

HOUSE BILL No. 4278

February 15, 2007, Introduced by Rep. Mayes and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 36111 (MCL 324.36111), as amended by 2002 PA
75.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36111. (1) A development rights agreement expires at the
2 expiration of the term of the agreement unless renewed with the
3 consent of the owner of the land. If the owner of the land has
4 complied with the requirements of this part regarding development
5 rights agreements, the owner is entitled to automatic renewal of
6 ~~the farmland covered by the agreement~~ upon written request of the
7 owner. A development rights agreement may be renewed for a term of
8 not less than 7 years. If a development rights agreement is
9 renewed, the state land use agency shall send a copy of the renewal
10 contract to the local governing body of the local unit of

1 government in which the farmland is located.

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

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

19 (b) If approved by the local governing body and the state land
20 use agency, land may be relinquished from the agreement for the
21 construction of a residence by an individual essential to the
22 operation of the farm as defined in section 36110(5). Not more than
23 2 acres may be relinquished under this subdivision. If the **SIZE OF**
24 **THE** parcel proposed to be relinquished is less ~~in area than the~~
25 ~~minimum parcel size~~ **THAN THAT** required by local zoning, the parcel
26 may not be relinquished unless a variance is obtained from the
27 local zoning board of appeals to allow for the smaller parcel size.

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

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

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

27 (6) If the property being relinquished from the development

1 rights agreement is less than all of the property subject to that
2 development rights agreement, the allocated tax credit for the
3 development rights agreement shall be multiplied by the property's
4 share of the taxable value of the agreement. As used in this
5 subsection:

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

14 (b) "The property's share of the taxable value of the
15 agreement" means the quotient of the taxable value of the property
16 being relinquished from the agreement divided by the total taxable
17 value of property subject to the development rights agreement that
18 included the property being relinquished from the agreement. For
19 years before 1995, taxable value means assessed value.

20 (7) Thirty days before the recording of a lien under this
21 section, the state land use agency shall notify the owner of the
22 farmland subject to the development rights agreement of the amount
23 of the lien, including interest, if any. If the lien amount is paid
24 before 30 days after the owner is notified, the lien shall not be
25 recorded. The lien may be paid and discharged at any time and is
26 payable to the state by the owner of record ~~at the time~~ **WHEN** the
27 land or any portion of it is sold by the owner of record, or if the

1 land is converted to a use prohibited by the former development
2 rights agreement. The lien shall be discharged upon renewal or
3 reentry in a development rights agreement, except that a subsequent
4 lien shall not be less than the lien discharged. **NOTWITHSTANDING**
5 **ANY OTHER PROVISION OF THIS SECTION, FROM JULY 1, 2007 TO JANUARY**
6 **1, 2008, A LIEN UNDER THIS SECTION RECORDED BEFORE DECEMBER 31,**
7 **2006 MAY BE PAID AT A VALUE THAT IS 10% LESS THAN THE FACE VALUE OF**
8 **THE LIEN.**

9 (8) Upon the termination of all or a portion of the
10 development rights agreement under subsection (3) ~~, the termination~~
11 ~~of a development rights agreement under subsection (13), or,~~
12 subject to subsection (15), the termination of a development rights
13 agreement under subsection (1), the state land use agency shall
14 prepare and record a lien, if any, against the property formerly
15 subject to the development rights agreement for the total amount of
16 the allocated tax credit of the last 7 years, including the year of
17 termination, received by the owner under section 36109,
18 attributable to the property formerly subject to the development
19 rights agreement **PLUS INTEREST AT THE CURRENT MONTHLY INTEREST RATE**
20 **OF 1 PERCENTAGE POINT ABOVE THE ADJUSTED PRIME RATE PER ANNUM FROM**
21 **THE TIME THE LIEN IS RECORDED UNTIL IT IS PAID. THE ADJUSTED PRIME**
22 **RATE SHALL BE DETERMINED AS PROVIDED IN SECTION 23 OF 1941 PA 122,**
23 **MCL 205.23.** The lien ~~shall be without interest or penalty and is~~
24 payable ~~subject to~~ **AS PROVIDED IN** subsection (7).

25 (9) ~~Upon termination of a development rights agreement, the~~
26 **THE** state land use agency shall notify the department of treasury
27 ~~for their records~~ **OF THE TERMINATION OF A DEVELOPMENT RIGHTS**

1 **AGREEMENT.**

2 (10) ~~Until October 1, 2000, the proceeds from lien payments~~
3 ~~made under this part shall be used by the state land use agency to~~
4 ~~administer this part and, pursuant to section 36111b, to purchase~~
5 ~~development rights on farmland that does not necessitate direct~~
6 ~~purchase of the fee interest in the land. Beginning on October 1,~~
7 ~~2000, the~~ **THE** ~~unappropriated proceeds from lien payments made under~~
8 ~~this part shall be forwarded to the state treasurer for deposit in~~
9 ~~the agricultural preservation fund created in section 36202. On~~
10 ~~October 1, 2000, all unexpended proceeds from lien payments made~~
11 ~~under this part that are held by the state shall be transferred to~~
12 ~~the agricultural preservation fund created in section 36202.~~

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

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

23 (b) The lien amount equals the total amount of the allocated
24 tax credit claimed attributable to that development rights
25 agreement in the immediately preceding term of years as determined
26 in subdivision (a).

27 (12) When a lien is paid under this section, the state land

1 use agency shall prepare and record a discharge of lien with the
2 register of deeds in the county in which the land is located. The
3 discharge of lien shall specifically state that the lien has been
4 paid in full, that the lien is discharged, that the development
5 rights agreement and accompanying contract are terminated, and that
6 the state has no further interest in the land under that agreement.

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

17 (14) A farmland development rights agreement is automatically
18 relinquished when the farmland becomes subject to an agricultural
19 conservation easement or purchase of development rights under
20 section 36111b or 36206.

21 (15) If, upon expiration of the term of a farmland development
22 rights agreement, the farmland becomes subject to an agricultural
23 conservation easement or purchase of development rights under
24 section 36111b or 36206 or if a farmland development rights
25 agreement is automatically relinquished under subsection (14), the
26 farmland is not subject to a lien under this section.