

# Legislative Analysis



## EMINENT DOMAIN UNDER PUBLIC ACT 344 OF 1945

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### House Bill 6639

Sponsor: Rep. Leon Drolet

Committee: Government Operations

Complete to 12-4-06

### A SUMMARY OF HOUSE BILL 6639 AS INTRODUCED 11-14-06

The bill would amend Public Act 344 of 1945 (MCL 125.72, 125.73, and 125.75), which authorizes counties, cities, villages, and townships to adopt plans to prevent blight and to rehabilitate blighted areas. The bill would do the following:

- Add a new detailed definition of “blighted property.”
- Limit acquisitions of property by condemnation to "blighted property."
- Specify that eminent domain proceedings under the act would have to be instituted and prosecuted in accordance with the *State Constitution*, state laws, and any relevant local charter.
- Eliminate language in the statute declaring that the purposes contemplated by the statute are “public purposes” with respect to the power of eminent domain.

[The "blighted property" definition contained in the bill is the same as in House Bill 5060, which was tie-barred to the passage of Senate Bill 693 and the passage of Ballot Proposal 06-4. Senate Bill 693 did *not* contain a definition of "blighted property," and, because it was signed later, may have superseded House Bill 5060. The bill's "blighted property" definition is similar but not identical to the definition of "blighted property" in the Brownfield Redevelopment Financing Act (MCL 125.2652). House Bill 5060 amended Public Act 149 of 1911. This bill amends Public Act 344 of 1945.]

Definition of “blighted property.” Under the bill, “blighted property” would mean any of the following:

- The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- The property is an attractive nuisance because of physical condition or use.
- The property is a fire hazard or is otherwise dangerous to the safety of persons or property.
- The property has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for at least one year so that the property is unfit for its intended use.
- The property is tax reverted property owned by a qualified local governmental unit, by a county, or by the state. (The property would retain its "blighted" status under the

statute after a sale, lease, or transfer of tax reverted property by a local governmental unit, county, or the state.)

- The property is owned or under the control of a Land Bank Fast Track Authority, whether or not located within a qualified local governmental unit as that term is defined in the Brownfield Redevelopment Financing Act. (The property would retain its "blighted" status after a sale, lease, or transfer of the property by the Land Bank Fast Track Authority for purposes of the statute.)
- The property is improved real property that has remained vacant for five consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.
- The property has code violations posing a severe and immediate health or safety threat and has not been substantially rehabilitated within one year after the receipt of notice to rehabilitate from the appropriate code enforcement agency *or* final determination of any appeal, whichever is later.

Permissible municipal actions. For a permissible purpose, a municipality could do any of the following (the italicized words are new provisions):

- Acquire real property by purchase, gift or exchange;
- Acquire *blighted property as defined in the bill* by condemnation;
- Lease sell, renovate, improve, or exchange blighted property or other real property in accordance with the *State Constitution of 1963* and the act.

To accomplish the purposes of the act, the municipality would acquire fee simple title in real property by purchase, gift, or exchange, and could acquire fee simple title to blighted property by condemnation. The municipality would then be required to apply the blighted property and other real property to the expressed purposes of the act.

Condemnation actions. The bill would amend the section of the act dealing with condemnation proceedings in the following ways:

- A local legislative body could institute and prosecute condemnation proceedings only "with regard to blighted property."
- Such proceedings would not only have to be instituted and prosecuted in accordance with state laws and local charters, as the act currently reads, but also in accordance with the State Constitution.
- The bill would eliminate language declaring that the purposes of the act are "public purposes within the meaning of the constitution, state laws and charters relative to the power of eminent domain."
- The provision of the act that prevents resident owners in a development area from being dispossessed after condemnation proceedings until other adequate housing accommodations are available would remain in the Act with a minor stylistic change.

MCL 125.72, 125.73, and 125.75

**FISCAL IMPACT:**

The fiscal impact of land acquisition costs on local governmental entities from the passage of the bill cannot be determined because the number of purchase and the prices at which these purchases would occur is not known.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.