

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT (EXCERPT)
Act 451 of 1994

324.36110 Sale of land; notice; death or disability of owner; division into smaller parcels of land; "individual essential to the operation of a farm" defined; fee prohibited.

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

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

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

(4) The land described in a development rights agreement may be divided into smaller parcels of land and continued under the same terms and conditions as the original development rights agreement. The smaller parcels created by the division must meet the minimum requirements for being enrolled under this act or be 40 acres or more in size. Farmland may be divided once under this subsection without fee by the state land use agency. The state land use agency may charge a reasonable fee not greater than the state land use agency's actual cost of dividing the agreement for all subsequent divisions of that farmland. When a division of a development rights agreement is made under this subsection and is executed and recorded, the state land use agency shall notify the applicant, the local governing body and its assessing office, all reviewing agencies, and the department of treasury.

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

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

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

(6) The state land use agency shall not charge a fee to process a change of ownership under subsection (1) or a division under subsection (4).

History: Add. 1995, Act 59, Imd. Eff. May 24, 1995;—Am. 1996, Act 233, Imd. Eff. June 5, 1996;—Am. 2016, Act 265, Eff. Sept. 26, 2016.

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