

HOUSE BILL NO. 6188

November 26, 2024, Introduced by Rep. Skaggs and referred to the Committee on Local Government and Municipal Finance.

A bill to provide for a pilot project for the sale and purchase of certain rights to develop land; to provide for the financing of the purchase of those rights by certain local units of government; and to provide for the powers and duties of local governmental officers and entities.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "development rights
2 market act".

3 Sec. 3. As used in this act:

4 (a) "Agricultural land" means substantially undeveloped land

1 devoted in whole or in part to the production of plants and animals
2 useful to humans, including forage and sod crops; grains, feed
3 crops, and field crops; dairy animals and dairy products; poultry
4 and poultry products; livestock, including breeding and grazing of
5 cattle, swine, and similar animals; berries; herbs; flowers; seeds;
6 grasses; nursery stock; fruits; vegetables; Christmas trees; and
7 other similar uses and activities. Agricultural land includes land
8 enrolled in a federal acreage set-aside program or a federal
9 conservation reserve program.

10 (b) "Commission" means the commission of agriculture and rural
11 development.

12 (c) "Department" means the department of agriculture and rural
13 development.

14 (d) "Development rights" means the rights to develop land to
15 the maximum intensity of development authorized by law.

16 (e) "DRM ordinance" means a development rights market
17 ordinance adopted under section 5.

18 (f) "DRM program" means a development rights market program
19 provided for by a DRM ordinance.

20 (g) "Intensity of development" means the height, bulk, area,
21 density, setback, use, and other similar characteristics of
22 development.

23 (h) "Pilot project" means the development rights market pilot
24 project provided for in section 5.

25 (i) "Receiving zone" means an area of land identified by a DRM
26 ordinance to which development rights can be attached to increase
27 the intensity of development without adversely affecting public
28 health, safety, or welfare.

29 (j) "Sending zone" means an area of land identified by a DRM

1 ordinance where development should be less intense than permitted
2 by the development rights attached to that land to achieve a public
3 benefit set forth in the DRM ordinance and from which development
4 rights can be severed and sold.

5 Sec. 5. (1) Within 180 days after the effective date of this
6 act, the commission shall select not more than 5 townships for
7 participation in a development rights market pilot project. The
8 townships shall be located in different counties. The township
9 board of a township selected to participate in the pilot project
10 may adopt a development rights market ordinance providing for the
11 establishment, financing, and administration of a development
12 rights market program.

13 (2) To be eligible for selection for participation in the
14 pilot project, a township must meet both of the following
15 requirements:

16 (a) The township must have a zoning ordinance adopted under
17 the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to
18 125.3702, or former 1943 PA 184.

19 (b) The township board must submit an application to the
20 department on a form prescribed by the department.

21 (3) The commission shall select the townships to participate
22 in the pilot project based on the following factors:

23 (a) The market for residential and commercial development
24 threatening agricultural land in the township.

25 (b) The amount and quality of agricultural land threatened by
26 development in the township.

27 (c) The ability of a proposed receiving zone to accommodate,
28 in terms of both land availability and infrastructure capacity, the
29 intensity of development associated with development rights that

1 may be purchased from a sending zone. In determining infrastructure
2 capacity, the commission shall consider current infrastructure and
3 the township's ability to provide any necessary additional
4 infrastructure.

5 (d) Protection of the public benefits described in section
6 7(1)(a).

7 (4) If requested, the department shall provide advice to a
8 township selected to participate in the pilot project on the
9 drafting of a DRM ordinance and the implementation of a DRM
10 program.

11 (5) A DRM program shall allow a landowner to increase the
12 intensity of development on land, beyond that otherwise authorized
13 by law, by utilizing additional development rights purchased from
14 other landowners. A DRM program shall provide for the severance of
15 development rights from land in a sending zone and the attachment
16 of those development rights to land in a receiving zone.

17 (6) The purchase and sale of development rights under a DRM
18 program, including, but not limited to, the purchase and sale of
19 development rights under section 9(2), shall be voluntary. Subject
20 to section 9(2), the purchase and sale of development rights under
21 a DRM program shall be at a price negotiated and agreed upon by the
22 parties. A DRM program shall not acquire development rights by
23 condemnation.

24 (7) A landowner may develop land within a receiving zone at
25 the intensity of development allowed under applicable zoning,
26 building, and other ordinances apart from the DRM ordinance or, if
27 additional development rights have been purchased and attached to
28 the land, may develop the land at a higher intensity of development
29 as allowed under the DRM ordinance.

1 (8) If development rights have not been severed from land in a
2 sending zone and sold, the landowner may develop the land at the
3 intensity of development allowed under applicable zoning, building,
4 and other ordinances apart from the DRM ordinance.

5 Sec. 7. (1) A DRM ordinance shall specify all of the
6 following:

7 (a) The public benefits that the township may seek through the
8 DRM program, which shall be 1 or more of the following:

9 (i) The voluntary protection of natural resources, scenic
10 qualities, or open space land, including, but not limited to,
11 agricultural land.

12 (ii) The voluntary enhancement of sites and areas of special
13 character or special historical, cultural, aesthetic, or economic
14 interest or value.

15 (iii) The voluntary management of land, water, and other natural
16 resources.

17 (iv) The management of a community's overall intensity of
18 development while allowing landowners to voluntarily purchase
19 additional development rights to increase the intensity of
20 development in designated areas.

21 (v) The encouragement of development in enterprise zones under
22 the enterprise zone act, 1985 PA 224, MCL 125.2101 to 125.2123, in
23 brownfields, and in other redevelopment areas.

24 (b) The precise location of each sending zone and receiving
25 zone and the nature and quantity of development rights that may be
26 severed from land in each sending zone and attached to land in each
27 receiving zone. To determine this information, the township board
28 shall do at least all of the following:

29 (i) Consider an estimate of population and economic growth

1 during the next 10 years in the township and an estimate of the
2 development potential of each proposed sending zone and receiving
3 zone.

4 (ii) Consider the intensity of development otherwise allowed
5 under applicable zoning, building, and other ordinances before the
6 adoption of a DRM ordinance.

7 (iii) Consider an estimate of the existing and proposed
8 infrastructure, including services and facilities, of each proposed
9 receiving zone.

10 (iv) Ensure that a receiving zone is able to accommodate, in
11 terms of both land availability and infrastructure capacity, the
12 intensity of development associated with development rights that
13 may be purchased from a sending zone.

14 (v) Ensure consistency with the plan upon which the township's
15 zoning ordinance is based.

16 (c) The procedure for the severance, sale, purchase, and
17 attachment of development rights, including the procedure by which
18 1 or more property owners may by application initiate such a
19 transaction. An application shall include, but need not be limited
20 to, all of the following:

21 (i) The identity of the land within a sending zone from which
22 the development rights are proposed to be severed.

23 (ii) Subject to section 9(2), the identity of the land within a
24 receiving zone to which the development rights are proposed to be
25 attached.

26 (iii) The quantity and nature of the development rights proposed
27 to be transferred.

28 (d) The procedure for ensuring that the severance of
29 development rights from land in a sending zone and the attachment

1 of those development rights to land in a receiving zone are both of
2 the following:

3 (i) Simultaneous, except for the period during which
4 development rights may be temporarily held by a township under
5 section 9(2).

6 (ii) Fixed by a legal instrument so as to run with the land
7 from which the development rights have been severed and to which
8 the development rights have been attached, respectively. The
9 development rights ordinance shall require that the legal
10 instrument be promptly recorded in the office of the register of
11 deeds.

12 (2) The township shall designate sending zones and receiving
13 zones on its zoning map.

14 (3) The adoption of a DRM ordinance or an amendment to a DRM
15 ordinance in a township shall be governed by the same procedures as
16 apply to the adoption of an amendment to a zoning ordinance under
17 the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to
18 125.3702, including, but not limited to, procedures governing
19 petitions and the role of the zoning commission. For the purposes
20 of this subsection, properties in a sending zone or receiving zone
21 shall be considered to be properties proposed for rezoning, except
22 in the case of an amendment to a DRM ordinance that affects only
23 other sending zones or receiving zones.

24 Sec. 9. (1) The township board shall approve an application
25 under section 7(1)(c) if all of the following apply:

26 (a) The application complies with the DRM ordinance.

27 (b) The development rights proposed to be sold are unused and
28 consequently available for severance from land in the sending zone.

29 (c) Under the DRM ordinance, the development rights proposed

1 to be sold can be used on the land in the receiving zone to which
2 they are to be attached.

3 (2) A township with a DRM program may purchase development
4 rights from a landowner in a sending zone at fair market value,
5 based upon a bona fide appraisal, temporarily hold the development
6 rights, and resell the development rights to a landowner for
7 attachment to land in a receiving zone. The price at which
8 development rights are resold by the township shall not exceed the
9 price at which those development rights were purchased by the
10 township.

11 (3) Except as provided pursuant to subsection (2), development
12 rights shall not be severed under this act unless the township has
13 approved the attachment of those development rights to land in a
14 receiving zone.

15 (4) A DRM program may be financed by any legal means.

16 Sec. 11. (1) Each township selected to participate in the
17 pilot project shall submit to the department a series of 2 annual
18 reports on that township's DRM program. The reports shall contain
19 information requested by the department and shall be submitted on a
20 schedule determined by the department.

21 (2) By 4 months after the deadline for townships to submit the
22 last of the series of reports required under subsection (1), the
23 commission shall review the DRM programs of townships selected to
24 participate in the pilot project and shall submit a report to the
25 legislature on the programs.

26 Sec. 13. The department may promulgate rules to implement this
27 act pursuant to the administrative procedures act of 1969, 1969 PA
28 306, MCL 24.201 to 24.328.