

HOUSE BILL No. 5894

May 28, 1998, Introduced by Reps. Wetters and Bobier and referred to the Committee on Agriculture.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending section 36111 (MCL 324.36111), as amended by 1996 PA
567, and by adding the part heading to part 362 and
sections 36201, 36202, and 36203.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 36111. (1) A development rights agreement shall be
2 relinquished by the state at the expiration of the term of the
3 agreement unless renewed with the consent of the owner of the
4 land. If the owner of the land has complied with the require-
5 ments of this part regarding development rights agreements, the
6 owner is entitled to automatic renewal of the farmland covered by
7 the agreement upon written request of the owner. A development
8 rights agreement may be renewed for a term of not less than 7
9 years. If a development rights agreement is renewed, the state

1 land use agency shall send a copy of the renewal contract to the
2 local governing body of the local unit of government in which the
3 farmland is located.

4 (2) A development rights agreement or a portion of the farm-
5 land covered by a development rights agreement may be relin-
6 quished as provided in this section and section 36111a. Farmland
7 may be relinquished by this state before a termination date con-
8 tained in the instrument under either of the following
9 circumstances:

10 (a) If approved by the local governing body and the state
11 land use agency, land containing structures that were present
12 before the recording of the development rights agreement may be
13 relinquished from the agreement. Not more than 2 acres may be
14 relinquished under this subdivision unless additional land area
15 is needed to encompass all of the buildings located on the
16 parcel, in which case not more than 5 acres may be relinquished.
17 If the parcel proposed to be relinquished is less in area than
18 the minimum parcel size required by local zoning, the parcel may
19 not be relinquished unless a variance is obtained from the local
20 zoning board of appeals to allow for the smaller parcel size.

21 (b) If approved by the local governing body and the state
22 land use agency, land may be relinquished from the agreement for
23 the construction of a residence by an individual essential to the
24 operation of the farm as defined in section 36110(5). Not more
25 than 2 acres may be relinquished under this subdivision. If the
26 parcel proposed to be relinquished is less in area than the
27 minimum parcel size required by local zoning, the parcel may not

1 be relinquished unless a variance is obtained from the local
2 zoning board of appeals to allow for the smaller parcel size.

3 (3) Until April 1, 1997, if an owner who entered into or
4 renewed a development rights agreement before April 15, 1994
5 makes a request, in writing, to the state land use agency, to
6 terminate that development rights agreement with respect to all
7 or a portion of the farmland covered by the agreement, the state
8 land use agency shall approve the request and relinquish that
9 farmland from the development rights agreement. If farmland is
10 relinquished under this subsection, the state land use agency
11 shall notify the local governing body of the local unit of gov-
12 ernment in which the land is located of the relinquishment.

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

18 (5) If a development rights agreement or a portion of a
19 development rights agreement is to be relinquished pursuant to
20 subsection (2) or section 36111a, the state land use agency shall
21 record a lien against the property formerly subject to the devel-
22 opment rights agreement for the total amount of the allocated tax
23 credit of the last 7 years, including the year of termination,
24 received by an owner for that property under the agreement under
25 section 36109, attributable to the property formerly subject to
26 the development rights agreement, plus interest at the rate of 6%

1 per annum simple interest from the time the credit was received
2 until the lien is placed on the property.

3 (6) If the property being relinquished from the development
4 rights agreement is less than all of the property subject to that
5 development rights agreement, the allocated tax credit for the
6 development rights agreement shall be multiplied by the
7 property's share of the taxable value of the agreement. As used
8 in this subsection:

9 (a) "The allocated tax credit" means the amount obtained by
10 multiplying the owner's total farmland preservation credit
11 claimed in that year on all agreements by the quotient of the ad
12 valorem property tax levied in that year on property subject to
13 the development rights agreement that included the property being
14 relinquished from the agreement divided by the total property
15 taxes levied on property subject to any development rights agree-
16 ment and used in determining the farmland preservation credit in
17 that year.

18 (b) "The property's share of the taxable value of the
19 agreement" means the quotient of the taxable value of the prop-
20 erty being relinquished from the agreement divided by the total
21 taxable value of property subject to the development rights
22 agreement that included the property being relinquished from the
23 agreement. For years before 1995, taxable value means assessed
24 value.

25 (7) Thirty days before the recording of a lien under this
26 section, the state land use agency shall notify the owner of the
27 farmland subject to the development rights agreement of the

1 amount of the lien, including interest, if any. If the lien
2 amount is paid before 30 days after the owner is notified, the
3 lien shall not be recorded. The lien may be paid and discharged
4 at any time and is payable to the state by the owner of record at
5 the time the land or any portion of it is sold by the owner of
6 record, or if the land is converted to a use prohibited by the
7 former development rights agreement. The lien shall be dis-
8 charged upon renewal or reentry in a development rights agree-
9 ment, except that a subsequent lien shall not be less than the
10 lien discharged.

11 (8) Upon the natural termination of the development rights
12 agreement under subsections (1) or (13), or the termination of
13 all or a portion of the development rights agreement under sub-
14 section (3), the state land use agency shall prepare and record a
15 lien, if any, against the property formerly subject to the devel-
16 opment rights agreement for the total amount of the allocated tax
17 credit of the last 7 years, including the year of natural termi-
18 nation, received by the owner under section 36109, attributable
19 to the property formerly subject to the development rights
20 agreement. The lien shall be without interest or penalty and is
21 payable subject to subsection (7).

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

24 (10) ~~The~~ UNTIL JULY 1, 1999, THE proceeds from lien pay-
25 ments made under this part shall be used by the state land use
26 agency to administer this part, ~~for fiscal years 1991-92 and~~
27 ~~through 1999-2000,~~ to purchase development rights of unique or

1 critical land area that does not necessitate direct purchase of
2 the fee interest in the land for which money was appropriated
3 under ~~Act No. 128 of the Public Acts of 1995,~~ 1995 PA 128, and,
4 pursuant to section 36111b, to purchase development rights on
5 farmland that does not necessitate direct purchase of the fee
6 interest in the land. It is the intent of the legislature that
7 if the accumulated proceeds from lien payments received under
8 this part fall below \$2,000,000.00, then the funds used to admin-
9 ister this part shall be appropriated from the general fund until
10 the proceeds from the lien payments received under this part
11 exceed \$2,000,000.00. However, the amount of lien payments used
12 to administer this part shall not exceed \$600,000.00 in any
13 fiscal year. BEGINNING ON JULY 1, 1999, THE PROCEEDS FROM LIEN
14 PAYMENTS MADE UNDER THIS PART SHALL BE FORWARDED TO THE STATE
15 TREASURER FOR DEPOSIT IN THE MICHIGAN FARMLAND TRUST FUND CREATED
16 IN PART 362. ON JULY 1, 1999, ALL UNEXPENDED PROCEEDS FROM LIEN
17 PAYMENTS MADE UNDER THIS PART THAT ARE HELD BY THE STATE SHALL BE
18 TRANSFERRED TO THE MICHIGAN FARMLAND TRUST FUND CREATED IN
19 PART 362.

20 (11) Upon the relinquishment of all of the farmland under
21 section 36110(2) or a portion of the farmland under
22 section 36110(3), the state land use agency shall prepare and
23 record a lien against the property formerly subject to a develop-
24 ment rights agreement in an amount calculated as follows:

25 (a) Establishing a term of years by multiplying 7 by a frac-
26 tion, the numerator of which is the number of years the farmland
27 was under the development rights agreement, including any

1 extensions, and the denominator of which is the number
2 representing the term of years of that agreement, including any
3 extensions.

4 (b) The lien amount equals the total amount of the allocated
5 tax credit claimed attributable to that development rights agree-
6 ment in the immediately preceding term of years as determined in
7 subdivision (a).

8 (12) When a lien is paid under this section, the state land
9 use agency shall prepare and record a discharge of lien with the
10 register of deeds in the county in which the land is located.
11 The discharge of lien shall specifically state that the lien has
12 been paid in full, that the lien is discharged, that the develop-
13 ment rights agreement and accompanying contract are terminated,
14 and that the state has no further interest in the land under that
15 agreement.

16 (13) An owner of farmland, upon written request to the state
17 land use agency on or before April 1, 1997, may elect to have the
18 remaining term of the development rights agreement reduced to 7
19 years if the farmland has been subject to that development rights
20 agreement for 10 or more years. If the farmland has not been
21 subject to a development rights agreement for 10 or more years,
22 an owner of farmland may, upon written request to the state land
23 use agency on or before April 1, 1997, elect to have the term of
24 the development rights agreement reduced to 17 years from the
25 initial year of enrollment.

26 (14) Within 60 days of June 5, 1996, the state land use
27 agency shall notify, by first-class mail, all owners of farmland

1 that have a development rights agreement in effect as determined
2 by the state land use agency on June 5, 1996 about all of the
3 following:

4 (a) The ability to terminate an agreement under subsection
5 (3).

6 (b) The ability to reduce the termination agreement under
7 subsection (13).

8 (c) All other significant changes in law contained in the
9 amendatory act that added this subsection.

10 PART 362 FARMLAND TRUST FUND

11 SEC. 36201. AS USED IN THIS PART:

12 (A) "AGRICULTURE CONSERVATION EASEMENT" MEANS A CONVEYANCE,
13 BY AN INSTRUMENT, IN WHICH THE OWNER RELINQUISHES TO THE PUBLIC
14 IN PERPETUITY HIS OR HER DEVELOPMENT RIGHTS AS MAY BE EXPRESSLY
15 RESERVED IN THE INSTRUMENT, THAT CONTAINS THE PERMITTED USES OF
16 THE LAND, AND THAT CONTAINS A COVENANT RUNNING WITH THE LAND, NOT
17 TO DEVELOP, EXCEPT AS THIS RIGHT IS EXPRESSLY RESERVED IN THE
18 INSTRUMENT.

19 (B) "AGRICULTURAL USE" MEANS SUBSTANTIALLY UNDEVELOPED LAND
20 DEVOTED TO THE PRODUCTION OF PLANTS AND ANIMALS USEFUL TO HUMANS,
21 INCLUDING FORAGES AND SOD CROPS; GRAINS, FEED CROPS, AND FIELD
22 CROPS; DAIRY AND DAIRY PRODUCTS; POULTRY AND POULTRY PRODUCTS;
23 LIVESTOCK, INCLUDING BREEDING AND GRAZING OF CATTLE, SWINE, CAP-
24 TIVE CERVIDAE, AND SIMILAR ANIMALS; BERRIES; HERBS; FLOWERS;
25 SEEDS; GRASSES; NURSERY STOCK; FRUITS; VEGETABLES; CHRISTMAS
26 TREES; AND OTHER SIMILAR USES AND ACTIVITIES. AGRICULTURAL USE
27 DOES NOT INCLUDE THE MANAGEMENT AND HARVESTING OF A WOODLOT.

1 (C) "BOARD" MEANS THE MICHIGAN FARMLAND TRUST FUND BOARD
2 CREATED IN SECTION 36204.

3 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE.

4 (E) "DEVELOP" OR "DEVELOPMENT" MEANS AN ACTIVITY THAT MATE-
5 RIALY ALTERS OR AFFECTS THE EXISTING CONDITIONS OR USE OF ANY
6 LAND IN A MANNER THAT IS INCONSISTENT WITH AN AGRICULTURAL USE.

7 (F) "DEVELOPMENT RIGHTS" MEANS THE RIGHT TO DEVELOP LAND TO
8 THE MAXIMUM INTENSITY OF DEVELOPMENT AUTHORIZED BY LAW.

9 (G) "FARMLAND" MEANS 1 OR MORE OF THE FOLLOWING:

10 (i) A FARM OF 40 OR MORE ACRES IN 1 OWNERSHIP, WITH 51% OR
11 MORE OF THE LAND AREA DEVOTED TO AN AGRICULTURAL USE.

12 (ii) A FARM OF 5 ACRES OR MORE IN 1 OWNERSHIP, BUT LESS THAN
13 40 ACRES, WITH 51% OR MORE OF THE LAND AREA DEVOTED TO AN AGRI-
14 CULTURAL USE, THAT HAS PRODUCED A GROSS ANNUAL INCOME FROM AGRI-
15 CULTURE OF \$200.00 PER YEAR OR MORE PER ACRE OF CLEARED AND TIL-
16 LABLE LAND. A FARM DESCRIBED IN THIS SUBPARAGRAPH ENROLLED IN A
17 FEDERAL ACREAGE SET ASIDE PROGRAM OR A FEDERAL CONSERVATION
18 RESERVE PROGRAM IS CONSIDERED TO HAVE PRODUCED A GROSS ANNUAL
19 INCOME FROM AGRICULTURE OF \$200.00 PER YEAR OR MORE PER ACRE OF
20 CLEARED AND TILLABLE LAND.

21 (iii) A FARM DESIGNATED BY THE DEPARTMENT OF AGRICULTURE AS
22 A SPECIALTY FARM IN 1 OWNERSHIP THAT HAS PRODUCED A GROSS ANNUAL
23 INCOME OF \$2,000.00 OR MORE FROM AN AGRICULTURAL USE. SPECIALTY
24 FARMS INCLUDE, BUT ARE NOT LIMITED TO, GREENHOUSES; EQUINE BREED-
25 ING AND GRAZING; THE BREEDING AND GRAZING OF CERVIDAE, PHEASANTS,
26 AND OTHER GAME ANIMALS; BEES AND BEE PRODUCTS; MUSHROOMS;
27 AQUACULTURE; AND OTHER SIMILAR USES AND ACTIVITIES.

1 (iv) PARCELS OF LAND IN 1 OWNERSHIP THAT ARE NOT CONTIGUOUS
2 BUT WHICH CONSTITUTE AN INTEGRAL PART OF A FARMING OPERATION
3 BEING CONDUCTED ON LAND OTHERWISE QUALIFYING AS FARMLAND MAY BE
4 INCLUDED IN AN APPLICATION UNDER THIS PART.

5 (H) "GRANT" MEANS A GRANT FOR THE PURCHASE OF AGRICULTURE
6 CONSERVATION EASEMENTS ISSUED UNDER THIS PART.

7 (I) "OWNER" MEANS A PERSON HAVING A FREEHOLD ESTATE IN LAND
8 COUPLED WITH POSSESSION AND ENJOYMENT. IF LAND IS SUBJECT TO A
9 LAND CONTRACT, OWNER MEANS THE VENDEE IN AGREEMENT WITH THE
10 VENDOR.

11 (J) "PERMITTED USE" MEANS ANY USE CONTAINED WITHIN AN AGRI-
12 CULTURE CONSERVATION EASEMENT CONSISTENT WITH THE FARMING OPERA-
13 TION OR THAT DOES NOT ALTER THE OPEN SPACE CHARACTER OF THE
14 LAND. STORAGE, RETAIL OR WHOLESALE MARKETING, OR PROCESSING OF
15 AGRICULTURAL PRODUCTS IS A PERMITTED USE IN A FARMING OPERATION
16 IF MORE THAN 50% OF THE STORED, PROCESSED, OR MERCHANDISED PRO-
17 DUCTS ARE PRODUCED BY THE FARM OPERATOR FOR AT LEAST 3 OF THE
18 IMMEDIATELY PRECEDING 5 YEARS. PERMITTED USE INCLUDES OIL AND
19 GAS EXPLORATION, BUT DOES NOT INCLUDE OTHER MINERAL DEVELOPMENT
20 THAT IS INCONSISTENT WITH AN AGRICULTURAL USE.

21 (K) "TRUST FUND" MEANS THE MICHIGAN FARMLAND TRUST FUND CRE-
22 ATED IN SECTION 36202.

23 SEC. 36202. (1) THE MICHIGAN FARMLAND TRUST FUND IS CREATED
24 WITHIN THE STATE TREASURY.

25 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
26 FROM ANY SOURCE FOR DEPOSIT INTO THE TRUST FUND, INCLUDING
27 DONATIONS TO THE TRUST FUND. THE STATE TREASURER SHALL DIRECT

1 THE INVESTMENT OF THE TRUST FUND. THE STATE TREASURER SHALL
2 CREDIT TO THE TRUST FUND INTEREST AND EARNINGS FROM TRUST FUND
3 INVESTMENTS.

4 (3) MONEY IN THE TRUST FUND AT THE CLOSE OF THE FISCAL YEAR
5 SHALL REMAIN IN THE TRUST FUND AND SHALL NOT LAPSE TO THE GENERAL
6 FUND.

7 (4) THE ACCRUED INTEREST AND EARNINGS ONLY OF THE TRUST FUND
8 MAY BE EXPENDED, UPON APPROPRIATION, AS FOLLOWS:

9 (A) NOT MORE THAN \$600,000.00, AS THIS AMOUNT IS ADJUSTED
10 PURSUANT TO SUBSECTION (5), ANNUALLY FOR THE ADMINISTRATIVE COSTS
11 OF THE DEPARTMENT, THE DEPARTMENT OF NATURAL RESOURCES, AND THE
12 BOARD IN IMPLEMENTING THIS PART AND PART 361.

13 (B) THE ACCUMULATED INTEREST AND EARNINGS OF THE TRUST FUND
14 OTHER THAN THOSE EXPENDED PURSUANT TO SUBDIVISION (A) SHALL BE
15 EXPENDED AS FOLLOWS:

16 (i) NOT LESS THAN 50% PURSUANT TO SECTION 36111B BY THE
17 DIRECTOR OF THE DEPARTMENT OF NATURAL RESOURCES FOR THE ACQUISI-
18 TION OF DEVELOPMENT RIGHTS.

19 (ii) NOT MORE THAN 50% TO PROVIDE GRANTS TO LOCAL UNITS OF
20 GOVERNMENT PURSUANT TO SECTION 36203.

21 (5) THE STATE TREASURER SHALL ADJUST THE FIGURE DESCRIBED IN
22 SUBSECTION (4) BY AN AMOUNT DETERMINED BY THE STATE TREASURER AT
23 THE END OF EACH CALENDAR YEAR TO REFLECT THE CUMULATIVE ANNUAL
24 PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. AS USED IN THIS
25 SUBSECTION, "CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE
26 INDEX OF CONSUMER PRICES AVAILABLE FOR THIS STATE FROM THE BUREAU
27 OF LABOR STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.

1 SEC. 36203. (1) THE DEPARTMENT SHALL ESTABLISH A GRANTS
2 PROGRAM FOR THE PURCHASE OF AGRICULTURE CONSERVATION EASEMENTS.
3 THE DEPARTMENT, UPON DIRECTION FROM THE BOARD, SHALL PROVIDE
4 GRANTS TO LOCAL UNITS OF GOVERNMENT FOR THE ACQUISITION OF AGRI-
5 CULTURE CONSERVATION EASEMENTS.

6 (2) A LOCAL UNIT OF GOVERNMENT IS ELIGIBLE TO SUBMIT A GRANT
7 APPLICATION IF THE LOCAL UNIT OF GOVERNMENT HAS ADOPTED A DEVEL-
8 OPMENT RIGHTS ORDINANCE PROVIDING FOR A PURCHASE OF DEVELOPMENT
9 RIGHTS PROGRAM PURSUANT TO 1 OF THE FOLLOWING:

10 (A) THE CITY AND VILLAGE ZONING ACT, 1921 PA 207, MCL
11 125.581 TO 125.600.

12 (B) THE TOWNSHIP ZONING ACT, 1943 PA 184, MCL 125.271 TO
13 125.310.

14 (C) THE COUNTY ZONING ACT, 1943 PA 183, MCL 125.201 TO
15 125.240.

16 (3) A LOCAL UNIT OF GOVERNMENT THAT WISHES TO APPLY FOR A
17 GRANT SHALL SUBMIT A GRANT APPLICATION TO THE DEPARTMENT ON A
18 FORM PRESCRIBED BY THE DEPARTMENT AND CONTAINING THE INFORMATION
19 REQUIRED BY THE DEPARTMENT.

20 (4) UPON RECEIPT OF APPLICATIONS PURSUANT TO SUBSECTION (2),
21 THE DEPARTMENT SHALL FORWARD THOSE APPLICATIONS TO THE BOARD.

22 Enacting section 1. This amendatory act does not take
23 effect unless all of the following bills of the 89th Legislature
24 are enacted into law:

25 (a) House Bill No. 5620.

26 (b) House Bill No. 5622.

- 1 (c) House Bill No. 5719.
- 2 (d) Senate Bill No. 902.
- 3 (e) Senate Bill No. 904.
- 4 (f) Senate Bill No. _____ or House Bill No. _____ (request
- 5 no. 06243'98).