

**SUBSTITUTE FOR
HOUSE BILL NO. 5189**

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 36101, 36104, 36109, and 36110 (MCL 324.36101, 324.36104, 324.36109, and 324.36110), section 36101 as amended by 2008 PA 336, sections 36104 and 36110 as amended by 1996 PA 233, and section 36109 as amended by 2007 PA 174; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36101. As used in this part:

2 (a) "Agricultural conservation easement" means a conveyance,
3 by a written instrument, in which, subject to permitted uses, the
4 owner relinquishes to the public in perpetuity his or her
5 development rights and makes a covenant running with the land not
6 to undertake development.

7 (b) "Agricultural use" means the production of plants and

1 animals useful to humans, including forages and sod crops; grains,
2 feed crops, and field crops; dairy and dairy products; poultry and
3 poultry products; livestock, including breeding and grazing of
4 cattle, swine, captive cervidae, and similar animals; berries;
5 herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables;
6 maple syrup production; Christmas trees; and other similar uses and
7 activities. Agricultural use includes use in a federal acreage set-
8 aside program or a federal conservation reserve program.
9 Agricultural use does not include the management and harvesting of
10 a woodlot.

11 (c) "Conservation district board" means that term as defined
12 in section 9301.

13 (d) "Development" means an activity that materially alters or
14 affects the existing conditions or use of any land.

15 (e) "Development rights" means an interest in land that
16 includes the right to construct a building or structure, to improve
17 land for development, to divide a parcel for development, or to
18 extract minerals incidental to a permitted use or as set forth in
19 an instrument recorded under this part.

20 (f) "Development rights agreement" **OR "AGREEMENT"** means a
21 restrictive covenant, evidenced by an instrument in which the owner
22 and the state, for a term of years, agree to jointly hold the right
23 to undertake development of the land, and that contains a covenant
24 running with the land, for a term of years, not to undertake
25 development, subject to permitted uses.

26 (g) "Development rights easement" **OR "EASEMENT"** means a grant,
27 by an instrument, in which the owner relinquishes to the public in

1 perpetuity or for a term of years the right to undertake
2 development of the land, and that contains a covenant running with
3 the land, not to undertake development, subject to permitted uses.

4 (h) "Farmland" means 1 or more of the following:

5 (i) A farm of 40 or more acres in 1 ownership, with 51% or
6 more of the land area devoted to an agricultural use.

7 (ii) A farm of 5 acres or more in 1 ownership, but less than
8 40 acres, with 51% or more of the land area devoted to an
9 agricultural use, that has produced a gross annual income from
10 agriculture of \$200.00 per year or more per acre of cleared and
11 tillable land. A farm described in this subparagraph enrolled in a
12 federal acreage set aside program or a federal conservation reserve
13 program is considered to have produced a gross annual income from
14 agriculture of \$200.00 per year or more per acre of cleared and
15 tillable land.

16 (iii) A farm designated by the department of agriculture **AND**
17 **RURAL DEVELOPMENT** as a specialty farm in 1 ownership that has
18 produced a gross annual income from an agricultural use of
19 \$2,000.00 or more. Specialty farms include, but are not limited to,
20 greenhouses; equine breeding and grazing; the breeding and grazing
21 of cervidae, pheasants, and other game animals; bees and bee
22 products; mushrooms; aquaculture; and other similar uses and
23 activities.

24 (iv) Parcels of land in 1 ownership that are not contiguous
25 but that constitute an integral part of a farming operation being
26 conducted on land otherwise qualifying as farmland may be included
27 in an application under this part.

1 (I) "FUND" MEANS THE AGRICULTURAL PRESERVATION FUND CREATED IN
2 SECTION 36202.

3 (J) ~~(i)~~—"Local governing body" means 1 of the following:

4 (i) With respect to farmland or open space land that is
5 located in a city or village, the legislative body of the city or
6 village.

7 (ii) With respect to farmland or open space land that is not
8 located in a city or village but that is located in a township
9 having a zoning ordinance in effect as provided by law, the
10 township board of the township.

11 (iii) With respect to farmland or open space land that is not
12 described in subparagraph (i) or (ii), the county board of
13 commissioners.

14 (K) ~~(j)~~—"Open space land" means 1 of the following:

15 (i) Lands defined as 1 or more of the following:

16 (A) Any undeveloped site included in a national registry of
17 historic places or designated as a historic site pursuant to state
18 or federal law.

19 (B) Riverfront ownership subject to designation under part
20 305, to the extent that full legal descriptions may be declared
21 open space under the meaning of this part, if the undeveloped
22 parcel or government lot parcel or portions of the undeveloped
23 parcel or government lot parcel as assessed and owned is affected
24 by that part and lies within 1/4 mile of the river.

25 (C) Undeveloped lands designated as environmental areas under
26 part 323, including unregulated portions of those lands.

27 (ii) Any other area approved by the local governing body, the

1 preservation of which area in its present condition would conserve
2 natural or scenic resources, including the promotion of the
3 conservation of soils, wetlands, and beaches; the enhancement of
4 recreation opportunities; the preservation of historic sites; and
5 idle potential farmland of not less than 40 acres that is
6 substantially undeveloped and because of its soil, terrain, and
7 location is capable of being devoted to agricultural uses as
8 identified by the department of agriculture **AND RURAL DEVELOPMENT**.

9 (I) ~~(k)~~—"Owner" means a person having a freehold estate in
10 land coupled with possession and enjoyment. If land is subject to a
11 land contract, owner means the vendee in agreement with the vendor
12 **AND RURAL DEVELOPMENT**.

13 (M) ~~(l)~~—"Permitted use" means any use expressly authorized
14 within a development rights agreement, development rights easement,
15 or agriculture conservation easement that is consistent with the
16 farming operation or that does not alter the open space character
17 of the land. Storage, retail or wholesale marketing, or processing
18 of agricultural products is a permitted use in a farming operation
19 if more than 50% of the stored, processed, or merchandised products
20 are produced by the farm operator for at least 3 of the immediately
21 preceding 5 years. The state land use agency shall determine
22 whether a use is a permitted use pursuant to section 36104a.

23 (N) ~~(m)~~—"Person" includes an individual, corporation, limited
24 liability company, business trust, estate, trust, partnership, or
25 association, or 2 or more persons having a joint or common interest
26 in land.

27 (O) ~~(n)~~—"Planning commission" means a planning commission

1 created by the local governing body under 1945 PA 282, MCL 125.101
 2 to 125.115, 1959 PA 168, MCL 125.321 to 125.333, or 1931 PA 285,
 3 MCL 125.31 to 125.45, as applicable. **UNDER THE MICHIGAN PLANNING**
 4 **ENABLING ACT, 2008 PA 33, MCL 125.3801 TO 125.3885.**

5 (P) ~~(e)~~ "Prohibited use" means a use that is not consistent
 6 with an agricultural use for farmland subject to a development
 7 rights agreement or is not consistent with the open space character
 8 of the land for lands subject to a development rights easement.

9 (Q) ~~(p)~~ "Property taxes" means general ad valorem taxes levied
 10 after January 1, 1974, on lands and structures in this state,
 11 including collection fees, but not including special assessments,
 12 penalties, or interest.

13 (R) ~~(q)~~ "Regional planning commission" means a regional
 14 planning commission created pursuant to 1945 PA 281, MCL 125.11 to
 15 125.25.

16 (S) ~~(r)~~ "Regional planning district" means the planning and
 17 development regions as established by executive directive 1968-1,
 18 as amended, whose organizational structure is approved by the
 19 regional council.

20 (T) ~~(s)~~ "State income tax act" means the income tax act of
 21 1967, 1967 PA 281, MCL 206.1 to ~~206.532~~, **206.713**, and in effect
 22 during the particular year of the reference to the act.

23 (U) ~~(t)~~ "State land use agency" means the department of
 24 agriculture **AND RURAL DEVELOPMENT**.

25 (V) ~~(u)~~ "Substantially undeveloped" means any parcel or area
 26 of land essentially unimproved except for a dwelling, building,
 27 structure, road, or other improvement that is incidental to

1 agricultural and open space uses.

2 (W) ~~(v)~~—"Unique or critical land area" means agricultural or
3 open space lands identified by the land use agency as an area that
4 should be preserved.

5 Sec. 36104. (1) An owner of land desiring a farmland
6 development rights agreement may apply by filing an application
7 with the local governing body having jurisdiction under this part.
8 The owner shall apply on a form prescribed by the state land use
9 agency. The application shall contain information reasonably
10 necessary to properly classify the land as farmland. This
11 information shall include a land survey or a legal description of
12 the land and a map showing the significant natural features and all
13 structures and physical improvements located on the land.

14 (2) Upon receipt of the application, the local governing body
15 shall notify the county planning commission or the regional
16 planning commission and the soil conservation district agency. If
17 the county has jurisdiction, it shall also notify the township
18 board of the township in which the land is situated. ~~If the land is
19 within 3 miles of the boundary of a city or within 1 mile of the
20 boundary of a village, the county or township governing body having
21 jurisdiction shall notify the governing body of the city or
22 village.~~

23 (3) An agency or local governing body receiving notice has 30
24 days to review, comment, and make recommendations to the local
25 governing body with which the application is filed. These reviewing
26 agencies do not have an approval or rejection power over the
27 application.

1 (4) After considering the comments and recommendations of the
2 reviewing agencies and local governing bodies, the local governing
3 body holding the application shall approve or reject the
4 application within 45 days after the application is received,
5 unless that period is extended by agreement of the parties
6 involved. The local governing body's approval or rejection of the
7 application shall be based upon, and consistent with, rules
8 promulgated ~~by the state land use agency~~ under section 36116.

9 (5) If an application for a farmland development rights
10 agreement is approved by the local governing body having
11 jurisdiction, the local governing body shall forward a copy, along
12 with the comments and recommendations of the reviewing bodies, to
13 the state land use agency. The application shall contain a
14 statement from the assessing officer where the property is located
15 specifying the current fair market value of the land and structures
16 in compliance with the agricultural section of the Michigan state
17 tax commission assessor manual. If action is not taken by the local
18 governing body within the time prescribed or agreed upon, the
19 applicant may proceed as provided in subsection (6) as if the
20 application was rejected.

21 (6) If the application for a farmland development rights
22 agreement is rejected by the local governing body, the local
23 governing body shall return the application to the applicant with a
24 written statement regarding the reasons for rejection. Within 30
25 days after receipt of the rejected application, the applicant may
26 appeal the rejection by submitting the application to the state
27 land use agency.

1 (7) The state land use agency, within 60 days after a farmland
2 development rights agreement application is received under
3 subsection (5) or (6), shall approve or reject the application. A
4 ~~rejection of~~ **THE STATE LAND USE AGENCY MAY REJECT** an application
5 for a farmland development rights agreement that has been approved
6 by a local governing body ~~by the state land use agency shall be for~~
7 ~~nonconformance~~ **ONLY IF THE PROPOSED AGREEMENT WOULD BE INCONSISTENT**
8 with section 36101(f). ~~only.~~ If the application is approved by the
9 state land use agency, the state land use agency shall prepare a
10 farmland development rights agreement that includes all of the
11 following provisions:

12 (a) A structure shall not be built on the land except for use
13 consistent with farm operations, which includes a residence for an
14 individual essential to the operation of the farm under section
15 36111(2)(b), or lines for utility transmission or distribution
16 purposes or with the approval of the local governing body and the
17 state land use agency.

18 (b) Land improvements shall not be made except for use
19 consistent with farm operations or with the approval of the local
20 governing body and the state land use agency.

21 (c) Any interest in the land shall not be sold except a
22 scenic, access, or utility easement that does not substantially
23 hinder farm operations.

24 (d) Public access is not permitted on the land unless agreed
25 to by the owner.

26 (e) Any other condition and restriction on the land as agreed
27 to by the parties that is considered necessary to preserve the land

1 or appropriate portions of it as farmland.

2 (8) A copy of the approved application and the farmland
3 development rights agreement shall be forwarded to the applicant
4 for execution. An application that is approved by the local
5 governing body by November 1 shall take effect for the current tax
6 year.

7 (9) If the owner executes the farmland development rights
8 agreement, the owner shall return it to the state land use agency
9 for execution on behalf of the state. The state land use agency
10 shall record the executed development rights agreement with the
11 register of deeds of the county in which the land is situated and
12 shall notify the applicant, the local governing body and its
13 assessing office, all reviewing agencies, and the department of
14 treasury.

15 (10) If an application for a farmland development rights
16 agreement is rejected by the state land use agency, the state land
17 use agency shall notify the affected local governing body, all
18 reviewing agencies concerned, and the applicant with a written
19 statement containing the reasons for rejection. An applicant
20 receiving a rejection from the state land use agency may appeal the
21 rejection pursuant to the administrative procedures act of 1969,
22 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
23 ~~24.328 of the Michigan Compiled Laws. 1969 PA 306, MCL 24.201 TO~~
24 **24.328.**

25 (11) An applicant may reapply for a farmland development
26 rights agreement following a 1-year waiting period.

27 (12) The value of the jointly owned development rights as

1 expressed in a farmland development rights agreement is not exempt
2 from ad valorem taxation and shall be assessed to the owner of the
3 land as part of the value of that land.

4 Sec. 36109. (1) An owner of farmland and related buildings
5 subject to 1 or more development rights agreements under section
6 36104 or agricultural conservation easements or purchases of
7 development rights under section 36111b or 36206 who is required or
8 eligible to file a return as an individual or a claimant under the
9 state income tax act may claim a credit against ~~the~~ state income
10 tax liability for the amount by which the property taxes on the
11 land and structures used in the farming operation, including the
12 homestead, restricted by the development rights agreements,
13 agricultural conservation easements, or purchases of development
14 rights exceed 3.5% of the household income as defined in section
15 508 of the income tax act of 1967, 1967 PA 281, MCL 206.508,
16 excluding a deduction if taken under section 613 of the internal
17 revenue code of 1986, 26 USC 613. For the purposes of this section,
18 all of the following apply:

19 (a) A partner in a partnership is considered an owner of
20 farmland and related buildings owned by the partnership and covered
21 by a development rights agreement, agricultural conservation
22 easement, or purchase of development rights. A partner is
23 considered to pay a proportion of the property taxes on that
24 property equal to the partner's share of ownership of capital or
25 distributive share of ordinary income as reported by the
26 partnership to the ~~internal revenue service~~ **INTERNAL REVENUE**
27 **SERVICE** or, if the partnership is not required to report that

1 information to the ~~internal revenue service~~, **INTERNAL REVENUE**
2 **SERVICE**, as provided in the partnership agreement or, if there is
3 no written partnership agreement, a statement signed by all the
4 partners. A partner claiming a credit under this section based upon
5 the partnership agreement or a statement shall file a copy of the
6 agreement or statement with his or her income tax return. If the
7 agreement or statement is not filed, the department of treasury
8 shall deny the credit. All partners in a partnership claiming the
9 credit allowed under this section shall compute the credit using
10 the same basis for the apportionment of the property taxes.

11 (b) A shareholder of a corporation that has filed a proper
12 election under subchapter S of chapter 1 of subtitle A of the
13 internal revenue code of 1986, 26 USC 1361 to 1379, is considered
14 an owner of farmland and related buildings covered by a development
15 rights agreement that are owned by the corporation. A shareholder
16 is considered to pay a proportion of the property taxes on that
17 property equal to the shareholder's percentage of stock ownership
18 for the tax year as reported by the corporation to the internal
19 revenue service. Except as provided in subsection (8), this
20 subdivision applies to tax years beginning after 1987.

21 (c) Except as otherwise provided in this subdivision, an
22 individual in possession of property for life under a life estate
23 with remainder to another person or holding property under a life
24 lease is considered the owner of that property if it is farmland
25 and related buildings covered by a development rights agreement.
26 Beginning January 1, 1986, if an individual in possession of
27 property for life under a life estate with remainder to another

1 person or holding property under a life lease enters into a written
2 agreement with the person holding the remainder interest in that
3 land and the written agreement apportions the property taxes in the
4 same manner as revenue and expenses, the life lease or life estate
5 holder and the person holding the remainder interest may claim the
6 credit under this act as it is apportioned to them under the
7 written agreement upon filing a copy of the written agreement with
8 the return.

9 (d) If a trust holds farmland and related buildings covered by
10 a development rights agreement and an individual is treated under
11 subpart E of subchapter J of subchapter A of chapter 1 of the
12 internal revenue code of 1986, 26 USC 671 to 679, as the owner of
13 that portion of the trust that includes the farmland and related
14 buildings, that individual is considered the owner of that
15 property.

16 (e) An individual who is the sole beneficiary of a trust that
17 is the result of the death of that individual's spouse is
18 considered the owner of farmland and related buildings covered by a
19 development rights agreement and held by the trust if the trust
20 conforms to all of the following:

21 (i) One hundred percent of the trust income is distributed to
22 the beneficiary in the tax year in which the trust receives the
23 income.

24 (ii) The trust terms do not provide that any portion of the
25 trust is to be paid, set aside, or otherwise used in a manner that
26 would qualify for the deduction allowed by section 642(c) of the
27 internal revenue code of 1986, 26 USC 642.

1 (f) A member in a limited liability company is considered an
2 owner of farmland and related buildings covered by a development
3 rights agreement that are owned by the limited liability company. A
4 member is considered to pay a proportion of the property taxes on
5 that property equal to the member's share of ownership or
6 distributive share of ordinary income as reported by the limited
7 liability company to the ~~internal revenue service~~. **INTERNAL REVENUE**
8 **SERVICE.**

9 (2) An owner of farmland and related buildings subject to 1 or
10 more development rights agreements under section 36104 or
11 agricultural conservation easements or purchases of development
12 rights under section 36111b or 36206 to whom subsection (1) does
13 not apply may claim a credit under the former single business tax
14 act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL
15 208.1101 to 208.1601, for the amount by which the property taxes on
16 the land and structures used in farming operations restricted by
17 the development rights agreements, agricultural conservation
18 easements, or purchases of development rights exceed 3.5% of the
19 adjusted business income of the owner as defined in section 36 of
20 the former single business tax act, 1975 PA 228, or the business
21 income tax base of the owner as defined in section 201 of the
22 Michigan business tax act, 2007 PA 36, MCL 208.1201, plus
23 compensation to shareholders not included in adjusted business
24 income or the business income tax base, excluding any deductions if
25 taken under section 613 of the internal revenue code of 1986, 26
26 USC 613. When calculating adjusted business income for tax years
27 beginning before 1987, federal taxable income shall not be less

1 than zero for the purposes of this subsection only. A participant
2 is not eligible to claim a credit and refund against the former
3 single business tax act, 1975 PA 228, or the Michigan business tax
4 act, 2007 PA 36, MCL 208.1101 to 208.1601, unless the participant
5 demonstrates that the participant's agricultural gross receipts of
6 the farming operation exceed 5 times the property taxes on the land
7 for each of 3 out of the 5 tax years immediately preceding the year
8 in which the credit is claimed. This eligibility requirement does
9 not apply to those participants who executed farmland development
10 rights agreements under this part before January 1, 1978. A
11 participant may compare, during the contract period, the average of
12 the most recent 3 years of agricultural gross receipts to property
13 taxes in the first year that the participant entered the program
14 under the present contract in calculating the gross receipts
15 qualification. Once an election is made by the participant to
16 compute the benefit in this manner, all future calculations shall
17 be made in the same manner.

18 (3) If the farmland and related buildings covered by a
19 development rights agreement under section 36104 or an agricultural
20 conservation easement or purchase of development rights under
21 section 36111b or 36206 are owned by more than 1 owner, each owner
22 is allowed to claim a credit under this section based upon that
23 owner's share of the property tax payable on the farmland and
24 related buildings. The department of treasury shall consider the
25 property tax equally apportioned among the owners unless a written
26 agreement signed by all the owners is filed with the return, which
27 agreement apportions the property taxes in the same manner as all

1 other items of revenue and expense. If the property taxes are
2 considered equally apportioned, a husband and wife shall be
3 considered 1 owner, and a person with respect to whom a deduction
4 under section 151 of the internal revenue code of 1986, 26 USC 151,
5 is allowable to another owner of the property shall not be
6 considered an owner.

7 (4) A beneficiary of an estate or trust to which subsection
8 (1) does not apply is entitled to the same percentage of the credit
9 provided in this section as that person's percentage of all other
10 distributions by the estate or trust.

11 (5) If the allowable amount of the credit claimed exceeds the
12 state income tax or the state business tax otherwise due for the
13 tax year or if there is no state income tax or the state business
14 tax due for the tax year, the amount of the claim not used as an
15 offset against the state income tax or the state business tax,
16 after examination and review, shall be approved for payment to the
17 claimant pursuant to 1941 PA 122, MCL 205.1 to 205.31. The total
18 credit allowable under this part and chapter 9 of the income tax
19 act of 1967, 1967 PA 281, MCL 206.501 to 206.532, or the former
20 single business tax act, 1975 PA 228, or the Michigan business tax
21 act, 2007 PA 36, MCL 208.1101 to 208.1601, shall not exceed the
22 total property tax due and payable by the claimant in that year.
23 The amount the credit exceeds the property tax due and payable
24 shall be deducted from the credit claimed under this part.

25 (6) For purposes of audit, review, determination, appeals,
26 hearings, notices, assessments, and administration relating to the
27 credit program provided by this section, the state income tax act,

1 1967 PA 281, MCL 206.1 to ~~206.36~~, **206.532**, the former single
2 business tax act, 1975 PA 228, or the Michigan business tax act,
3 2007 PA 36, MCL 208.1101 to 208.1601, applies according to which
4 tax the credit is claimed against. If an individual is allowed to
5 claim a credit under subsection (1) based upon property owned or
6 held by a partnership, S corporation, or trust, the department of
7 treasury may require that the individual furnish ~~to the department~~
8 **IT WITH** a copy of a tax return, or portion of a tax return, and
9 supporting schedules that the partnership, S corporation, or trust
10 files under the internal revenue code.

11 (7) The department of treasury shall account separately for
12 payments under this part and not combine them with other credit
13 programs. A payment made to a claimant for a credit claimed under
14 this part shall be issued by 1 or more warrants made out to the
15 county treasurer in each county in which the claimant's property is
16 located and the claimant, unless the claimant specifies on the
17 return that a copy of the receipt showing payment of the property
18 taxes that became a lien in the year for which the credit is
19 claimed, or that became a lien in the year before the year for
20 which the credit is claimed, is attached to the income tax or
21 business tax return filed by the claimant. If the claimant
22 specifies that a copy of the receipt is attached to the return, the
23 payment shall be made directly to the claimant. A warrant made out
24 to a claimant and a county treasurer shall be used first to pay
25 delinquent property taxes, interest, penalties, and fees on
26 property restricted by the development rights agreement. If the
27 warrant exceeds the amount of delinquent taxes, interest,

1 penalties, and fees, the county treasurer shall remit the excess to
2 the claimant. If a claimant falsely specifies that the receipt
3 showing payment of the property taxes is attached to the return and
4 if the property taxes on the land subject to that development
5 rights agreement were not paid before the return was filed, all
6 future payments to that claimant of credits claimed under this act
7 attributable to that development rights agreement may be made
8 payable to the county treasurer of the county in which the property
9 subject to the development rights agreement is located and to that
10 claimant.

11 (8) For property taxes levied after 1987, a person that was an
12 S corporation and had entered into a development rights agreement
13 before January 1, 1989, and paid property taxes on that property,
14 may claim the credit allowed by this section as an owner eligible
15 under subsection (2). A subchapter S corporation claiming a credit
16 as permitted by this subsection for taxes levied in 1988 through
17 1990 shall claim the credit by filing an amended return under the
18 **FORMER** single business tax act, 1975 PA 228. ~~, MCL 208.1 to~~
19 ~~208.145.~~ If a subchapter S corporation files an amended return as
20 permitted by this subsection and if a shareholder of the subchapter
21 S corporation claimed a credit under subsection (1)(b) for the same
22 property taxes, the shareholder shall file an amended return under
23 the state income tax act. A subchapter S corporation is not
24 entitled to a credit under this subsection until all of its
25 shareholders file the amended returns required by this subsection.
26 The department of treasury shall first apply a credit due to a
27 subchapter S corporation under this subsection to repay credits

1 claimed under this section by the subchapter S corporation's
2 shareholders for property taxes levied in 1988 through 1990 and
3 shall refund any remaining credit to the S corporation. Interest or
4 penalty is not due or payable on an income tax liability resulting
5 from an amended return required by this subsection. A subchapter S
6 corporation electing to claim a credit as an owner eligible under
7 subsection (2) shall not claim a credit under subsection (1) for
8 property taxes levied after 1987.

9 Sec. 36110. (1) Land subject to a development rights agreement
10 or easement may be sold without penalty under sections 36111,
11 36112, and 36113, if the use of the land by the successor in title
12 complies with the provisions contained in the development rights
13 agreement or easement. The seller shall notify the governmental
14 authority having jurisdiction over the development rights of the
15 change in ownership.

16 (2) If the owner of land subject to a development rights
17 agreement or easement dies or becomes totally and permanently
18 disabled or when an individual essential to the operation of the
19 farm dies or becomes totally and permanently disabled, the land may
20 be relinquished from the program under this part and is subject to
21 a lien pursuant to sections 36111(11), 36112(7), and 36113(7). A
22 request for relinquishment under this section shall be made within
23 3 years from the date of death or disability. A request for
24 relinquishment under this subsection shall be made only by the
25 owner in case of a disability or, in case of death, the person who
26 becomes the owner through survivorship or inheritance.

27 (3) If an owner of land subject to a development rights

1 agreement becomes totally and permanently disabled or dies, land
2 containing structures that were present before the recording of the
3 development rights agreement may be relinquished from the
4 agreement, upon request of the disabled agreement holder or upon
5 request of the person who becomes an owner through survivorship or
6 inheritance, and upon approval of the local governing body and the
7 state land use agency. Not more than 2 acres may be relinquished
8 under this subsection unless additional land area is needed to
9 encompass all of the buildings located on the parcel, in which case
10 not more than 5 acres may be relinquished. If the parcel proposed
11 to be relinquished is less in area than the minimum parcel size
12 required by local zoning, the parcel may not be relinquished unless
13 a variance is obtained from the local zoning board of appeals to
14 allow for the smaller parcel size. The portion of the farmland
15 relinquished from the development rights agreement under this
16 subsection is subject to a lien pursuant to section 36111(11).

17 (4) The land described in a development rights agreement may
18 be divided into smaller parcels of land ~~, each of which shall be~~
19 ~~covered by a separate development rights agreement and each of~~
20 ~~which shall be eligible for subsequent renewal. The separate~~
21 ~~development rights agreements shall contain~~ **AND CONTINUED UNDER** the
22 same terms and conditions as the original development rights
23 agreement. The smaller parcels created by the division must meet
24 the minimum requirements for being enrolled under this act or be 40
25 acres or more in size. Farmland may be divided once under this
26 subsection without fee by the state land use agency. The state land
27 use agency may charge a reasonable fee not greater than the state

1 land use agency's actual cost of dividing the agreement for all
2 subsequent divisions of that farmland. When a division of a
3 development rights agreement is made under this subsection and is
4 executed and recorded, the state land use agency shall notify the
5 applicant, the local governing body and its assessing office, all
6 reviewing agencies, and the department of treasury.

7 (5) As used in this section, "individual essential to the
8 operation of the farm" means a co-owner, partner, shareholder, farm
9 manager, or family member, who, to a material extent, cultivates,
10 operates, or manages farmland under this act.—**PART.** An individual
11 is considered involved to a material extent if that individual does
12 1 or more of the following:

13 (a) Has a financial interest equal to or greater than 1/2 the
14 cost of producing the crops, livestock, or products and inspects
15 and advises and consults with the owner on production activities.

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

18 (6) The state land use agency may charge and collect a fee of
19 ~~\$25.00~~ **\$50.00** to process each change of ownership under subsection
20 (1) or each division under subsection (4). The fee collected under
21 this subsection shall be ~~used by the state land use agency to~~

22 ~~administer this act.~~ **FORWARDED TO THE STATE TREASURER FOR DEPOSIT**
23 **INTO THE FUND.**

24 Enacting section 1. Section 36117 of the natural resources and
25 environmental protection act, 1994 PA 451, MCL 324.36117, is
26 repealed.

27 Enacting section 2. This amendatory act takes effect 90 days

1 after the date it is enacted into law.

2 Enacting section 3. This amendatory act does not take effect
3 unless Senate Bill No.____ or House Bill No.____ (request no.
4 03889'15) of the 98th Legislature is enacted into law.