

# SENATE BILL No. 139

February 28, 1991, Introduced by Senators FAUST, V. SMITH, VAUGHN, CRUCE, DE GROW, DI NELLO, CHERRY, KELLY, CONROY, HOLMES, STABENOW, SCHWARZ, MC MANUS, HART, BERRYMAN, DINGELL, GAST, EHLERS, KOIVISTO and POLLACK and referred to the Committee on Local Government and Reapportionment.

A bill to amend sections 139, 140, 141, and 142 of Act No. 167 of the Public Acts of 1917, entitled as amended "Housing law of Michigan," being sections 125.539, 125.540, 125.541, and 125.542 of the Michigan Compiled Laws; and to add section 141a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 139, 140, 141, and 142 of Act No. 167  
2 of the Public Acts of 1917, being sections 125.539, 125.540,  
3 125.541, and 125.542 of the Michigan Compiled Laws, are amended  
4 and section 141a is added to read as follows:

5 Sec. 139. As used in sections 138 to 142, "dangerous  
6 building" means ~~any~~ A building or structure ~~which~~ THAT has  
7 ~~any~~ 1 OR MORE of the following defects or is in ~~any~~ 1 OR MORE  
8 of the following conditions:

1       (a) ~~Whenever any~~ A door, aisle, passageway, stairway, or  
2 other means of exit does not conform to the approved fire code of  
3 the ~~community wherein the property lies, it shall be considered~~  
4 ~~that such dwelling does not meet the requirements of this act~~  
5 CITY, VILLAGE, OR TOWNSHIP IN WHICH THE BUILDING OR STRUCTURE IS  
6 LOCATED.

7       (b) ~~Whenever any~~ A portion ~~has been~~ OF THE BUILDING OR  
8 STRUCTURE IS damaged by fire, wind, flood, or ~~by any~~ other  
9 cause ~~in such a manner~~ SO that the structural strength or sta-  
10 bility OF THE BUILDING OR STRUCTURE is appreciably less than it  
11 was before ~~such~~ THE catastrophe and ~~is less than~~ DOES NOT  
12 MEET the minimum requirements of this act or ~~any~~ A building  
13 code of the city, village, or township ~~wherein~~ IN WHICH the  
14 building OR STRUCTURE is located for a new building or ~~similar~~  
15 structure, purpose, or location.

16       (c) ~~Whenever any portion, or member, or appurtenance~~ A  
17 PART OF THE BUILDING OR STRUCTURE is likely to fall, ~~or to~~  
18 become detached or dislodged, or ~~to~~ collapse and ~~thereby~~  
19 injure persons or damage property.

20       (d) ~~Whenever any~~ A portion OF THE BUILDING OR STRUCTURE  
21 has settled to such an extent that walls or other structural por-  
22 tions OF THE BUILDING OR STRUCTURE have materially less resis-  
23 tance to ~~winds~~ WIND than is required in the case of new con-  
24 struction by this act or ~~the~~ A building code of the city, vil-  
25 lage, or township ~~where~~ IN WHICH the building OR STRUCTURE is  
26 located.

1       (e) ~~Whenever the~~ THE building ~~,~~ or structure, or ~~any~~ A  
2 part OF THE BUILDING OR STRUCTURE, because of dilapidation,  
3 deterioration, decay, faulty construction, or ~~because of~~ the  
4 removal or movement of some portion of the ground necessary for  
5 the ~~purpose of supporting such building, or portion thereof~~  
6 SUPPORT, or for other reason, is likely to partially or com-  
7 pletely collapse, or some portion of the foundation or underpin-  
8 ning OF THE BUILDING OR STRUCTURE is likely to fall or give way.

9       (f) ~~Whenever, for any reason, whatsoever the~~ THE building,  
10 ~~or~~ structure, or ~~any portion~~ A PART OF THE BUILDING OR  
11 STRUCTURE is manifestly unsafe for the purpose for which it is  
12 used.

13       (g) ~~Whenever the~~ THE building or structure ~~has been so~~  
14 IS damaged by fire, wind, or flood, or ~~has become so~~ IS dilapi-  
15 dated or deteriorated ~~as to become~~ AND BECOMES an attractive  
16 nuisance to children who might play ~~therein~~ IN THE BUILDING OR  
17 STRUCTURE to their danger, or ~~as to afford~~ BECOMES a harbor for  
18 vagrants, criminals, or immoral persons, or ~~as to enable~~  
19 ENABLES persons to resort ~~thereto~~ TO THE BUILDING OR STRUCTURE  
20 for ~~the purpose of~~ committing a nuisance or AN unlawful or  
21 immoral ~~acts~~ ACT.

22       (h) ~~Whenever a~~ A building or structure used or intended to  
23 be used for dwelling purposes, because of dilapidation, decay,  
24 damage, ~~or~~ faulty construction or arrangement, or otherwise, is  
25 unsanitary or unfit for human habitation, ~~or~~ is in a condition  
26 that THE HEALTH OFFICER DETERMINES is likely to cause sickness or  
27 disease, ~~when so determined by the health officer,~~ or is likely

1 to ~~work injury to~~ INJURE the health, safety, or general welfare  
2 of ~~these~~ PEOPLE living ~~within~~ IN THE DWELLING.

3 (i) ~~Whenever any~~ A building ~~becomes~~ OR STRUCTURE IS  
4 vacant, dilapidated, and open at door or window, leaving the  
5 interior of the building exposed to the elements or accessible to  
6 entrance by trespassers.

7 (J) A BUILDING OR STRUCTURE USED OR INTENDED TO BE USED FOR  
8 DWELLING PURPOSES REMAINS UNOCCUPIED FOR A PERIOD OF  
9 180 CONSECUTIVE DAYS OR LONGER. THIS SUBDIVISION DOES NOT APPLY  
10 IF THE OWNER OR AGENT MAINTAINS THE EXTERIOR OF THE DWELLING AND  
11 ADJOINING GROUNDS IN A CONDITION THAT REASONABLY GIVES THE  
12 APPEARANCE THAT THE DWELLING IS INHABITED DURING THE PERIOD IN  
13 WHICH THE DWELLING IS UNOCCUPIED.

14 Sec. 140. (1) Notwithstanding any other provision of this  
15 act, ~~when the whole or any part of any~~ IF A building or struc-  
16 ture is found to be ~~in~~ a dangerous ~~or unsafe condition~~  
17 BUILDING, the enforcing agency shall issue a notice ~~of~~ THAT the  
18 BUILDING OR STRUCTURE IS A dangerous ~~and unsafe condition~~  
19 BUILDING.

20 (2) ~~Such~~ THE notice shall be ~~directed to~~ SERVED ON the  
21 owner, agent, or lessee THAT IS registered with the enforcing  
22 agency ~~in accordance with~~ UNDER section 125. If ~~no~~ AN owner,  
23 agent, or lessee ~~has been~~ IS NOT registered ~~, then~~ UNDER  
24 SECTION 125, the notice shall be ~~directed to~~ SERVED ON each  
25 owner of or party in interest in the building OR STRUCTURE in  
26 whose name the property appears on the last local tax assessment  
27 records.

1       (3) The notice shall specify the time and place of a hearing  
2 on WHETHER the ~~condition of the~~ BUILDING OR STRUCTURE IS A  
3 DANGEROUS building. ~~or structure at which time and place the~~  
4 THE person to whom the notice is directed shall have the opportu-  
5 nity to show cause AT THE HEARING why the ~~building or structure~~  
6 HEARING OFFICER should not ~~be ordered~~ ORDER THE BUILDING OR  
7 STRUCTURE to be demolished, ~~or~~ otherwise made safe, OR PROPERLY  
8 MAINTAINED.

9       (4) The hearing officer shall be appointed by the mayor,  
10 village president, or township supervisor to serve at his OR HER  
11 pleasure. THE HEARING OFFICER SHALL BE REGISTERED AS A BUILDING  
12 OFFICIAL, PLAN REVIEWER, OR INSPECTOR UNDER THE BUILDING OFFI-  
13 CIALS AND INSPECTORS REGISTRATION ACT, ACT NO. 54 OF THE PUBLIC  
14 ACTS OF 1986, BEING SECTIONS 338.2301 TO 338.2313 OF THE MICHIGAN  
15 COMPILED LAWS. The enforcing agency shall file a copy of the  
16 notice ~~of~~ THAT the BUILDING OR STRUCTURE IS A dangerous ~~and~~  
17 ~~unsafe condition~~ BUILDING with the hearing officer.

18       (5) ~~All notices~~ THE NOTICE shall be in writing and shall  
19 be served upon the person to whom ~~they are~~ THE NOTICE IS  
20 directed EITHER personally ~~,~~ or ~~in lieu of personal service~~  
21 ~~may be mailed~~ by certified ~~mail--return~~ MAIL, RETURN receipt  
22 requested, addressed to ~~such~~ THE owner or party in interest at  
23 the address shown on the tax records. ~~,~~ ~~at least 10 days before~~  
24 ~~the date of the hearing described in the notice.~~ If any person  
25 ~~to whom a notice is directed is not personally served, in addi-~~  
26 ~~tion to mailing the notice, a copy thereof~~ IF A NOTICE IS SERVED  
27 ON A PERSON BY CERTIFIED MAIL, A COPY OF THE NOTICE shall ALSO be

1 posted upon a conspicuous part of the building or structure. THE  
2 NOTICE SHALL BE SERVED UPON THE OWNER OR PARTY IN INTEREST AT  
3 LEAST 10 DAYS BEFORE THE DATE OF THE HEARING INCLUDED IN THE  
4 NOTICE.

5       Sec. 141. (1) ~~The~~ AT A HEARING PRESCRIBED BY SECTION 140,  
6 THE hearing officer shall take testimony of the enforcing agency,  
7 the owner of the property, and any interested party. The hearing  
8 officer shall render ~~his~~ A decision either closing the proceed-  
9 ings or ordering the building ~~to be~~ OR STRUCTURE demolished,  
10 ~~or~~ otherwise made safe, OR PROPERLY MAINTAINED.

11       (2) If ~~it is determined by~~ the hearing officer DETERMINES  
12 that the building or structure should be demolished, ~~or~~ other-  
13 wise made safe, ~~he~~ OR PROPERLY MAINTAINED, THE HEARING OFFICER  
14 shall so order, fixing a time in the order NOT TO EXCEED 15 DAYS  
15 for the owner, agent, or lessee to comply ~~therewith~~ WITH THE  
16 ORDER. IF THE BUILDING OR STRUCTURE IS A DANGEROUS BUILDING  
17 UNDER SECTION 139(J), THE ORDER MAY REQUIRE THE OWNER OR AGENT TO  
18 MAINTAIN THE EXTERIOR OF THE DWELLING AND ADJOINING GROUNDS OWNED  
19 BY THE OWNER OF THE DWELLING, INCLUDING, BUT NOT LIMITED TO,  
20 MAINTAINING LAWNS, TREES, AND SHRUBS.

21       (3) If the owner, agent, or lessee fails to appear or  
22 neglects or refuses to comply with the order ISSUED UNDER  
23 SUBSECTION (2), the hearing officer shall file a report of ~~his~~  
24 THE findings and a copy of ~~his~~ THE order with the legislative  
25 body of the city, village, or township and request that ~~the~~  
26 necessary action be taken to ~~demolish or otherwise make safe the~~  
27 ~~building or structure~~ ENFORCE THE ORDER. IF THE LEGISLATIVE BODY

1 OF THE CITY, VILLAGE, OR TOWNSHIP HAS ESTABLISHED A BOARD OF  
2 APPEALS PURSUANT TO SECTION 141A, THE HEARING OFFICER SHALL FILE  
3 THE REPORT OF THE FINDINGS AND A COPY OF THE ORDER WITH THE BOARD  
4 OF APPEALS AND REQUEST THAT NECESSARY ACTION BE TAKEN TO ENFORCE  
5 THE ORDER. A copy of the findings and order of the hearing offi-  
6 cer shall be served on the owner, agent, or lessee in the manner  
7 prescribed in section 140.

8 (4) The legislative body OR THE BOARD OF APPEALS of the  
9 city, village, or township, AS APPLICABLE, shall fix a date NOT  
10 LESS THAN 30 DAYS AFTER THE HEARING PRESCRIBED IN SECTION 140 for  
11 A hearing ~~—, reviewing—~~ ON the findings and order of the hearing  
12 officer and shall give notice to the owner, agent, or lessee in  
13 the manner prescribed in section 140 of the time and place of the  
14 hearing. At the hearing, the owner, agent, or lessee shall be  
15 given the opportunity to show cause why the ~~—building should not~~  
16 ~~be demolished or otherwise made safe and the~~ ORDER SHOULD NOT BE  
17 ENFORCED. THE legislative body OR THE BOARD OF APPEALS of the  
18 city, village, or township, AS APPLICABLE, shall ~~—either—~~  
19 approve, disapprove, or modify the order. ~~—for the demolition or~~  
20 ~~making safe of the building or structure.—~~ IF THE ORDER IS  
21 APPROVED OR MODIFIED, THE OWNER, AGENT, OR LESSEE SHALL COMPLY  
22 WITH THE ORDER WITHIN 60 DAYS AFTER THE DATE OF THE HEARING UNDER  
23 THIS SUBSECTION. IN THE CASE OF AN ORDER OF DEMOLITION, IF THE  
24 LEGISLATIVE BODY OR THE BOARD OF APPEALS OF THE CITY, VILLAGE, OR  
25 TOWNSHIP DETERMINES THAT THE BUILDING OR STRUCTURE HAS BEEN SUB-  
26 STANTIALLY DESTROYED BY FIRE, WIND, FLOOD, OR OTHER NATURAL  
27 DISASTER, AND THE COST OF REPAIR OF THE BUILDING OR STRUCTURE

1 WILL BE GREATER THAN THE STATE EQUALIZED VALUE OF THE BUILDING OR  
2 STRUCTURE, THE OWNER, AGENT, OR LESSEE SHALL COMPLY WITH THE  
3 ORDER OF DEMOLITION WITHIN 21 DAYS AFTER THE DATE OF THE HEARING  
4 UNDER THIS SUBSECTION. A PERSON WHO FAILS OR REFUSES TO COMPLY  
5 WITH THE ORDER WITHIN THE TIME PRESCRIBED BY THIS SUBSECTION IS  
6 GUILTY OF A MISDEMEANOR, PUNISHABLE BY A FINE OF NOT MORE THAN  
7 \$500.00 OR IMPRISONMENT FOR NOT MORE THAN 90 DAYS, OR BOTH.

8 (5) The cost of the demolition, ~~or~~ OF making the building  
9 safe, OR OF MAINTAINING THE EXTERIOR OF THE BUILDING OR STRUC-  
10 TURE, OR GROUNDS ADJOINING THE BUILDING OR STRUCTURE INCURRED BY  
11 THE CITY, VILLAGE, OR TOWNSHIP TO BRING THE PROPERTY INTO CON-  
12 FORMANCE WITH THIS ACT shall be ~~a lien against the real property~~  
13 ~~and shall be reported to the assessing officer of the city, vil-~~  
14 ~~lage or township who shall assess the cost against the property~~  
15 ~~on which the building or structure is located~~ REIMBURSED TO THE  
16 CITY, VILLAGE, OR TOWNSHIP BY THE OWNER OR PARTY IN INTEREST IN  
17 WHOSE NAME THE PROPERTY APPEARS ON THE LAST LOCAL TAX ASSESSMENT  
18 RECORDS.

19 (6) The owner or party in interest in whose name the prop-  
20 erty appears upon the last local tax assessment records shall be  
21 notified BY THE ASSESSOR of the amount of ~~such~~ THE cost OF THE  
22 DEMOLITION, OF MAKING THE BUILDING SAFE, OR OF MAINTAINING THE  
23 EXTERIOR OF THE BUILDING OR STRUCTURE OR GROUNDS ADJOINING THE  
24 BUILDING OR STRUCTURE by first class mail at the address shown on  
25 the records. If ~~he~~ THE OWNER OR PARTY IN INTEREST fails to pay  
26 the ~~same~~ COST within 30 days after ~~mailing by~~ the assessor  
27 ~~of the~~ MAILS notice of the amount ~~thereof~~ OF THE COST, the



~~1 assessor shall add the same to the next tax roll of such city,~~  
~~2 village or township and the same~~ CITY, VILLAGE, OR TOWNSHIP  
3 SHALL HAVE A LIEN FOR THE COST INCURRED BY THE CITY, VILLAGE, OR  
4 TOWNSHIP TO BRING THE PROPERTY INTO CONFORMANCE WITH THIS ACT.  
5 HOWEVER, WITH RESPECT TO DWELLINGS, THE LIEN FOR THE COST SHALL  
6 NOT HAVE PRIORITY OVER LIENS AND ENCUMBRANCES FILED OR RECORDED  
7 BEFORE THE DATE ON WHICH THE COST WAS INCURRED. WITH RESPECT TO  
8 ALL OTHER PROPERTY, THE LIEN FOR THE COST shall be collected AND  
9 TREATED in the same manner ~~in all respects~~ as provided ~~by law~~  
~~10 for the collection of taxes by such city, village or township~~  
11 FOR PROPERTY TAX LIENS UNDER THE GENERAL PROPERTY TAX ACT, ACT  
12 NO. 206 OF THE PUBLIC ACTS OF 1893, BEING SECTIONS 211.1 TO  
13 211.157 OF THE MICHIGAN COMPILED LAWS.

14 (7) IN ADDITION TO OTHER REMEDIES UNDER THIS ACT, THE CITY,  
15 VILLAGE, OR TOWNSHIP MAY BRING AN ACTION AGAINST THE OWNER OF THE  
16 BUILDING OR STRUCTURE FOR THE FULL COST OF ENFORCING THIS ACT,  
17 DEMOLITION, MAKING THE BUILDING SAFE, OR MAINTAINING THE EXTERIOR  
18 OF THE BUILDING OR STRUCTURE OR GROUNDS ADJOINING THE BUILDING OR  
19 STRUCTURE. A JUDGMENT IN AN ACTION PURSUANT TO THIS SUBSECTION  
20 MAY BE ENFORCED AGAINST ASSETS OF THE OWNER OTHER THAN THE BUILD-  
21 ING OR STRUCTURE.

22 (8) A CITY, VILLAGE, OR TOWNSHIP THAT OBTAINS A JUDGMENT  
23 PURSUANT TO SUBSECTION (7) SHALL HAVE A LIEN FOR THE AMOUNT OF  
24 THE JUDGMENT AGAINST ALL REAL PROPERTY LOCATED IN THIS STATE THAT  
25 IS OWNED IN WHOLE OR IN PART BY THE OWNER OF THE BUILDING OR  
26 STRUCTURE AGAINST WHOM THE JUDGMENT IS OBTAINED. A LIEN PROVIDED  
27 FOR IN THIS SUBSECTION SHALL NOT TAKE EFFECT UNTIL NOTICE OF THE

1 LIEN IS FILED OR RECORDED AS REQUIRED BY LAW. A LIEN PROVIDED  
2 FOR IN THIS SUBSECTION DOES NOT HAVE PRIORITY OVER PRIOR FILED OR  
3 RECORDED LIENS AND ENCUMBRANCES.

4 SEC. 141A. (1) THE LEGISLATIVE BODY OF A CITY, VILLAGE, OR  
5 TOWNSHIP MAY ESTABLISH A BOARD OF APPEALS TO HEAR ALL OF THE  
6 CASES AND CARRY OUT ALL OF THE DUTIES OF THE LEGISLATIVE BODY  
7 DESCRIBED IN SECTION 141(3) AND (4).

8 (2) THE BOARD OF APPEALS SHALL BE APPOINTED BY THE LEGISLA-  
9 TIVE BODY OF THE CITY, VILLAGE, OR TOWNSHIP AND SHALL CONSIST OF  
10 THE FOLLOWING MEMBERS:

11 (A) A BUILDING CONTRACTOR.

12 (B) A REGISTERED ARCHITECT OR ENGINEER.

13 (C) TWO MEMBERS OF THE GENERAL PUBLIC.

14 (D) AN INDIVIDUAL REGISTERED AS A BUILDING OFFICIAL, PLAN  
15 REVIEWER, OR INSPECTOR UNDER THE BUILDING OFFICIALS AND INSPEC-  
16 TORS REGISTRATION ACT, ACT NO. 54 OF THE PUBLIC ACTS OF 1986,  
17 BEING SECTIONS 338.2301 TO 338.2313 OF THE MICHIGAN COMPILED  
18 LAWS. THE INDIVIDUAL MAY BE AN EMPLOYEE OF THE ENFORCING AGENCY  
19 FOR THE LEGISLATIVE BODY.

20 (3) BOARD OF APPEALS MEMBERS SHALL BE APPOINTED FOR 3 YEARS,  
21 EXCEPT THAT OF THE MEMBERS FIRST APPOINTED, 2 MEMBERS SHALL SERVE  
22 FOR 1 YEAR, 2 MEMBERS SHALL SERVE FOR 2 YEARS, AND 1 MEMBER SHALL  
23 SERVE FOR 3 YEARS. A VACANCY CREATED OTHER THAN BY EXPIRATION OF  
24 A TERM SHALL BE FILLED FOR THE BALANCE OF THE UNEXPIRED TERM IN  
25 THE SAME MANNER AS THE ORIGINAL APPOINTMENT. A MEMBER MAY BE  
26 REAPPOINTED FOR ADDITIONAL TERMS.

1 (4) THE BOARD OF APPEALS ANNUALLY SHALL ELECT A CHAIRPERSON,  
2 VICE-CHAIRPERSON, AND OTHER OFFICERS THAT THE BOARD CONSIDERS  
3 NECESSARY.

4 (5) A MAJORITY OF THE BOARD OF APPEALS MEMBERS APPOINTED AND  
5 SERVING CONSTITUTES A QUORUM. FINAL ACTION OF THE BOARD OF  
6 APPEALS SHALL BE ONLY BY AFFIRMATIVE VOTE OF A MAJORITY OF THE  
7 BOARD MEMBERS APPOINTED AND SERVING.

8 (6) THE LEGISLATIVE BODY OF THE CITY, VILLAGE, OR TOWNSHIP  
9 SHALL FIX THE PER DIEM COMPENSATION OF THE MEMBERS OF THE BOARD  
10 OF APPEALS. EXPENSES OF THE BOARD OF APPEALS INCURRED IN THE  
11 PERFORMANCE OF OFFICIAL DUTIES SHALL BE REIMBURSED AS PROVIDED BY  
12 LAW FOR EMPLOYEES OF THE LEGISLATIVE BODY OF THE CITY, VILLAGE,  
13 OR TOWNSHIP.

14 (7) A MEETING OF THE BOARD OF APPEALS SHALL BE HELD PURSUANT  
15 TO THE OPEN MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF 1976,  
16 BEING SECTIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED LAWS.  
17 PUBLIC NOTICE OF THE TIME, DATE, AND PLACE OF THE MEETING SHALL  
18 BE GIVEN IN THE MANNER REQUIRED BY ACT NO. 267 OF THE PUBLIC ACTS  
19 OF 1976.

20 (8) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF,  
21 OR RETAINED BY THE BOARD OF APPEALS IN THE PERFORMANCE OF AN  
22 OFFICIAL FUNCTION SHALL BE MADE AVAILABLE TO THE PUBLIC PURSUANT  
23 TO THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS  
24 OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED  
25 LAWS.

26 Sec. 142. An owner aggrieved by any final decision or order  
27 of the legislative body OR THE BOARD OF APPEALS under section 141

1 may appeal the decision or order to the circuit court by filing a  
2 petition for an order of superintending control within 20 days  
3 from the date of the decision.