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**SFA**



**BILL ANALYSIS**

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House Bill 4028 (Substitute H-6 as passed by the House)  
Sponsor: Representative Andrew Richner  
House Committee: Land Use and Environment  
Senate Committee: Local, Urban and State Affairs

Date Completed: 10-17-01

## CONTENT

**The bill would create a new act to do the following:**

- **Allow a municipality to designate a structure or lot as "blighting property" and acquire fee simple title to it by purchase, gift, exchange, or condemnation.**
- **Require the municipality to hold a hearing on the designation, give notice to persons with a legal interest in the property and occupants of the property, and inform occupants about assistance agencies.**
- **Allow persons with a legal interest in the property to contest the designation at the hearing and to appeal the designation in court.**
- **Require the municipality to transfer blighted property for development or to develop it.**
- **Allow the municipality to accept a deed instead of foreclosure for delinquent property taxes on the blighting property.**

The bill would be repealed five years after its effective date.

### Blighting Property

Under the bill, "blighting property" would mean any of the following structures or lots, whether improved or unimproved, that were likely to have a negative financial impact on surrounding property values or on the increase in value of those properties by being one or more of the following:

- A structure or lot that was regarded as a public nuisance at common law because of

its physical condition or use, or had been declared a public nuisance under the local housing, building, plumbing, fire, or other related codes.

- A structure or lot that was considered an attractive nuisance to children because of its physical condition, use, or occupancy, including abandoned wells, shafts, basements, and excavations, and unsafe fences or structures (but not because of an activity inherent to the functioning of a lawful business).
- A structure that had been designated by the municipal agency responsible for enforcement of a housing code as unfit for usage because it was dilapidated, unsanitary, unsafe, vermin infested, or lacking in facilities and equipment required by the code.
- A structure or lot that was a fire hazard or was otherwise dangerous to the safety of persons or property.
- A structure from which the utilities, plumbing, heating, sewerage, or other facilities had been disconnected, destroyed, removed, or rendered ineffective so that the property was unfit for its intended use.
- A structure or lot that had become a place for the accumulation of trash or debris, or a haven for rodents or other vermin, because of neglect or lack of maintenance.

The bill specifies that blighting property would not include structures or lots, whether improved or unimproved, that were inherent to the functioning of a farm or farm operation (as defined in Section 2 of the Michigan Right to Farm Act). Blighting property also would not include structures or lots, whether improved or unimproved, that were industrial

properties in an area zoned industrial, and that were current on tax obligations. In addition, blighting property would not include track, right-of-way, or rolling stock belonging to a railroad company, or any other property necessarily used in operating a railroad in this State belonging to a railroad company.

#### Legislative Finding

The bill includes the following legislative finding and declaration: "...that there exists in this state a continuing need to strengthen and revitalize the economy of this state and its municipalities by encouraging the efficient and expeditious return to productive use of blighting property; and that the powers granted in this act relating to the designation and transfer for development of blighting property constitute the performance by this state or a political subdivision of this state of essential public purposes and functions".

#### Local Decision for Designation

Under the bill, a city, village, or township could designate a structure or lot within its jurisdiction as a blighting property, and acquire title to it by purchase, gift, exchange, or condemnation. A township could take these actions within a village, however, only if the village adopted a resolution transferring the authority to designate blighting property to the township.

Upon entering into a written agreement with the county in which a city, village, or township was located, the city, village or township could adopt a resolution transferring the authority to designate blighting property to that county. The written agreement would have to be entered into with the county executive if one were elected, or with the county board of commissioners of any other county. Further, a county could designate a structure or lot as blighting property, and acquire fee simple title in the property by purchase, gift, exchange, or condemnation, as set forth in the bill.

A municipality could not designate a property as blighting property if the property had been forfeited to a county treasurer under the General Property Tax Act, and remained subject to foreclosure. Further, a municipality could not designate a property as blighted based solely on the presence of native grasses or plants indigenous to Michigan that were

planted or maintained as part of a garden or designated wildlife area, or for landscaping, erosion control, or weed control purposes.

#### Hearing

A municipality that proposed to designate a property as blighting property would be required to hold a hearing on the designation. The hearing would have to take place within one of the following time frames:

- For a property that was an owner-occupied residential dwelling, the hearing would have to take place at least 42 days but not more than 132 days after the municipality provided written notice of the hearing and proposed designation.
- For a property that was not an owner-occupied residential dwelling, the hearing would have to take place at least 30 days but not more than 120 days after the municipality provided written notice.

In either case, a municipality could hold the hearing after the deadline only if an extension had been requested by a person with a legal interest in the property who was contesting the designation.

#### Title Search and Notice of Hearing

Title Search. A municipality would be required to perform a thorough title search to identify all people with a legal interest in property subject to designation as blighting property. The municipality would have to determine the address reasonably calculated to apprise those people of the pendency of the hearing, and send notice to them by certified mail at least 30 days before the hearing.

Personal Visit. A municipality would have to send a representative to the property to ascertain personally whether it was occupied. If the property were occupied, the representative of the municipality would have to do all of the following:

- Make reasonable efforts in good faith personally to serve upon a person occupying the property a copy of the written notice.
- Orally inform the occupant, if he or she were personally served, that the property would be designated as blighting property and that the occupants could be required to vacate, and also inform the occupant of

agencies or other resources that might be available for assistance to avoid loss of the property or to obtain comparable safe, decent, and quality affordable housing.

- Provide the occupant with the names and telephone numbers of the agencies that might be able to assist the occupant, if he or she appeared unable to understand the advice given, or were unwilling to cooperate.
- Place the written notice at a conspicuous location on the property, if the representative of the municipality could not personally meet with the occupant.

The municipality also would have to correct any deficiency that it might know of in the provision of the notice as soon as practicable before designating the property.

Publication. If the municipality were unable to ascertain the address reasonably calculated to apprise all people with a legal interest in the property of the pending hearing, or were unable to deliver notice to any occupant, service of the notice would have to be made by publication. The notice would have to be published for three successive weeks, once each week, in a newspaper published and circulated in the county, or if no newspaper were published in that county, in an adjoining county.

Proof of Service. A municipality would be required to file with the county register of deeds proof of the notice provided to people with a legal interest in the property. The proof of notice would be in the form of an affidavit and include all of the following: a description of the content of the notice; the name or names of the person or persons to whom the notice was addressed; and a statement that the property was subject to designation as blighting property, and subsequent transfer or condemnation.

The bill provides that an affidavit recorded in this manner would create a rebuttable presumption in the courts that any person obtaining a legal interest in property subject to designation as blighting property following the recording, was properly notified of the consequences of the designation, including the condemnation of the property or the transfer of the property to the municipality or another person.

If a municipality subsequently did not designate the property as blighting property, it would be required to record, as soon as practicable, that the property was not designated as blighting property, and that the municipality no longer sought to obtain title to the property under the bill.

Content of Notice. The written notice would have to include all of the following:

- The time, date, and location of the hearing.
- A description, including the street address, of the property subject to designation as blighting property.
- An explanation of the reasons the municipality considered the property to be blighting.
- The name, address, and telephone number of the person to whom communications about the hearing could be addressed.
- Names, addresses, and telephone numbers of State and local agencies or other resources that could be available to assist an occupant of the property to avoid loss of the property, or to obtain comparable safe, decent, and quality affordable housing.
- A description of improvements that should be made to the property before the hearing, in order to avoid designation.

Any notice provided also would have to include an explanation of any tax benefits or other incentive offered by the municipality that could encourage the transfer of the blighting property.

#### Objection to Blighting Designation

A person with a legal interest in the property could contest the designation by appearing at the hearing to show cause why the property should not be designated as blighting property. A person could submit a written presentation to show cause why the property should not be designated as blighting property, if the person were incarcerated, impaired, or otherwise unable to attend a public hearing.

If a person with a legal interest demonstrated at the hearing that improvements had been made, or were actively being made, that would cause the property no longer to meet the definition of blighting property, the municipality would be required to delay the designation for 90 days. If at the end of the 90 days the municipality found that the

property no longer met the definition, then it would be required to issue a certificate stating that the property was not blighting property.

#### Appeal

If, after the notice and hearing, the municipality determined that the property was blighting, the municipality would be required to designate it as blighting property and provide public notice of the designation. A person with a legal interest could appeal the decision to the circuit court within 28 days of the designation, and the court would be required to review the municipal decision using the standard of review for administrative set forth in Article 6, Section 28 of the State Constitution.

If the court reversed the decision and determined that the municipality had been acting in bad faith, then the court could award the successful appellant the costs, including attorney fees, actually and reasonable incurred by the person in making the appeal.

#### Acquisition, Transfer, or Donation

Acquisition. A municipality could offer to purchase blighting property at the fair market value, or to acquire the property by donation or exchange. If the offer were rejected, the municipality could institute proceedings under the power of eminent domain under the laws of the State, or provisions of any local charter relative to condemnation.

Transfer or Development. Within 120 days after a municipality acquired title to a blighting property, or a condemnation award was ordered under the Uniform Condemnation Procedures Act, whichever was later, the municipality would be required either to transfer the property for development, or to have adopted a written development plan for the property. A municipality that transferred title to blighting property that was classified as residential could transfer it for affordable low income housing to a person that had experience with, and was able to demonstrate financial capacity in developing such housing. A municipality that did not transfer title to property that was classified as residential would be required to develop the property in accordance with its written development plan.

If a municipality failed to comply with these requirements, a person who lost or conveyed

his or her legal interest in the property could bring an action in the circuit court to compel the municipality to convey that legal interest back to that person. Upon a finding that the person had a plan likely to result in the development of that property consistent with applicable law, and that the municipality had not complied with the bill's requirements, the court would have to enter an order restoring the person's legal interest in the property. The order would have to require all of the following:

- That all amounts paid in consideration for the property, including any taxes extinguished, be repaid and, if applicable, distributed to the appropriate taxing jurisdiction.
- That all costs incurred by the municipality for demolition, environmental response activities, title clearance, and site preparation be repaid.
- That the court retain jurisdiction to determine if the development plan presented by the petitioner was implemented.

The bill specifies that a municipality could transfer for development blighting property acquired under the bill for reasonable and valuable consideration. A municipality could transfer the property after the transferee presented a development plan for the property and guaranteed the transferee's financial ability to implement the development plan.

Donation of Property. To encourage the donation or transfer of blighting property, a municipality could accept from all persons with a legal interest in the property a deed conveying their interests, instead of foreclosure of the property for delinquent property taxes.

A municipality could not offer or accept a deed instead of foreclosure if the blighting property had been forfeited to a county treasurer under the General Property Tax Act and remained subject to foreclosure, or the blighting property had been foreclosed under the General Property Tax Act, and had not been transferred by the foreclosing governmental unit.

If a municipality accepted a deed instead of foreclosure, all of the following would be extinguished: any unpaid taxes levied under the General Property Tax Act; all liens against

the property, except future installments of special assessments and liens recorded by the State pursuant to the Natural Resources and Environmental Protection Act (NREPA); and all existing recorded and unrecorded interests in the property, except a visible or recorded easement or right-of-way, private deed restriction, or restriction imposed under the NREPA.

At least 30 days before accepting a deed, a municipality would have to inform each taxing jurisdiction that had levied taxes on the blighting property. Each taxing jurisdiction would have to be afforded the opportunity to inform the municipality of the revenue impact of the issuance of a deed instead of foreclosure, and to show cause why the municipality should not accept a deed.

A municipality would be required to record any deed in the office of the register of deeds, and to pay any applicable recording costs. Further, a municipality would have to forward a copy of a deed to the treasurer of the city, village, or township, and to the treasurer of the county where the property was located.

To encourage the donation or transfer of blighting property, a municipality could forgive fines levied by the municipality against the property, or fines relating to the property levied against a person with a legal interest in it.

Proceeds. If a property obtained by a municipality were subsequently sold for an amount exceeding any costs incurred by the municipality relating to demolition, renovation, improvement, or infrastructure development, the excess amount would have to be returned on a pro rata basis to any taxing jurisdiction affected by the extinguishment of taxes, as a result of the designation of the property as blighting property. Upon the request of any taxing jurisdiction in which the blighting property was located, the municipality would have to provide cost information regarding any subsequent sale or transfer of the property.

#### Other Provisions

The bill provides that the powers granted under it would be in addition to powers granted to municipalities under the statutes and local charters.

The bill also specifies that nothing contained in it could be construed to amend or repeal any provisions of Public Act 18 of 1933 (Extra Session) (MCL 125.651-125.709c), which allows local governments to establish housing commissions, or of Public Act 344 of 1945 (MCL 125.71-125.84), which allows local governments to rehabilitate blighted property.

Legislative Analyst: N. Nagata

#### **FISCAL IMPACT**

The bill would reduce both State and local property tax revenues by an unknown, but likely minimal, amount. The fiscal impact would depend upon the number of properties declared as blighted and the value, location and applicable millage rates for such properties. Blighted properties generally have low values and the fiscal impact would be determined by the affected properties on which property taxes were delinquent, thus suggesting any impact would be minimal. The fiscal impact assumes that at some time a local unit would be able to recover such delinquent taxes.

The bill also would increase local unit expenses by an unknown, although likely minimal, amount. To declare a property as blighted, a local unit would be required to incur certain expenses, such as those for publication of notices, the filing of certain documents, and in the case of contested judgments, court costs.

Fiscal Analyst: D. Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.