

SUBSTITUTE FOR
SENATE BILL NO. 249

A bill to create the educational instruction access act; to limit the powers of local governmental bodies regarding the selling, transferring, leasing, or renting of property; and to provide remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "educational instruction access act".

3 Sec. 3. As used in this act:

4 (a) "Educational institution" means any of the following:

5 (i) A school district, an intermediate school district, or a
6 public school academy as those terms are defined in sections 4 to 6
7 of the revised school code, 1976 PA 451, MCL 380.4 to 380.6.

8 (ii) A community college established under the community

1 college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or under
2 part 25 of the revised school code, 1976 PA 451, MCL 380.1601 to
3 380.1607.

4 (b) "Local governmental body" means any local government or
5 its subdivision, including, but not limited to, a city, village,
6 township, county, or educational institution; a local public
7 authority, agency, board, commission, or other local governmental,
8 quasi-governmental, or quasi-public body; or a public body that
9 acts or purports to act in a commercial, business, economic
10 development, or similar capacity for a local government or its
11 subdivision.

12 (c) "Private school" means a private, denominational, or
13 parochial school as described in section 2 of 1921 PA 302, MCL
14 388.552.

15 Sec. 5. (1) Except as otherwise provided in this subsection, a
16 local governmental body shall not adopt, enforce, or administer an
17 ordinance, local policy, or local resolution that prohibits
18 property sold, leased, or transferred by the local governmental
19 body from being used for any lawful educational purpose by an
20 educational institution or private school. This subsection does not
21 apply to either of the following:

22 (a) A zoning ordinance adopted by the local governmental body
23 under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101
24 to 125.3702.

25 (b) The administrative review of a site plan as provided in
26 section 1263(4) of the revised school code, 1976 PA 451, MCL
27 380.1263.

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1 (2) A local governmental body shall not impose any deed
2 restriction that prohibits property sold, leased, or transferred by
3 the local governmental body from being used for any lawful
4 educational purpose by an educational institution or private
5 school. Any such deed restriction in effect on the effective date
6 of this subsection is void.

7 (3) If a local governmental body offers property of the local
8 governmental body for sale, lease, or rent, the local governmental
9 body shall not refuse to sell, lease, or rent the property to an
10 educational institution or private school solely because the
11 educational institution or private school intends to use the
12 property for an educational purpose, if the intent of the
13 educational institution or private school is to use the property
14 for a lawful educational purpose. If a local governmental body
15 offers property of the local governmental body for sale, lease, or
16 rent, the local governmental body is not required to sell, lease,
17 or rent the property to an educational institution or private
18 school solely because the educational institution or private school
19 intends to use the property for an educational purpose. This
20 subsection does not require a local governmental body to do either
21 of the following:

22 (a) Provide special notice of property offers to an
23 educational institution or a private school.

24 (b) Provide a right of first refusal to an educational
25 institution or a private school.

26 Sec. 7. (1) If a local governmental body is <<allegedly>> not
27 complying with this act, <<the attorney general, prosecuting attorney of the county in
which the local governmental body serves, or educational institution or
private school aggrieved by the local governmental body may provide
written notice of noncompliance to the local governmental body. If the
local governmental body fails to cure the noncompliance within 30 days
after receiving the written notice of noncompliance,>> the attorney
general, prosecuting attorney of the county

1 in which the local governmental body serves, or educational
2 institution or private school aggrieved by the local governmental
3 body may commence a civil action to compel compliance or to enjoin
4 further noncompliance with this act.

5 (2) An action for injunctive relief against a local
6 governmental body must be commenced in the circuit court, and venue
7 is proper in any county in which the local governmental body
8 serves. If an educational institution or private school commences
9 an action for injunctive relief, that educational institution or
10 private school is not required to post security as a condition for
11 obtaining a preliminary injunction or a temporary restraining
12 order.

13 (3) If a local governmental body is not complying with this
14 act, and an educational institution or private school commences a
15 civil action against the local governmental body for injunctive
16 relief to compel compliance or to enjoin further noncompliance with
17 the act and succeeds in obtaining relief in the action, the
18 educational institution or private school may recover court costs
19 and reasonable attorney fees for the action.