

SENATE BILL No. 1280

May 17, 2000, Introduced by Senators MC MANUS, STILLE, HAMMERSTROM, GOSCHKA, GAST, GOUGEON, EMMONS, NORTH and KOIVISTO and referred to the Committee on Farming, Agribusiness and Food Systems.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 36103 and 36111 (MCL 324.36103 and
324.36111), section 36103 as amended by 1996 PA 233 and section
36111 as amended by 1996 PA 567.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36103. (1) The execution and acceptance of a develop-
2 ment rights agreement or easement by the state or local governing
3 body and the owner dedicates to the public the development rights
4 in the land for the term specified in the instrument. A develop-
5 ment rights agreement ~~or easement~~ UNDER SECTION 36104 OR A
6 DEVELOPMENT RIGHTS EASEMENT UNDER SECTION 36105 OR 36106 shall be
7 for an initial term of not less than 10 years. A development
8 rights agreement ~~or easement~~ UNDER SECTION 36104 OR A
9 DEVELOPMENT RIGHTS EASEMENT UNDER SECTION 36105 OR 36106 entered

1 into after ~~the effective date of the amendatory act that added~~
2 ~~this sentence~~ JUNE 5, 1996 shall not be for a term of more than
3 90 years. THE TERM OF A DEVELOPMENT RIGHTS EASEMENT UNDER SEC-
4 TION 36111B SHALL BE IN PERPETUITY.

5 (2) The state or local governing body shall not sell, trans-
6 fer, convey, relinquish, vacate, or otherwise dispose of a devel-
7 opment rights agreement or DEVELOPMENT RIGHTS easement except
8 with the agreement of the owner as provided in sections 36111,
9 36111A, 36112, and 36113.

10 (3) An agreement or easement does not supersede any prior
11 lien, lease, or interest that is properly recorded with the
12 county register of deeds.

13 (4) A lien created under this part in favor of the state or
14 a local governing body is subordinate to a lien of a mortgage
15 that is recorded in the office of the register of deeds before
16 the recording of the lien of the state or local governing body.

17 Sec. 36111. (1) A development rights agreement shall be
18 relinquished by the state at the expiration of the term of the
19 agreement unless renewed with the consent of the owner of the
20 land. If the owner of the land has complied with the require-
21 ments of this part regarding development rights agreements, the
22 owner is entitled to automatic renewal of the farmland covered by
23 the agreement upon written request of the owner. A development
24 rights agreement may be renewed for a term of not less than 7
25 years. If a development rights agreement is renewed, the state
26 land use agency shall send a copy of the renewal contract to the

1 local governing body of the local unit of government in which the
2 farmland is located.

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

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

20 (b) If approved by the local governing body and the state
21 land use agency, land may be relinquished from the DEVELOPMENT
22 RIGHTS agreement for the construction of a residence by an indi-
23 vidual essential to the operation of the farm as defined in
24 section 36110(5). Not more than 2 acres may be relinquished
25 under this subdivision. If the parcel proposed to be relin-
26 quished is less in area than the minimum parcel size required by
27 local zoning, the parcel may not be relinquished unless a

1 variance is obtained from the local zoning board of appeals to
2 allow for the smaller parcel size.

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

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

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

1 per annum simple interest from the time the credit was received
2 until the lien is placed on the property.

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

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

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

25 (7) Thirty days before the recording of a lien under this
26 section, the state land use agency shall notify the owner of the
27 farmland subject to the development rights agreement of the

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

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

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

24 (10) The proceeds from lien payments made under this part
25 shall be used by the state land use agency to administer this
26 part, ~~for fiscal years 1991-92 and through 1999-2000,~~ to
27 purchase development rights of unique or critical land area that

1 does not necessitate direct purchase of the fee interest in the
2 land for which money was appropriated under ~~Act No. 128 of the~~
3 ~~Public Acts of 1995~~ 1995 PA 128, and, pursuant to
4 section 36111b, to purchase development rights on farmland that
5 does not necessitate direct purchase of the fee interest in the
6 land. ~~It~~ HOWEVER, IT is the intent of the legislature that if
7 the accumulated proceeds from lien payments received under this
8 part fall below \$2,000,000.00, then the funds used to administer
9 this part shall be appropriated from the general fund until the
10 proceeds from the lien payments received under this part exceed
11 \$2,000,000.00. ~~However, the~~ THE amount of lien payments used
12 to administer this part shall not exceed \$600,000.00 in any
13 fiscal year.

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

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

24 (b) The lien amount equals the total amount of the allocated
25 tax credit claimed attributable to that development rights agree-
26 ment in the immediately preceding term of years as determined in
27 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.
4 The discharge of lien shall specifically state that the lien has
5 been paid in full, that the lien is discharged, that the develop-
6 ment rights agreement and accompanying contract are terminated,
7 and that the state has no further interest in the land under that
8 agreement.

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

19 ~~(14) Within 60 days of June 5, 1996, the state land use~~
20 ~~agency shall notify, by first-class mail, all owners of farmland~~
21 ~~that have a development rights agreement in effect as determined~~
22 ~~by the state land use agency on June 5, 1996 about all of the~~
23 ~~following:~~

24 ~~(a) The ability to terminate an agreement under subsection~~
25 ~~(3).~~

26 ~~(b) The ability to reduce the termination agreement under~~
27 ~~subsection (13).~~

~~1 (c) All other significant changes in law contained in the~~
~~2 amendatory act that added this subsection.~~