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BILL ANALYSIS

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House Bill 4666 (as passed by the House)
Sponsor: Representative Andrea LaFontaine
House Committee: Agriculture
Senate Committee: Agriculture

Date Completed: 6-16-11

CONTENT

The bill would amend Part 361 (Farmland and Open Space Preservation) of the Natural Resources and Environmental Protection Act to do both of the following:

- **Allow certain landowners whose property is subject to a lien recorded by the State because of relinquishment of a development rights agreement (DRA) to pay off the lien at a reduced rate for a temporary period.**
- **Require interest on the amount of a lien recorded on property whose DRA was terminated because the agreement expired.**

Relinquishment of an Agreement

Under Part 361, the State and a land owner may enter into a farmland development rights agreement, which entitles the owner to a tax credit in exchange for keeping the land in agricultural production for the term of the agreement.

Under certain circumstances, a DRA may be relinquished before a termination date contained in the agreement. If a DRA or a portion of it is to be relinquished, the State land use agency must record a lien against the property formerly subject to the DRA for the total amount of the allocated tax credit of the last seven years received by an owner and attributable to the property formerly subject to the DRA, plus interest at the rate of 6% per year from the time the credit was received until the lien is placed on the property.

Thirty days before the lien is recorded, the State land use agency must notify the owner of the farmland subject to the DRA of the amount of the lien, including interest. If the lien amount is paid before 30 days after owner is notified, the lien may not be recorded. The lien may be paid and discharged at any time and is payable to the State by the owner of record when the land or any portion of it is sold by the owner, or if the land is converted to a use prohibited by the former DRA.

Under the bill, from July 1, 2011, through September 30, 2011, a lien recorded before January 1, 2011, could be paid at 85% of the face value of the lien. From October 1, 2011, through March 31, 2012, a lien recorded before January 1, 2011, could be paid at 90% of its face value.

Termination of an Agreement

A DRA expires at the end of its term unless renewed with the consent of the landowner. In addition, under certain circumstances, an owner who entered into or renewed a DRA may request to terminate it with respect to all or a portion of the farmland covered by the agreement. Upon termination of all or a portion of the DRA, the State land use agency must prepare and record a lien, if any, against the property formerly subject to the DRA for the total amount of the allocated tax credit of the last seven years attributable to the property formerly subject to the agreement. The lien must be without interest or penalty and is payable as described above for relinquishment.

Under the bill, however, if the DRA were approved or rejected by the local governing body on or after July 1, 2012, and were terminated upon the expiration of the agreement, the amount of the lien would have to include interest at the current monthly interest rate of one percentage point above the adjusted prime rate per year from the time the lien was recorded until it was paid.

MCL 324.36111 Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would provide for a period of nine months when lien payments owed by landowners due to a relinquishment of a development rights agreement could be paid at a discount to the State. The Department of Agriculture and Rural Development has estimated that $12.0 million is owed the State from these liens. The Department further estimates that the bill would result in a payment of approximately $5.0 million of these owed funds. The total number of landowners participating under Part 361 is 41,200, with 21,000 land use contracts and agreements. Lien payments made under Part 361 are forwarded to the State Treasurer for deposit in the Agriculture Preservation Fund. The Fund supports Farmland and Open Space programs of the Department, and $2.0 million has been appropriated by the Legislature for FY 2011-12.

Fiscal Analyst: Bruce Baker