless renewed
18 with the consent of the owner of the land. ~~if~~ IF the owner of
19 the land has complied with the requirements of this act regarding
20 open space development rights easements, the owner ~~shall be~~ IS
21 entitled to automatic renewal of the agreement upon written
22 request of the ~~landowner~~ OWNER. A LOCAL OPEN SPACE DEVELOPMENT
23 RIGHTS EASEMENT THAT IS RENEWED SHALL BE RENEWED FOR A PERIOD OF
24 NOT LESS THAN 10 YEARS AND NOT MORE THAN 90 YEARS.

25 (2) An open space development rights easement may be relin-
26 quished by the local governing body ~~prior to~~ BEFORE a
27 termination date contained in the instrument as follows:

1 (a) ~~At any time~~ IF the local governing body determines
2 that the development of the land is in the public interest and in
3 agreement with the owner of the land.

4 (b) The owner of the land may submit an application to the
5 local governing body having jurisdiction requesting that the
6 development rights easement be relinquished. The application
7 shall be made on a form prescribed by the state land use agency.
8 The request for relinquishment shall be processed and shall be
9 subject to the provisions as provided in section 7 for review and
10 approval.

11 (3) If the request for relinquishment of the open space
12 development rights easement is approved, the local governing body
13 shall prepare an instrument providing for the relinquishment of
14 the open space development rights easement, subject to subsec-
15 tions (4), (5), (6), and (7), and shall record it with the regis-
16 ter of deeds of the county in which the land is situated.

17 (4) ~~At the time~~ IF an open space development rights ease-
18 ment is to be relinquished pursuant to subsection (2)(b), the
19 local governing body shall ~~cause to have prepared and recorded~~
20 RECORD a lien against the property formerly subject to the open
21 space development rights easement. The amount of the lien shall
22 be the total amount of the ad valorem taxes not paid on the
23 development rights during the period it was held by the local
24 governing body, if any. The lien shall provide that interest at
25 the rate of 6% per annum compounded shall be added to the ad
26 valorem taxes exemption from the time granted until the lien is
27 paid.

1 (5) The lien ~~shall become~~ IS payable to the local
2 governing body by the owner of record at the time the land or any
3 portion of it is sold by the owner of record, or if the land is
4 converted to a use prohibited by the former open space develop-
5 ment rights easement.

6 (6) Upon the termination of the open space development
7 rights easement pursuant to subsection (2)(a), the development
8 rights shall revert back to the owner without penalty or interest
9 and the development rights easement upon the land shall expire.

10 (7) Upon the natural termination of the open space develop-
11 ment rights easement pursuant to subsection (1), the local gov-
12 erning body shall ~~cause to be prepared and recorded~~ RECORD a
13 lien against the property formerly subject to the open space
14 development rights easement. The amount of the lien shall be the
15 total amount of the last 7 years ad valorem taxes not paid on the
16 development rights during the period it was held by the local
17 governing body, if any. The lien shall be without penalty or
18 interest and ~~will be~~ IS payable subject to subsection (5).

19 (8) A copy of the renewal or relinquishment of an open space
20 development rights easement shall be sent to the local assessing
21 office.