

HOUSE BILL No. 4666

May 19, 2011, Introduced by Reps. LaFontaine, Horn, Shaughnessy, Daley, Brunner, Goike and Ouimet 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

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

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

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

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

1 the local zoning board of appeals to allow for the smaller parcel
2 size.

3 (3) Until April 1, 1997, if an owner who entered into or
4 renewed a development rights agreement before April 15, 1994 makes
5 a request, in writing, to the state land use agency, to terminate
6 that development rights agreement with respect to all or a portion
7 of the farmland covered by the agreement, the state land use agency
8 shall approve the request and relinquish that farmland from the
9 development rights agreement. If farmland is relinquished under
10 this subsection, the state land use agency shall notify the local
11 governing body of the local unit of government in which the land is
12 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 **TO** (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
22 development rights agreement for the total amount of the allocated
23 tax 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 ~~—AND~~ attributable to the property formerly subject
26 to the development rights agreement, plus interest at the rate of
27 6% per annum simple interest from the time the credit was received

1 until the lien is placed on the property.

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

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

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

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

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payable to the state by the owner of record ~~at the time~~ **WHEN** the land or any portion of it is sold by the owner of record, or if the land is converted to a use prohibited by the former development rights agreement. The lien shall be discharged upon renewal or reentry in a development rights agreement, except that a subsequent lien shall not be less than the lien discharged. **NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, FROM JULY 1, 2011 THROUGH SEPTEMBER 30, 2011, A LIEN UNDER THIS SECTION RECORDED BEFORE JANUARY 1, 2011 MAY BE PAID AT 85% OF THE FACE VALUE OF THE LIEN. FROM OCTOBER 1, 2011 THROUGH MARCH 31, 2012, A LIEN UNDER THIS SECTION RECORDED BEFORE JANUARY 1, 2011 MAY BE PAID AT 90% OF THE FACE VALUE OF THE LIEN.**

(8) Upon the termination of all or a portion of the development rights agreement under subsection (3) ~~, the termination of a development rights agreement under subsection (13), or,~~ subject to subsection ~~(15)~~ **(14)**, the termination of a development rights agreement under subsection (1), the state land use agency shall prepare and record a lien, if any, against the property formerly subject to the development rights agreement for the total amount of the allocated tax credit of the last 7 years, including the year of termination, received by the owner under section 36109, attributable to the property formerly subject to the development rights agreement. The lien shall be without interest or penalty and is payable ~~subject to~~ **AS PROVIDED IN** subsection (7). **HOWEVER, IF THE DEVELOPMENT RIGHTS AGREEMENT WAS [APPROVED OR REJECTED BY THE LOCAL GOVERNING BODY UNDER SECTION 36104 ON OR AFTER JULY] 1, 2012 AND IS TERMINATED UNDER SUBSECTION (1), THE AMOUNT OF THE LIEN SHALL INCLUDE INTEREST AT THE CURRENT MONTHLY**

1 INTEREST RATE OF 1 PERCENTAGE POINT ABOVE THE ADJUSTED PRIME RATE
2 PER ANNUM FROM THE TIME THE LIEN IS RECORDED UNTIL IT IS PAID. THE
3 ADJUSTED PRIME RATE SHALL BE DETERMINED AS PROVIDED IN SECTION 23
4 OF 1941 PA 122, MCL 205.23.

5 ~~(9) Upon termination of a development rights agreement, the~~
6 **THE** state land use agency shall notify the department of treasury
7 ~~for their records~~ **OF THE TERMINATION OF A DEVELOPMENT RIGHTS**
8 **AGREEMENT.**

9 ~~(10) Until October 1, 2000, the proceeds from lien payments~~
10 ~~made under this part shall be used by the state land use agency to~~
11 ~~administer this part and, pursuant to section 36111b, to purchase~~
12 ~~development rights on farmland that does not necessitate direct~~
13 ~~purchase of the fee interest in the land. Beginning on October 1,~~
14 ~~2000, the~~ **THE** unappropriated proceeds from lien payments made under
15 this part shall be forwarded to the state treasurer for deposit in
16 the agricultural preservation fund created in section 36202. ~~On~~
17 ~~October 1, 2000, all unexpended proceeds from lien payments made~~
18 ~~under this part that are held by the state shall be transferred to~~
19 ~~the agricultural preservation fund created in section 36202.~~

20 (11) Upon the relinquishment of all of the farmland under
21 section 36110(2) or a portion of the farmland under section
22 36110(3), the state land use agency shall prepare and record a lien
23 against the property formerly subject to a development rights
24 agreement in an amount calculated as follows:

25 (a) Establishing a term of years by multiplying 7 by a
26 fraction, the numerator of which is the number of years the
27 farmland was under the development rights agreement, including any

1 extensions, and the denominator of which is the number representing
2 the term of years of that agreement, including any extensions.

3 (b) The lien amount equals the total amount of the allocated
4 tax credit claimed attributable to that development rights
5 agreement in the immediately preceding term of years as determined
6 in subdivision (a).

7 (12) When a lien is paid under this section, the state land
8 use agency shall prepare and record a discharge of lien with the
9 register of deeds in the county in which the land is located. The
10 discharge of lien shall specifically state that the lien has been
11 paid in full, that the lien is discharged, that the development
12 rights agreement and accompanying contract are terminated, and that
13 the state has no further interest in the land under that agreement.

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

24 (13) ~~(14)~~ A farmland development rights agreement is
25 automatically relinquished when the farmland becomes subject to an
26 agricultural conservation easement or purchase of development
27 rights under section 36111b or 36206.

1 (14) ~~(15)~~—If, upon expiration of the term of a farmland
2 development rights agreement, the farmland becomes subject to an
3 agricultural conservation easement or purchase of development
4 rights under section 36111b or 36206 or if a farmland development
5 rights agreement is automatically relinquished under subsection
6 ~~(14)~~—(13), the farmland is not subject to a lien under this
7 section.