

Act No. 173
Public Acts of 1995
Approved by the Governor
October 9, 1995
Filed with the Secretary of State
October 9, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Rep. Bobier

ENROLLED HOUSE BILL No. 4866

AN ACT to amend section 36111 of Act No. 451 of the Public Acts of 1994, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," as added by Act No. 59 of the Public Acts of 1995, being section 324.36111 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 36111 of Act No. 451 of the Public Acts of 1994, as added by Act No. 59 of the Public Acts of 1995, being section 324.36111 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 36111. (1) A development rights agreement shall be relinquished by the state at the expiration of the term of the agreement unless renewed with the consent of the owner of the land. If the owner of the land has complied with the requirements of this part regarding development rights agreements, the owner is entitled to automatic renewal of the agreement upon written request of the landowner.

(2) A development rights agreement may be relinquished by the state before a termination date contained in the instrument under either of the following circumstances:

(a) If the state determines that the development of the land is in the public interest and the owner of the land agrees.

(b) The owner of the land may submit an application to the local governing body having jurisdiction under this part requesting that the development rights agreement be relinquished. The application shall be made on a form prescribed by the state land use agency. The request for relinquishment shall be processed and is subject to the same provisions as provided for in section 36104 for review and approval.

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

(4) If a development rights agreement is to be relinquished pursuant to subsection (2)(b), the state land use agency shall prepare and record a lien against the property formerly subject to the development rights agreement for the total amount of the credit received by the owner for that property under section 36109, plus interest at the rate of 6% per annum compounded annually from the time the credit was received until it is paid. Beginning January 1, 1989, the credit for each year the property was subject to the agreement is the allocated tax credit for the agreement that included the property being withdrawn from the agreement. However, if the property being withdrawn from the agreement is less than all of the property subject to that agreement, the allocated tax credit for the agreement shall be multiplied by the property's share of the assessed valuation of the agreement. As used in this subsection:

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

(b) "The property's share of the assessed value of the agreement" means the quotient of the assessed value of the property being released from the agreement divided by the total assessed value of property subject to the development rights agreement that included the property being released from the agreement.

(5) The lien may be paid and discharged at any time and is payable to the state by the owner of record at the time 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.

(6) Upon termination of the development rights agreement pursuant to subsection (2)(a), the development rights revert back to the owner without penalty or interest.

(7) Upon the natural termination of the development rights agreement pursuant to subsection (1), the state land use agency shall prepare and record a lien against the property formerly subject to the development rights agreement for the total amount of the credit of the last 7 years received by the owner under section 36109, including the year of natural termination, attributable to that development rights agreement. Beginning January 1, 1989, the credit for each year shall be determined by multiplying the owner's total farmland preservation credit on all agreements claimed in that year by the quotient of the ad valorem property tax levied on property subject to the expired development rights agreement that was used in determining the farmland preservation credit in that year divided by the total property taxes levied on property subject to any development rights agreement and used in determining the farmland preservation credit in that year. The lien shall be without interest or penalty and is payable subject to subsection (5).

(8) Upon termination, the state land use agency shall notify the department of treasury for their records.

(9) The proceeds from lien payments made under this part shall be used to administer this part by the state land use agency for fiscal years 1991-92 and through October 1, 1999 and to purchase development rights on land that is considered by the state land use agency to be a unique or critical land area that should be preserved in its natural character, but which does not necessitate direct purchase of the fee interest in the land. It is the intent of the legislature that if the accumulated proceeds from lien payments received under this part fall below \$2,000,000.00, then the funds used to administer this part shall be appropriated from the general fund until the proceeds from the lien payments received under this part exceed \$2,000,000.00. However, the amount of lien payments used to administer this part shall not exceed \$600,000.00 in any fiscal year.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.