

Act No. 27
Public Acts of 2002
Approved by the Governor
March 5, 2002
Filed with the Secretary of State
March 6, 2002
EFFECTIVE DATE: March 6, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Reps. Richner and Cassis

ENROLLED HOUSE BILL No. 4028

AN ACT 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:

Sec. 1. 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.

Sec. 2. As used in this act:

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

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

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

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

(iii) The property is a fire hazard or is otherwise dangerous to the safety of persons or property.

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

(v) A portion of a building or structure located on the property has been damaged by any event so that the structural strength or stability of the building or structure is appreciably less than it was before the event and does not meet the

minimum requirements of the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, or a building code of the city, village, or township in which the building or structure is located for a new building or structure.

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

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

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

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

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

(iii) Track belonging to a railroad company, right-of-way belonging to a railroad company, 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.

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

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

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

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

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

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

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

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

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

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

(c) In the case of a village, adopt a resolution transferring the authority provided in subdivision (a) to the township within which the village is located.

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

(3) A municipality shall not designate a property as blighting property if the property has been forfeited to a county treasurer under section 78g of the general property tax act, 1893 PA 206, MCL 211.78g, and remains subject to foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k.

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

Sec. 4. (1) A municipality that proposes to designate a property as blighting property under section 3 shall hold a hearing on the designation. The hearing shall take place not less than 42 days, and not more than 119 days, after the

municipality provides written notice of the hearing and the proposed designation as required by this section. A municipality may hold the hearing more than 119 days after it provides written notice only if an extension is requested by a person with a legal interest in the property that is contesting the blighting designation.

(2) The written notice provided under this section shall explain, in plain English, that the property is subject to designation as blighting property, and shall include all of the following:

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

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

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

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

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

(f) A description of the improvements that should be made to the property before the hearing to avoid designation of the property as blighting.

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

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

(b) Send a representative to the property to ascertain personally whether or not the property is occupied. If the property appears to be occupied, the municipality shall do all of the following not less than 42 days before the hearing:

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

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

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

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

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

(iv) If the occupant appears to lack the ability to understand the advice given or is unwilling to cooperate, provide the occupant with the names and telephone numbers of public and private agencies that may be able to assist the occupant.

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

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

(d) If the municipality is unable to ascertain the address reasonably calculated to apprise all persons with a legal interest in the property of the pendency of the hearing, or is unable to deliver notice to any occupant of the property, service of the notice shall be made by publication. The notice shall be published for 3 successive weeks, once each week, in a newspaper published and circulated in the county in which the property is located, if there is one. If no paper is published in that county, publication shall be made in a newspaper published and circulated in an adjoining county.

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

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

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

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

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

(2) An affidavit recorded under subsection (1) creates a rebuttable presumption in the courts of this state that any person obtaining a legal interest in property subject to designation as blighting property following the recording of the affidavit by the representative of the municipality was properly notified that the property was subject to designation as blighting property and of the consequences of that designation, including, but not limited to, the condemnation of the property or the transfer of the property to the municipality or another person.

(3) If a representative of a municipality records an affidavit under subsection (1) and the municipality subsequently does not designate the property as blighting property, the municipality shall record as soon as practicable notice properly certified by a representative of the municipality and in the form of an affidavit that the property was not designated as blighting property and that the municipality no longer seeks to designate the property as blighting property.

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

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

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

(2) If a person with a legal interest in the property demonstrates at the hearing that improvements to the property have been made or are actively being made that will cause the property no longer to meet the definition of blighting property, the municipality shall delay the designation of the property as blighting for 91 days. If at the end of that 91 days the municipality finds that the property no longer meets the definition of blighting property, the municipality shall issue a certificate stating that the property is not blighting property.

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

(4) A municipality may at any time suspend proceedings leading to the designation of property as blighting property if a person with a legal interest in the property enters into an agreement with the municipality establishing an improvement plan for the property and a schedule for completion of the improvements.

(5) A person with a legal interest in property that a municipality has designated as blighting property may appeal that decision to the circuit court in the jurisdiction within which the property is located within 28 days of the designation. The circuit court shall review the municipal decision using the standard of review for administrative decisions that is set forth in section 28 of article VI of the state constitution of 1963.

(6) If a person with a legal interest in a property that a municipality designates as blighting appeals the municipal decision and the decision is reversed by a court of appropriate jurisdiction and the court determines that the municipality was acting arbitrarily or in bad faith, the court may award the successful appellant the costs, including, but not limited to, attorney fees, actually and reasonably incurred by the person in making the appeal.

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

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

(3) A municipality that under subsection (2) transfers title to a blighting property that is classified as residential may transfer the property for affordable low income housing to a person that has experience with and is able to demonstrate financial capacity developing affordable low income housing. A municipality that does not transfer title to a blighting property that is classified as residential under subsection (2) shall develop the property in accordance with the written development plan adopted under subsection (2).

(4) If a municipality fails to comply with subsection (2) or (3), a person whose legal interest in the property was conveyed by sale, donation, exchange, or condemnation as provided for under subsection (1) may 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 bringing the action has a plan likely to result in the development of that property consistent with applicable law and that the municipality has not complied with subsection (2) or (3), the court shall enter an order restoring the person's legal interest in the property. An order entered under this subsection shall require all of the following:

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

(b) That all costs incurred by the municipality for demolition, environmental response activities, title clearance, and site preparation be repaid.

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

Sec. 8. (1) To encourage the donation or transfer of property designated as blighting property under this act, the municipality may accept from all persons with a legal interest in the blighting property a deed conveying those persons' interests in the blighting property in lieu of foreclosure of the blighting property for delinquent property taxes. A municipality shall not offer or accept a deed in lieu of foreclosure if either of the following applies:

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

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

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

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

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

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

(3) Not less than 28 days prior to acceptance of a deed in lieu of foreclosure under this section, a municipality shall inform each taxing jurisdiction that has levied taxes on the blighting property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. Each taxing jurisdiction shall be afforded the opportunity to inform the municipality of the revenue impact of the issuance of a deed in lieu of foreclosure and to show cause why the municipality should not accept a deed in lieu of foreclosure.

(4) A municipality shall record any deed in lieu of foreclosure in the office of the register of deeds in the county within which the property is located and pay any applicable recording costs.

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

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

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

(a) A development plan for the property.

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

(2) If property obtained by a municipality under this act is subsequently sold by the municipality for an amount in excess of any costs incurred by the municipality relating to demolition, renovation, improvements, or infrastructure development, the excess amount shall be returned on a pro rata basis to any taxing jurisdiction affected by the extinguishment of taxes under section 8 as a result of the designation of the property as blighting property to the extent necessary to offset the extinguishment of taxes under section 8. Upon the request of any taxing jurisdiction in which the blighting property is located, the municipality shall provide to the requesting taxing jurisdiction cost information regarding any subsequent sale or transfer by the municipality of the blighting property.


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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.