



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

DEV'T RIGHTS AGREEMENTS OR EASEMENTS ON FARMLAND

House Bill 4083

Sponsor: Rep. Dale Sheltrown

**Committee: Agriculture and Resource
Management**

Complete to 3-17-03

A REVISED SUMMARY OF HOUSE BILL 4083 AS INTRODUCED 1-29-03

Under the Farmland and Open Space Preservation Act - formerly Public Act 116 of 1974 and recodified as Part 361 of the Natural Resources and Environmental Protection Act - a farm owner may enter into a contract (a development rights agreement) that provides the landowner with a tax credit and other special assessments in exchange for a promise to retain the land for agricultural use or as undeveloped open space land.

The act states that a development right agreement or easement does not supercede any prior lien, lease, or interest in the property that is subject to the agreement or easement, and any lien recorded under the act is subordinate to a lien of a mortgage that is recorded before a lien under the act is recorded.

The bill would amend the act to permit the state to subordinate its interest in a recorded agreement, interest, or lien under Part 361 of the act to a subsequently recorded mortgage lien, lease, or interest if the parcel of land meets certain requirements. In essence, the state could grant precedence to other liens or interests in the property that is also subject to Part 361.

For the state to subordinate its interest, the property would have to meet certain conditions set forth in section 36111(2)(b), which provides for requirements for the expiration or relinquishment of a development rights agreement. Under that provision, up to two acres of land may be relinquished from a development rights agreement for the construction of a residence by an individual essential to the operation of the farm.

In addition, the landowner requesting the subordination would have to be an "individual essential to the operation of the farm", defined in section 36110(5) to mean a individual who cultivates, operates, or manages farmland and who (1) has a financial interest greater than or equal to half of the cost of producing crops, livestock, or products, and inspects, advises, and consults with the owner on production activities; or (2) works at least 1,040 hours annually in activities connected with the production of the farming operation.

MCL 324.36103

Analyst: M. Wolf

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