

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4028

A bill to establish procedures for municipalities to designate individual lots or structures as blighting; to purchase or condemn blighting property; to transfer blighting property for development; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. The powers granted in this act relating to the des-
2 ignation and transfer for development of blighting property con-
3 stitute the performance by this state or a political subdivision
4 of this state of essential public purposes and functions.

5 Sec. 2. As used in this act:

6 (a) "Attractive nuisance" means a condition on property that
7 children are reasonably likely to come in contact with or be
8 exposed to and that involves an unreasonable risk of death or
9 serious bodily harm to children.

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1 (b) "Blighting property", subject to subdivision (c), means
2 property that is likely to have a negative financial impact on
3 the value of surrounding property or on the increase in value of
4 surrounding property and that meets any of the following
5 criteria:

6 (i) The property has been declared a public nuisance in
7 accordance with a local housing, building, plumbing, fire, or
8 other related code or ordinance.

9 (ii) The property is an attractive nuisance because of phys-
10 ical condition, use, or occupancy. A structure or lot is not
11 blighting property under this subparagraph because of an activity
12 that is inherent to the functioning of a lawful business.

13 (iii) The property is a fire hazard or is otherwise danger-
14 ous to the safety of persons or property.

15 (iv) The property has had the utilities, plumbing, heating,
16 or sewerage permanently disconnected, destroyed, removed, or
17 rendered ineffective so that the property is unfit for its
18 intended use.

19 (v) A portion of a building or structure located on the
20 property has been damaged by any event so that the structural
21 strength or stability of the building or structure is appreciably
22 less than it was before the event and does not meet the minimum
23 requirements of the housing law of Michigan, 1917 PA 167,
24 MCL 125.401 to 125.543, or a building code of the city, village,
25 or township in which the building or structure is located for a
26 new building or structure.

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1 (vi) A building or structure or part of a building or
2 structure located on the property is likely to fall, become
3 detached or dislodged, or collapse and injure persons or damage
4 property.

5 (vii) A building or structure located on the property used
6 or intended to be used as a dwelling, including the adjoining
7 grounds, because of dilapidation, decay, damage, or faulty con-
8 struction; accumulation of trash or debris; an infestation of
9 rodents or other vermin; or any other reason, is unsanitary or
10 unfit for human habitation, is in a condition that a local health
11 officer determines is likely to cause sickness or disease, or is
12 likely to injure the health, safety, or general welfare of people
13 living in the dwelling.

14 (c) "Blighting property" does not include any of the
15 following:

16 (i) Structures or lots, whether improved or unimproved, that
17 are inherent to the functioning of a farm or farm operation as
18 those terms are defined in section 2 of the Michigan right to
19 farm act, 1981 PA 93, MCL 286.472.

20 (ii) Structures or lots, whether improved or unimproved,
21 that are industrial properties in an area zoned industrial and
22 that are current on tax obligations.

23 (iii) Track belonging to a railroad company, right-of-way
24 belonging to a railroad company, rolling stock belonging to a
25 railroad company, or any other property necessarily used in oper-
26 ating a railroad in this state belonging to a railroad company.

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1 (iv) A single family dwelling for which the owner claims a
2 homestead exemption under section 7cc of the general property tax
3 act, 1893 PA 206, MCL 211.7cc.

4 (d) "Dwelling" means any house, building, structure, tent,
5 shelter, trailer, or vehicle, or portion thereof, which is occu-
6 pied in whole or in part as the home, residence, or living or
7 sleeping place of 1 or more human beings, either permanently or
8 transiently. Dwelling does not include railroad rolling stock on
9 tracks or rights-of-way.

10 (e) "Fire hazard" means that term as defined in section 1 of
11 the fire prevention code, 1941 PA 207, MCL 29.1.

12 (f) "Municipality" means a city, village, or township in
13 this state or a county described in section 3(1)(b).

14 (g) "Person" means an individual, partnership, association,
15 trust, or corporation, or any other legal entity.

16 (h) "Public nuisance" means an unreasonable interference
17 with a common right enjoyed by the general public involving con-
18 duct that significantly interferes, or that is known or should
19 have been known to significantly interfere, with the public's
20 health, safety, peace, comfort, or convenience, including conduct
21 prescribed by law.

22 (i) "Taxing jurisdiction" means a jurisdiction, including,
23 but not limited to, this state, an agency of this state, a state
24 authority, an intergovernmental authority of this state, a school
25 district, or a municipality, that levies taxes under the general
26 property tax act, 1893 PA 206, MCL 211.1 to 211.157.

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1 Sec. 3. (1) Except as provided in subsection (3), a city,
2 village, or township may do 1 of the following:

3 (a) Designate a structure or lot within its jurisdiction as
4 blighting property and acquire title to the blighting property by
5 purchase, gift, exchange, or condemnation under the procedures
6 set forth in sections 4 through 7, except that a township may
7 take these actions within a village only upon adoption by a vil-
8 lage of a resolution under subdivision (c).

9 (b) Upon entering into a written agreement with the county
10 within which the city, village, or township is located, adopt a
11 resolution transferring the authority provided in subdivision (a)
12 to that county. The written agreement shall be entered into with
13 the county executive of a county that elects a county executive
14 or with the county board of commissioners of any other county.

15 (c) In the case of a village, adopt a resolution transfer-
16 ring the authority provided in subdivision (a) to the township
17 within which the village is located.

18 (2) Except as provided in subsection (3), upon adoption by a
19 city, village, or township of a resolution under
20 subsection (1)(b), a county may designate a structure or lot as
21 blighting property and acquire fee simple title in the blighting
22 property by purchase, gift, exchange, or condemnation under the
23 procedures set forth in sections 4 through 7.

24 (3) A municipality shall not designate a property as blight-
25 ing property if the property has been forfeited to a county trea-
26 surer under section 78g of the general property tax act, 1893
27 PA 206, MCL 211.78g, and remains subject to foreclosure under

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1 section 78k of the general property tax act, 1893 PA 206,
2 MCL 211.78k.

3 (4) A municipality shall not designate a property as blight-
4 ing property based solely on the presence of native grasses or
5 plants indigenous to Michigan that are planted or maintained as
6 part of a garden or designated wildlife area or for landscaping,
7 erosion control, or weed control purposes.

8 Sec. 4. (1) A municipality that proposes to designate a
9 property as blighting property under section 3 shall hold a hear-
10 ing on the designation. The hearing shall take place not less
11 than 42 days, and not more than 119 days, after the municipality
12 provides written notice of the hearing and the proposed designa-
13 tion as required by this section. A municipality may hold the
14 hearing more than 119 days after it provides written notice only
15 if an extension is requested by a person with a legal interest in
16 the property that is contesting the blighting designation.

17 (2) The written notice provided under this section shall
18 explain, in plain English, that the property is subject to desig-
19 nation as blighting property, and shall include all of the
20 following:

21 (a) The time, date, and location of the hearing.

22 (b) A description, including the street address, of the
23 property subject to designation as blighting property.

24 (c) An explanation of the reasons the municipality considers
25 the property to be blighting property.

26 (d) The name, address, and telephone number of the person to
27 whom communications about the hearing may be addressed.

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1 (e) Names, addresses, and telephone numbers of public and
2 private agencies or other resources that may be available to
3 assist an occupant of the property to avoid the designation of
4 the property as blighting property or to obtain comparable safe,
5 decent, and quality affordable housing.

6 (f) A description of the improvements that should be made to
7 the property before the hearing to avoid designation of the prop-
8 erty as blighting.

9 (3) The municipality shall perform a thorough title search
10 to identify all persons with a legal interest in the property.
11 The municipality shall take the following steps to provide notice
12 to any person with a legal interest in the property:

13 (a) Determine the address reasonably calculated to apprise
14 those persons with a legal interest in the property of the pen-
15 dency of the hearing under this section and send notice of the
16 hearing to each person with a legal interest in the property by
17 certified mail, return receipt requested, not less than 42 days
18 before the hearing.

19 (b) Send a representative to the property to ascertain per-
20 sonally whether or not the property is occupied. If the property
21 appears to be occupied, the municipality shall do all of the fol-
22 lowing not less than 42 days before the hearing:

23 (i) Make reasonable efforts in good faith personally to
24 serve upon a person occupying the property a copy of the written
25 notice described in subsection (2).

26 (ii) If a person occupying the property is personally
27 served, orally inform the occupant of both of the following:

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1 (A) That the property may be designated as blighting
2 property.

3 (B) Public and private agencies or other resources that may
4 be available to assist the occupant to avoid the designation of
5 the property as blighting property or to obtain comparable safe,
6 decent, and quality affordable housing.

7 (iii) If the occupant indicates that he or she has a health
8 problem that affects his or her ability to make improvements that
9 will cause the property no longer to meet the definition of
10 blighting property or if it should be apparent to the representa-
11 tive of the municipality that the occupant has such a health
12 problem, place the occupant with an appropriate public or private
13 agency to assist the occupant to avoid the designation of the property as
14 blighting property.

15 (iv) If the occupant appears to lack the ability to under-
16 stand the advice given or is unwilling to cooperate, provide the
17 occupant with the names and telephone numbers of public and pri-
18 vate agencies that may be able to assist the occupant.

19 (v) If an authorized representative of the municipality is
20 not able personally to meet with the occupant, place the written
21 notice at a conspicuous location on the property.

22 (c) Correct any deficiency that the municipality may know of
23 in the provision of the notice required by this section as soon
24 as practicable before designating the property as blighting
25 property.

26 (d) If the municipality is unable to ascertain the address
27 reasonably calculated to apprise all persons with a legal
interest in the property of the pendency of the hearing, or is

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1 unable to deliver notice to any occupant of the property, service
2 of the notice shall be made by publication. The notice shall be
3 published for 3 successive weeks, once each week, in a newspaper
4 published and circulated in the county in which the property is
5 located, if there is one. If no paper is published in that
6 county, publication shall be made in a newspaper published and
7 circulated in an adjoining county.

8 (4) Any notice provided under this section shall include an
9 explanation of any tax benefits or other incentives offered by
10 the municipality that may encourage the transfer of the blighting
11 property.

12 Sec. 5. (1) Upon the mailing of the notice under section 4,
13 the representative of the municipality responsible for the mail-
14 ing of the notice shall file proof of the notice provided with
15 the register of deeds of the county within which the property
16 subject to designation as blighting property is located. The
17 proof of notice shall be in the form of an affidavit and shall
18 include all of the following:

19 (a) A description of the content of the notice provided.

20 (b) The name or names of the person or persons to whom the
21 notice was addressed.

22 (c) A statement that the property is subject to designation
23 as blighting property and subsequent transfer or condemnation.

24 (2) An affidavit recorded under subsection (1) creates a
25 rebuttable presumption in the courts of this state that any
26 person obtaining a legal interest in property subject to
27 designation as blighting property following the recording of the

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1 affidavit by the representative of the municipality was properly
2 notified that the property was subject to designation as blight-
3 ing property and of the consequences of that designation, includ-
4 ing, but not limited to, the condemnation of the property or the
5 transfer of the property to the municipality or another person.

6 (3) If a representative of a municipality records an affida-
7 vit under subsection (1) and the municipality subsequently does
8 not designate the property as blighting property, the municipal-
9 ity shall record as soon as practicable notice properly certified
10 by a representative of the municipality and in the form of an
11 affidavit that the property was not designated as blighting prop-
12 erty and that the municipality no longer seeks to designate the
13 property as blighting property.

14 Sec. 6. (1) A person with a legal interest in the property
15 may contest the proposed designation of any property as blighting
16 property at the hearing held by the municipality under section 4
17 by doing 1 of the following:

18 (a) Appear at the hearing and show cause why the property
19 should not be designated as blighting property.

20 (b) If incarcerated, impaired, or otherwise unable to attend
21 a public hearing, submit a written presentation to show cause why
22 the property should not be designated as blighting property.

23 (2) If a person with a legal interest in the property demon-
24 strates at the hearing that improvements to the property have
25 been made or are actively being made that will cause the property
26 no longer to meet the definition of blighting property, the
27 municipality shall delay the designation of the property as

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1 blighting for 91 days. If at the end of that 91 days the
2 municipality finds that the property no longer meets the defini-
3 tion of blighting property, the municipality shall issue a cer-
4 tificate stating that the property is not blighting property.

5 (3) If after the notice and hearing required by this act the
6 municipality determines that the property is blighting property,
7 the municipality shall designate the property as blighting prop-
8 erty and provide public notice of the designation.

9 (4) A municipality may at any time suspend proceedings lead-
10 ing to the designation of property as blighting property if a
11 person with a legal interest in the property enters into an
12 agreement with the municipality establishing an improvement plan
13 for the property and a schedule for completion of the
14 improvements.

15 (5) A person with a legal interest in property that a munic-
16 ipality has designated as blighting property may appeal that
17 decision to the circuit court in the jurisdiction within which
18 the property is located within 28 days of the designation. The
19 circuit court shall review the municipal decision using the stan-
20 dard of review for administrative decisions that is set forth in
21 section 28 of article VI of the state constitution of 1963.

22 (6) If a person with a legal interest in a property that a
23 municipality designates as blighting appeals the municipal deci-
24 sion and the decision is reversed by a court of appropriate
25 jurisdiction and the court determines that the municipality was
26 acting arbitrarily or in bad faith, the court may award the
27 successful appellant the costs, including, but not limited to,

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1 attorney fees, actually and reasonably incurred by the person in
2 making the appeal.

3 Sec. 7. (1) A municipality may offer to purchase property
4 designated as blighting property under this act at the fair
5 market value or to acquire the property by donation or exchange.
6 If the offer is rejected, the municipality may institute proceed-
7 ings under the power of eminent domain under the laws of this
8 state or provisions of any local charter relative to
9 condemnation.

10 (2) Except as otherwise provided in subsection (3), within
11 119 days after a municipality acquires title to a blighting prop-
12 erty or a condemnation award for the blighting property is
13 ordered under the uniform condemnation procedures act, 1980
14 PA 87, MCL 213.5 to 213.75, whichever is later, the municipality
15 shall either transfer the property for development or have
16 adopted a written development plan for the property.

17 (3) A municipality that under subsection (2) transfers title
18 to a blighting property that is classified as residential may
19 transfer the property for affordable low income housing to a
20 person that has experience with and is able to demonstrate finan-
21 cial capacity developing affordable low income housing. A munic-
22 ipality that does not transfer title to a blighting property that
23 is classified as residential under subsection (2) shall develop
24 the property in accordance with the written development plan
25 adopted under subsection (2).

26 (4) If a municipality fails to comply with subsection (2) or
27 (3), a person whose legal interest in the property was conveyed

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1 by sale, donation, exchange, or condemnation as provided for
2 under subsection (1) may bring an action in the circuit court to
3 compel the municipality to convey that legal interest back to
4 that person. Upon a finding that the person bringing the action
5 has a plan likely to result in the development of that property
6 consistent with applicable law and that the municipality has not
7 complied with subsection (2) or (3), the court shall enter an
8 order restoring the person's legal interest in the property. An
9 order entered under this subsection shall require all of the
10 following:

11 (a) That all amounts paid in consideration for the property,
12 including any taxes extinguished under section 8, be repaid and,
13 if applicable, distributed to the appropriate taxing
14 jurisdiction.

15 (b) That all costs incurred by the municipality for demoli-
16 tion, environmental response activities, title clearance, and
17 site preparation be repaid.

18 (c) That the court retain jurisdiction to determine if the
19 development plan presented by the petitioner is implemented.

20 Sec. 8. (1) To encourage the donation or transfer of prop-
21 erty designated as blighting property under this act, the munici-
22 pality may accept from all persons with a legal interest in the
23 blighting property a deed conveying those persons' interests in
24 the blighting property in lieu of foreclosure of the blighting
25 property for delinquent property taxes. A municipality shall not
26 offer or accept a deed in lieu of foreclosure if either of the
27 following applies:

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1 (a) The blighting property has been forfeited to a county
2 treasurer under section 78g of the general property tax act, 1893
3 PA 206, MCL 211.78g, and remains subject to foreclosure under
4 section 78k of the general property tax act, 1893 PA 206,
5 MCL 211.78k.

6 (b) The blighting property has been foreclosed under section
7 78k of the general property tax act, 1893 PA 206, MCL 211.78k,
8 and has not been transferred by the foreclosing governmental unit
9 under section 78m of the general property tax act, 1893 PA 206,
10 MCL 211.78m.

11 (2) If, under subsection (1), the municipality accepts a
12 deed in lieu of foreclosure, all of the following shall occur:

13 (a) Any unpaid taxes levied under the general property tax
14 act, 1893 PA 206, MCL 211.1 to 211.157, are extinguished.

15 (b) All liens against the property, except future install-
16 ments of special assessments and liens recorded by this state
17 pursuant to the natural resources and environmental protection
18 act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.

19 (c) All existing recorded and unrecorded interests in that
20 property are extinguished, except a visible or recorded easement
21 or right-of-way, private deed restriction, or restriction imposed
22 under the natural resources and environmental protection act,
23 1994 PA 451, MCL 324.101 to 324.90106.

24 (3) Not less than 28 days prior to acceptance of a deed in
25 lieu of foreclosure under this section, a municipality shall
26 inform each taxing jurisdiction that has levied taxes on the
27 blighting property under the general property tax act, 1893

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1 PA 206, MCL 211.1 to 211.157. Each taxing jurisdiction shall be
2 afforded the opportunity to inform the municipality of the reve-
3 nue impact of the issuance of a deed in lieu of foreclosure and
4 to show cause why the municipality should not accept a deed in
5 lieu of foreclosure.

6 (4) A municipality shall record any deed in lieu of foreclo-
7 sure in the office of the register of deeds in the county within
8 which the property is located and pay any applicable recording
9 costs.

10 (5) A municipality shall forward a copy of a deed in lieu of
11 foreclosure recorded under subsection (4) to the treasurer of the
12 city, village, or township, and to the treasurer of the county,
13 within which the property is located.

14 (6) To encourage the donation or transfer of blighting prop-
15 erty, a municipality may forgive fines levied by the municipality
16 against the property or fines relating to the property levied
17 against a person with a legal interest in the property.

18 Sec. 9. (1) For reasonable and valuable consideration, a
19 municipality may transfer for development property designated as
20 blighting property and acquired under this act. A municipality
21 may transfer the blighting property after the transferee presents
22 all of the following:

23 (a) A development plan for the property.

24 (b) Guarantees of the transferee's financial ability to
25 implement the development plan for the blighting property.

26 (2) If property obtained by a municipality under this act is
27 subsequently sold by the municipality for an amount in excess of

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1 any costs incurred by the municipality relating to demolition,
2 renovation, improvements, or infrastructure development, the
3 excess amount shall be returned on a pro rata basis to any taxing
4 jurisdiction affected by the extinguishment of taxes under sec-
5 tion 8 as a result of the designation of the property as blight-
6 ing property to the extent necessary to offset the extinguishment
7 of taxes under section 8. Upon the request of any taxing juris-
8 diction in which the blighting property is located, the munici-
9 pality shall provide to the requesting taxing jurisdiction cost
10 information regarding any subsequent sale or transfer by the
11 municipality of the blighting property.

12 Sec. 10. The powers granted in this act are in addition to
13 powers granted to municipalities under the statutes and local
14 charters. Nothing contained in this act shall be construed to
15 amend or repeal any of the provisions of 1933 (Ex Sess) PA 18,
16 MCL 125.651 to 125.709c, or of 1945 PA 344, MCL 125.71 to
17 125.84.

18 Enacting section 1. This act is repealed 5 years after the
19 effective date of this act.