

The Farmland and Open Space Preservation Program is designed to preserve farmland and open space through agreements that restrict development, and provide tax incentives for program participation. (See *brochure #2 Farmland Agreements-- Transferring, Dividing & Releasing for information on revising agreements.*)

This is part one of a two-brochure series explaining the benefits of program enrollment, and the options available to current participants in regard to farmland agreements.

What Does the Farmland and Open Space Act Do?

The act enables a farm owner to enter into a Development Rights Agreement with the state. The agreement ensures that the land remains in agricultural use for a minimum of 10 years, and is not developed for any non-agricultural use. In return for maintaining the land in agricultural use, the landowner may be entitled to certain income tax benefits, and the land is not subject to special assessments for sanitary sewer, water, lights or non-farm drain projects.

This brochure explains Part 361, Farmland and Open Space Preservation, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended. This act was formerly known as the Farmland and Open Space Preservation Act, and is commonly known as PA 116 of 1974.

Which Lands are Eligible?

Farmland eligibility is determined by the size of the farm, and in some instances, by the farm's income. A parcel meets qualification requirements for enrollment in a Farmland Development Rights Agreement if one of the following is true:

- Parcel is 40 acres or larger, and a minimum of 51 percent of the land is agriculturally active.
- Parcel has at least five acres but less than 40 acres in size, more than 51 percent of the land is agriculturally active, and the agricultural land produces a gross annual income in excess of \$200 per tillable acre.
- Parcel has been designated as a specialty farm by the Michigan Department of Agriculture, is a minimum of 15 acres, and has a gross annual income exceeding \$2,000 per year.

How Long Does the Agreement Last?

The original farmland agreement is contracted for a minimum of 10 years, and a maximum of 90 years. The agreement may be extended for a minimum of seven years or longer, after the initial term.

Must the Landowner Provide Public Access?

The landowner is not required to provide public access to participate in the program.

How Does the Landowner Benefit from Enrollment in the Program?

There are two primary benefits for participation in a Farmland Agreement:

Tax Credits: Benefits under a farmland agreement will depend on the property tax assessed against the property, and the landowner's income. The landowner is entitled to claim a Michigan income tax credit equal to the amount the property taxes (on the land and improvements covered by the agreement) exceed 3.5 percent of the household income.

For example, if the owner has an income of \$20,000 and property taxes on the farm total \$2,000, he/she would subtract \$700 (3.5 percent of \$20,000) from the \$2,000 property tax for an income tax credit of \$1,300. This tax credit is in addition to the Homestead Property Tax Credit, for which the landowner may already be qualified.

Special Assessments: Land that qualifies, and is enrolled in the program, is exempt from special assessments for sanitary sewers, water, lights, or non-farm drainage, unless the assessments were imposed prior to the recording of the farmland agreement. Land exempted from special assessment will be denied use of the improvement until the portion of the special assessment directly attributable to the actual use of the improvement is paid.

When the farmland agreement is terminated, the local government may require payment of the special assessment; however, the amount of the assessment can not exceed the amount the assessment would have been at the time of the exemption, and can not include any interest or penalty.

How Does the Landowner Apply for Enrollment?

The application form is available from the MDA Farmland Preservation Office. After the landowner fills out the application, it must be submitted to the local governing body (i.e., city, village, township or county).

Application is made with the township if it has adopted its own zoning ordinance, or with the county for those townships which have not adopted a zoning ordinance. The local governing body has 45 days to approve or reject the application.

Within the 45-day period, the governing body must seek comments from the county or regional planning commission; the soil conservation district; a city, if the land is within three miles of the city; or a village, if the land is within one mile of the village.

These agencies are allowed 30 days from the day of notification to forward their comments to the clerk of the local governing body. If approved, the application is forwarded to the Michigan Department of Agriculture Farmland Preservation Office.

If no action is taken by the local governing body, or the application is rejected, the applicant may appeal directly to the Michigan Department of Agriculture within 30 days.

What Happens When a Farmland Development Rights Agreement Expires?

During the last year of a Farmland Development Rights Agreement, the agreement holder will be sent a notice asking whether the agreement will be extended or allowed to expire.

Extension

After the initial term of the 10-year agreement, the agreement may be extended for a minimum of seven years, or longer, up to 90 years maximum.

Expiration

If the agreement holder chooses to let the agreement expire, tax credits received during the last seven years of the agreement must be repaid. The agreement holder will be notified of the amount.

If the amount is not paid within 30 days, a lien will be placed against the property. No interest will accrue on this lien. If no credits were taken during the last seven years of the agreement, then no lien will be placed.

Tax Credit Eligibility

The application to enroll in the program must be approved by the local unit of government on or before November 1 to be eligible for tax credits beginning that year.



Printed by authority of Part 361, Farmland and Open Space Preservation, of the Natural Resources and Environmental Protection Act, Public Act 451 of 1994, as amended, more commonly known as "PA 116."
Michigan Department of Agriculture

This publication and program forms are available online at
www.michigan.gov/farmland

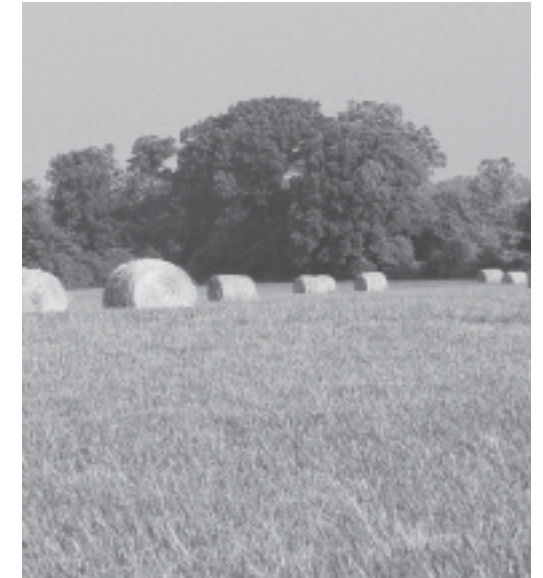


For More Information on the Farmland and Open Space Preservation Program:
Michigan Department of Agriculture
Environmental Stewardship Division
P.O. Box 30449, Lansing, MI 48909
PH: (517) 373-3328 • FX: (517) 335-3131
www.michigan.gov/farmland

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Farmland Agreements Enrollment, Eligibility & Benefits

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