



SENATE BILL No. 1218

December 4, 1996, Introduced by Senator BENNETT and referred to the Committee on Finance.

A bill to amend section 36111 of Act No. 451 of the Public Acts of 1994, entitled as amended "Natural resources and environmental protection act," as amended by Act No. 233 of the Public Acts of 1996, being section 324.36111 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 36111 of Act No. 451 of the Public Acts
2 of 1994, as amended by Act No. 233 of the Public Acts of 1996,
3 being section 324.36111 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 36111. (1) A development rights agreement shall be
6 relinquished by the ~~this~~ state at the expiration of the term of
7 the agreement unless renewed with the consent of the owner of the
8 land. If the owner of the land has complied with the
9 requirements of this part regarding development rights

1 agreements, the owner is entitled to automatic renewal of the
2 farmland covered by the agreement upon written request of the
3 owner. A development rights agreement may be renewed for a term
4 of not less than 7 years. If a development rights agreement is
5 renewed, the state land use agency shall send a copy of the
6 renewal contract to the local governing body of the local unit of
7 government in which the farmland is located.

8 (2) A development rights agreement or a portion of the farm-
9 land covered by a development rights agreement may be relin-
10 quished as provided in this section and section 36111a. Farmland
11 may be relinquished by this state before a termination date con-
12 tained in the instrument under either of the following
13 circumstances:

14 (a) If approved by the local governing body and the state
15 land use agency, land containing structures that were present
16 before the recording of the development rights agreement may be
17 relinquished from the agreement. Not more than 2 acres may be
18 relinquished under this subdivision unless additional land area
19 is needed to encompass all of the buildings located on the
20 parcel, in which case not more than 5 acres may be relinquished.
21 If the parcel proposed to be relinquished is less in area than
22 the minimum parcel size required by local zoning, the parcel may
23 not be relinquished unless a variance is obtained from the local
24 zoning board of appeals to allow for the smaller parcel size.

25 (b) If approved by the local governing body and the state
26 land use agency, land may be relinquished from the agreement for
27 the construction of a residence by an individual essential to the

1 operation of the farm as defined in section 36110(5). Not more
2 than 2 acres may be relinquished under this subdivision. If the
3 parcel proposed to be relinquished is less in area than the mini-
4 mum parcel size required by local zoning, the parcel may not be
5 relinquished unless a variance is obtained from the local zoning
6 board of appeals to allow for the smaller parcel size.

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

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

22 (5) If a development rights agreement or a portion of a
23 development rights agreement is to be relinquished pursuant to
24 subsection ~~(2)(a) or (b)~~ (2) or section 36111a, the state land
25 use agency shall record a lien against the property formerly
26 subject to the development rights agreement for the total amount
27 of the allocated tax credit of the last 7 years, including the

1 year of termination, received by an owner for that property under
2 the agreement under section 36109, attributable to the property
3 formerly subject to the development rights agreement, plus inter-
4 est at the rate of 6% per annum simple interest from the time the
5 credit was received until the lien is placed on the property.

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

12 (a) "The allocated tax credit" means the amount obtained by
13 multiplying the owner's total farmland preservation credit
14 claimed in that year on all agreements by the quotient of the ad
15 valorem property tax levied in that year on property subject to
16 the development rights agreement that included the property being
17 relinquished from the agreement divided by the total property
18 taxes levied on property subject to any development rights agree-
19 ment and used in determining the farmland preservation credit in
20 that year.

21 (b) "The property's share of the taxable value of the
22 agreement" means the quotient of the taxable value of the prop-
23 erty being relinquished from the agreement divided by the total
24 taxable value of property subject to the development rights
25 agreement that included the property being relinquished from the
26 agreement. For years before 1995, taxable value means assessed
27 value.

1 (7) Thirty days before the recording of a lien under this
2 section, the state land use agency shall notify the owner of the
3 farmland subject to the development rights agreement of the
4 amount of the lien, including interest, if any. If the lien
5 amount is paid before 30 days after the owner is notified, the
6 lien shall not be recorded. The lien may be paid and discharged
7 at any time and is payable to the state by the owner of record at
8 the time the land or any portion of it is sold by the owner of
9 record, or if the land is converted to a use prohibited by the
10 former development rights agreement. The lien shall be dis-
11 charged upon renewal or reentry in a development rights agree-
12 ment, except that a subsequent lien shall not be less than the
13 lien discharged.

14 (8) Upon the natural termination of the development rights
15 agreement under subsections (1) or (13), or the termination of
16 all or a portion of the development rights agreement under sub-
17 section (3), the state land use agency shall prepare and record a
18 lien, if any, against the property formerly subject to the devel-
19 opment rights agreement for the total amount of the allocated tax
20 credit of the last 7 years, including the year of natural termi-
21 nation, received by the owner under section 36109, attributable
22 to the property ~~formally~~ FORMERLY subject to the development
23 rights agreement. The lien shall be without interest or penalty
24 and is payable subject to subsection (7).

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

1 (10) The proceeds from lien payments made under this part
2 shall be used by the state land use agency to administer this
3 part for fiscal years 1991-92 and through 1999-2000, TO PURCHASE
4 DEVELOPMENT RIGHTS OF UNIQUE OR CRITICAL LAND AREA THAT DOES NOT
5 NECESSITATE DIRECT PURCHASE OF THE FEE INTEREST IN THE LAND FOR
6 WHICH MONEY WAS APPROPRIATED UNDER ACT NO. 128 OF THE PUBLIC ACTS
7 OF 1995, and, pursuant to section 36111b, to purchase development
8 rights on farmland that does not necessitate direct purchase of
9 the fee interest in the land. It is the intent of the legisla-
10 ture that if the accumulated proceeds from lien payments received
11 under this part fall below \$2,000,000.00, then the funds used to
12 administer this part shall be appropriated from the general fund
13 until the proceeds from the lien payments received under this
14 part exceed \$2,000,000.00. However, the amount of lien payments
15 used to administer this part shall not exceed \$600,000.00 in any
16 fiscal year.

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

22 (a) Establishing a term of years by multiplying 7 by a frac-
23 tion, the numerator of which is the number of years the farmland
24 was under the development rights agreement, including any exten-
25 sions, and the denominator of which is the number representing
26 the term of years of that agreement, including any extensions.

1 (b) The lien amount equals the total amount of the allocated
2 tax credit claimed attributable to that development rights
3 agreement in the immediately preceding term of years as deter-
4 mined in subdivision (a).

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

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

23 (14) Within 60 days of ~~the date of enactment of the amenda-~~
24 ~~tory act that added this subsection~~ JUNE 5, 1996, the state land
25 use agency shall notify, by first-class mail, all owners of farm-
26 land that have a development rights agreement in effect as
27 determined by the state land use agency on ~~the date of enactment~~

1 ~~of the amendatory act that added this subsection~~ JUNE 5, 1996
2 about all of the following:

3 (a) The ability to terminate an agreement under subsection
4 (3).

5 (b) The ability to reduce the termination agreement under
6 subsection (13).

7 (c) All other significant changes in law contained in the
8 amendatory act that added this subsection.