

HOUSE BILL No. 5202

September 21, 2005, Introduced by Reps. Tobocman, Kathleen Law, Hopgood, Bieda, Clemente, Kolb, Lipsey, Murphy, Cheeks and Lemmons, III and referred to the Committee on Local Government and Urban Policy.

A bill to amend 2002 PA 27, entitled

"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,"

by amending sections 2 and 4 (MCL 125.2802 and 125.2804), section 2 as amended by 2003 PA 129.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

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

6 (b) "Blighting property", subject to subdivision (c), means

1 property that is likely to have a negative financial impact on the
2 value of surrounding property or on the increase in value of
3 surrounding property and that meets any of the following criteria:

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

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

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

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

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

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

27 (vii) A building or structure located on the property used or

1 intended to be used as a dwelling **OR FOR INDUSTRIAL USE**, including
2 the adjoining grounds, because of dilapidation, decay, damage, or
3 faulty construction; accumulation of trash or debris; an
4 infestation of rodents or other vermin; or any other reason, is
5 unsanitary or unfit for human habitation, is in a condition that a
6 local health officer determines is likely to cause sickness or
7 disease, or is likely to injure the health, safety, or general
8 welfare of people living in the dwelling.

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

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

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

18 (ii) ~~(iii)~~ Track belonging to a railroad company, right-of-way
19 belonging to a railroad company, rolling stock belonging to a
20 railroad company, or any other property necessarily used in
21 operating a railroad in this state belonging to a railroad company.

22 (iii) ~~(iv)~~ A single family dwelling for which the owner claims
23 an exemption under section 7cc of the general property tax act,
24 1893 PA 206, MCL 211.7cc.

25 (d) "Dwelling" means any house, building, structure, tent,
26 shelter, trailer, or vehicle, or portion thereof, which is occupied
27 in whole or in part as the home, residence, or living or sleeping

1 place of 1 or more human beings, either permanently or transiently.
2 Dwelling does not include railroad rolling stock on tracks or
3 rights-of-way.

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

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

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

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

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

21 Sec. 4. (1) A municipality that proposes to designate a
22 property as blighting property under section 3 shall hold a hearing
23 on the designation. The hearing shall take place not less than 42
24 days, and not more than 119 days, after the municipality provides
25 written notice of the hearing and the proposed designation as
26 required by this section. A municipality may hold the hearing more
27 than 119 days after it provides written notice only if an extension

1 is requested by a person with a legal interest in the property that
2 is contesting the blighting designation.

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

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

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

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

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

14 (e) Names, addresses, and telephone numbers of public and
15 private agencies or other resources that may be available to assist
16 an occupant of the property to avoid the designation of the
17 property as blighting property or, **IF THE PROPERTY IS A DWELLING,**
18 to obtain comparable safe, decent, and quality affordable housing.

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

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

26 (a) Determine the address reasonably calculated to apprise
27 those persons with a legal interest in the property of the pendency

1 of the hearing under this section and send notice of the hearing to
2 each person with a legal interest in the property by certified
3 mail, return receipt requested, not less than 42 days before the
4 hearing.

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

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

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

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

15 (B) Public and private agencies or other resources that may be
16 available to assist the occupant to avoid the designation of the
17 property as blighting property or, **IF THE PROPERTY IS A DWELLING,**
18 to obtain comparable safe, decent, and quality affordable housing.

19 (iii) If **THE PROPERTY IS A DWELLING AND** the occupant indicates
20 that he or she has a health problem that affects his or her ability
21 to make improvements that will cause the property no longer to meet
22 the definition of blighting property or if it should be apparent to
23 the representative of the municipality that the occupant has such a
24 health problem, place the occupant with an appropriate public or
25 private agency to assist the occupant to avoid the designation of
26 the property as blighting property.

27 (iv) If the occupant appears to lack the ability to understand

1 the advice given or is unwilling to cooperate, provide the occupant
2 with the names and telephone numbers of public and private agencies
3 that may be able to assist the occupant.

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

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

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

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

24 Enacting section 1. This amendatory act takes effect January
25 1, 2006.