

HOUSE BILL No. 5218

August 4, 2009, Introduced by Rep. Cushingberry and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending section 36110 (MCL 324.36110), as amended by 1996 PA 233.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36110. (1) Land subject to a development rights agreement
2 or easement may be sold without penalty under ~~sections~~**SECTION**
3 36111, 36112, ~~and~~**OR** 36113 ~~—~~if the use of the land by the
4 successor in title complies with the provisions contained in the
5 development rights agreement or easement. The seller shall notify
6 the governmental authority having jurisdiction over the development
7 rights of the change in ownership.

8 (2) If the owner of land subject to a development rights

1 agreement or easement dies or becomes totally and permanently
2 disabled or ~~when~~ **IF** an individual essential to the operation of the
3 farm dies or becomes totally and permanently disabled, the land may
4 be relinquished from the program under this part and is subject to
5 a lien pursuant to ~~sections~~ **SECTION** 36111(11), 36112(7), and ~~OR~~
6 36113(7). A request for relinquishment under this section shall be
7 made within 3 years ~~from~~ **AFTER** the date of death or disability. A
8 request for relinquishment under this subsection shall be made only
9 by the owner in case of a disability or ~~, in case of death,~~ the
10 person who becomes the owner through survivorship or inheritance **IN**
11 **CASE OF DEATH.**

12 (3) If an owner of land subject to a development rights
13 agreement becomes totally and permanently disabled or dies, land
14 containing structures that were present before the recording of the
15 development rights agreement may be relinquished from the
16 agreement, upon request of the disabled agreement holder or upon
17 request of the person who becomes an owner through survivorship or
18 inheritance, and upon approval of the local governing body and the
19 state land use agency. Not more than 2 acres may be relinquished
20 under this subsection unless additional land area is needed to
21 encompass all of the buildings located on the parcel, in which case
22 not more than 5 acres may be relinquished. If the parcel proposed
23 to be relinquished is less in area than the minimum parcel size
24 required by local zoning, the parcel may not be relinquished unless
25 a variance is obtained from the local zoning board of appeals to
26 allow for the smaller parcel size. The portion of the farmland
27 relinquished from the development rights agreement under this

1 subsection is subject to a lien pursuant to section 36111(11).

2 (4) The land described in a development rights agreement may
3 be divided into smaller parcels of land. ~~, each of which~~ **EACH**
4 **SMALLER PARCEL** shall be covered by a separate development rights
5 agreement ~~and each of which shall be~~ **THAT IS** eligible for
6 subsequent renewal. The separate development rights agreements
7 shall contain the same terms and conditions as the original
8 development rights agreement. The smaller parcels created by the
9 division must meet the minimum requirements for being enrolled
10 under this act ~~PART~~ or be 40 acres or more in size. ~~Farmland may be~~
11 ~~divided once under this subsection without fee by the state land~~
12 ~~use agency. The state land use agency may charge a reasonable fee~~
13 ~~not greater than the state land use agency's actual cost of~~
14 ~~dividing the agreement for all subsequent divisions of that~~
15 ~~farmland.~~ When a division of a development rights agreement is made
16 under this subsection and is executed and recorded, the state land
17 use agency shall notify the applicant, the local governing body and
18 its assessing office, all reviewing agencies, and the department of
19 treasury.

20 (5) As used in this section, "individual essential to the
21 operation of the farm" means a co-owner, partner, shareholder, farm
22 manager, or family member, who, to a material extent, cultivates,
23 operates, or manages farmland under this act ~~PART~~. An individual is
24 considered involved to a material extent if that individual does 1
25 or more of the following:

26 (a) Has a financial interest equal to or greater than 1/2 the
27 cost of producing the crops, livestock, or products and inspects

1 and advises and consults with the owner on production activities.

2 (b) Works 1,040 hours or more annually in activities connected
3 with production of the farming operation.

4 (6) The state land use agency may charge and collect a fee of
5 ~~\$25.00~~ **\$50.00 BEFORE JANUARY 1, 2013 OR \$75.00 ON OR AFTER JANUARY**
6 **1, 2013** to process each change of ownership under subsection (1) or
7 each division under subsection (4). ~~The~~ **HOWEVER, THE STATE LAND USE**
8 **AGENCY SHALL NOT CHARGE A FEE THE FIRST TIME FARMLAND IS DIVIDED**
9 **UNDER SUBSECTION (4). A** fee collected under this subsection shall
10 be used by the state land use agency to administer this act ~~act~~ **PART.**