

**OPEN SPACE EASEMENT FOR
FARMLAND**

House Bill 4217

Sponsor: Rep. Gene DeRossett

Committee: Land Use and Environment

Complete to 2-14-03

A SUMMARY OF HOUSE BILL 4217 AS INTRODUCED 2-13-03

The bill would allow an owner of farmland to apply for an open space development rights easement. If granted, the development rights would be exempt from ad valorem taxation; only the value of the farmland minus the development rights would be subject to tax. [This would produce a form of "agricultural use value" taxation for farmland.]

The bill would accomplish this by amending Part 361 of the Natural Resources and Environmental Protection Act (NREPA) to change the definition of "open space land" to include farmland. Specifically, the definition would be amended to include an area approved by the local governing body and the preservation of which in its present condition would conserve farmland.

The bill would require the state to reimburse intermediate school districts, local school districts, community college districts, and the School Aid Fund for revenues lost as a result of the exemption of open space development rights held by a local government.

The section being amended in Part 361 allows an owner of open space land to apply to the local governing body for an open space development rights easement. An approved application contains a statement specifying the current fair market value of the land and the current fair market value of the development rights. The development rights are exempt from ad valorem taxation. The local governing body approves or rejects an application based on rules promulgated at the state level after considering the comments and recommendations of various reviewing entities (which would include the county planning commission, regional planning commission, and soil conservation district). An application that is rejected can be appealed to the Department of Agriculture. However, House Bill 5808 would not permit an applicant to appeal if the land in question was farmland.

An open space development rights easement can have a duration of from 10 to 90 years and can be renewed automatically at the request of the landowner. If a landowner terminates early, he or she has to pay the taxes not paid on the development rights plus interest on that amount at six per cent per year compounded. Upon the natural termination of an easement, the landowner must pay the taxes on the development rights for the previous seven years. The act allows for the relinquishment of an open space development rights easement 1) at any time the local governing body determines that the development of land is in the public interest, with the agreement of the landowner; or 2) upon the application of the landowner.

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Land for which an open space development rights easement has been approved cannot have structures built on it or have an improvement made to it without approval of the local governing body. House Bill 5808, however, would make an exception for farmland by permitting a structure to be built without approval if its use was consistent with farm operations, including a residence for an individual essential to the operation of the farm and for lines for utility transmission or distribution purposes. The bill would also permit improvements to be made without local approval for a use consistent with farm operations.

Farmland would not be eligible for an open space development rights easement if it was subject to a farmland development rights agreement or an agricultural conservation agreement or the purchase of development rights, and farmland subject to an open space development rights easement would not be eligible for a farmland development rights agreement or an agricultural conservation agreement or for purchase of development rights.

MCL 324.36101 and 324.36106

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