



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5078 (Substitute H-2 as passed by the House)
Sponsor: Representative Aldo Vagnozzi
House Committee: Commerce
Senate Committee: Government Operations

Date Completed: 12-12-06

CONTENT

The bill would amend Public Act 149 of 1911, which regulates the acquisition of property by State agencies and public corporations, to define the term "blighted".

The Act authorizes any public corporation or State agency to take private property necessary for a public improvement or for the purposes of its incorporation or for public use, and to institute and prosecute proceedings for that purpose. A unit of a State agency may acquire property by purchase, condemnation, or otherwise. For the purpose of condemnation, the unit of a State agency may proceed under the Act. (A "public corporation" is a county, city, village, board, commission, or agency incorporated for the management and control of public business and property.)

The taking of private property by a public corporation or a State agency for transfer to a private entity is not a public use "unless the proposed use of the property is invested with public attributes sufficient to fairly deem the entity's activity governmental" by one of three criteria. The criteria include that the property is selected on facts of independent public significance or concern, including blight, rather than the private interests of the entity to which the property eventually is transferred.

If a condemnation action involves a taking of private property because it is blighted, the burden of proof is on the condemning authority to demonstrate, by clear and convincing evidence, that the taking of that property is for a public use.

Under the bill, "blighted" would mean property that meets any of the following criteria:

- Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- Is an attractive nuisance because of physical condition or use.
- Is a fire hazard or is otherwise dangerous to the safety of people or property.
- Has 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.
- Is improved real property that has remained vacant for five consecutive years and is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.
- 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.

- Is tax reverted property owned by a municipality, a county, or the State.
- Is owned or under the control of a land bank fast track authority under the Land Bank Fast Track Act.

The bill specifies that the sale, lease, or transfer of tax reverted property or property owned by or under the control of a land bank fast track authority would not result in the loss to the property of the status as blighted for purposes of Public Act 149.

MCL 213.23

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.