

SUBSTITUTE FOR  
HOUSE BILL NO. 5060

A bill to amend 1911 PA 149, entitled

"An act to provide for the acquisition by purchase, condemnation and otherwise by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms "public corporations," "state agencies" and "private property" as used herein,"

by amending section 3 (MCL 213.23).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3. (1) Any public corporation or state agency is  
2       authorized to take private property necessary for a public  
3       improvement or for the purposes of its incorporation or ~~for public~~  
4       ~~purposes within the scope of its powers for the~~ PUBLIC use ~~or~~  
5       ~~benefit of the public~~ and to institute and prosecute proceedings  
6       for that purpose. When funds have been appropriated by the  
7       legislature to a state agency, ~~or~~ A division ~~thereof or~~ OF A

1   **STATE AGENCY**, the office of the governor, or a division ~~thereof~~  
2   **OF THE OFFICE OF THE GOVERNOR** for the purpose of acquiring lands or  
3   property for a designated public ~~purpose, such~~ **USE, THE** unit **OF A**  
4   **STATE AGENCY** to which the appropriation has been made is authorized  
5   on behalf of the people of the state of Michigan to acquire the  
6   lands or property either by purchase, condemnation, or otherwise.  
7   For the purpose of condemnation, the unit **OF A STATE AGENCY** may  
8   proceed under ~~the provisions of~~ this act.

9           (2) IF PRIVATE PROPERTY CONSISTING OF AN INDIVIDUAL'S  
10   PRINCIPAL RESIDENCE IS TAKEN FOR PUBLIC USE, THE AMOUNT OF  
11   COMPENSATION MADE AND DETERMINED FOR THAT TAKING SHALL BE NOT LESS  
12   THAN 125% OF THAT PROPERTY'S FAIR MARKET VALUE, IN ADDITION TO ANY  
13   OTHER REIMBURSEMENT ALLOWED BY LAW.

14           (3) IN A CONDEMNATION ACTION, THE BURDEN OF PROOF IS ON THE  
15   CONDEMNING AUTHORITY TO DEMONSTRATE, BY THE PREPONDERANCE OF THE  
16   EVIDENCE, THAT THE TAKING OF A PRIVATE PROPERTY IS FOR A PUBLIC  
17   USE, UNLESS THE CONDEMNATION ACTION INVOLVES A TAKING OF PRIVATE  
18   PROPERTY BECAUSE THE PROPERTY IS BLIGHTED, IN WHICH CASE THE BURDEN  
19   OF PROOF IS ON THE CONDEMNING AUTHORITY TO DEMONSTRATE, BY CLEAR  
20   AND CONVINCING EVIDENCE, THAT THE TAKING OF THAT PROPERTY IS FOR A  
21   PUBLIC USE.

22           (4) AS USED IN THIS SECTION:

23           (A) "BLIGHTED" MEANS PROPERTY THAT MEETS ANY OF THE FOLLOWING  
24   CRITERIA:

25           (i) HAS BEEN DECLARED A PUBLIC NUISANCE IN ACCORDANCE WITH A  
26   LOCAL HOUSING, BUILDING, PLUMBING, FIRE, OR OTHER RELATED CODE OR  
27   ORDINANCE.

1           (ii) IS AN ATTRACTIVE NUISANCE BECAUSE OF PHYSICAL CONDITION OR  
2 USE.

3           (iii) IS A FIRE HAZARD OR IS OTHERWISE DANGEROUS TO THE SAFETY  
4 OF PERSONS OR PROPERTY.

5           (iv) HAS HAD THE UTILITIES, PLUMBING, HEATING, OR SEWERAGE  
6 DISCONNECTED, DESTROYED, REMOVED, OR RENDERED INEFFECTIVE FOR A  
7 PERIOD OF 1 YEAR OR MORE SO THAT THE PROPERTY IS UNFIT FOR ITS  
8 INTENDED USE.

9           (v) IS TAX REVERTED PROPERTY OWNED BY A QUALIFIED LOCAL  
10 GOVERNMENTAL UNIT, BY A COUNTY, OR BY THIS STATE. THE SALE, LEASE,  
11 OR TRANSFER OF TAX REVERTED PROPERTY BY A QUALIFIED LOCAL  
12 GOVERNMENTAL UNIT, COUNTY, OR THIS STATE SHALL NOT RESULT IN THE  
13 LOSS TO THE PROPERTY OF THE STATUS AS BLIGHTED FOR PURPOSES OF THIS  
14 ACT.

15           (vi) IS PROPERTY OWNED OR UNDER THE CONTROL OF A LAND BANK FAST  
16 TRACK AUTHORITY UNDER THE LAND BANK FAST TRACK ACT, 2003 PA 258,  
17 MCL 124.751 TO 124.774, WHETHER OR NOT LOCATED WITHIN A QUALIFIED  
18 LOCAL GOVERNMENTAL UNIT. THE SALE, LEASE, OR TRANSFER OF THE  
19 PROPERTY BY A LAND BANK FAST TRACK AUTHORITY SHALL NOT RESULT IN  
20 THE LOSS TO THE PROPERTY OF THE STATUS AS BLIGHTED FOR PURPOSES OF  
21 THIS ACT.

22           (vii) IS IMPROVED REAL PROPERTY THAT HAS REMAINED VACANT FOR 5  
23 CONSECUTIVE YEARS AND THAT IS NOT MAINTAINED IN ACCORDANCE WITH  
24 APPLICABLE LOCAL HOUSING OR PROPERTY MAINTENANCE CODES OR  
25 ORDINANCES.

26           (viii) ANY PROPERTY THAT HAS CODE VIOLATIONS POSING A SEVERE AND  
27 IMMEDIATE HEALTH OR SAFETY THREAT AND THAT HAS NOT BEEN

1 SUBSTANTIALLY REHABILITATED WITHIN 1 YEAR AFTER THE RECEIPT OF  
2 NOTICE TO REHABILITATE FROM THE APPROPRIATE CODE ENFORCEMENT AGENCY  
3 OR FINAL DETERMINATION OF ANY APPEAL, WHICHEVER IS LATER.

4 (B) "PUBLIC USE" DOES NOT INCLUDE THE TAKING OF PRIVATE  
5 PROPERTY FOR TRANSFER TO A PRIVATE ENTITY FOR THE PURPOSE OF  
6 ECONOMIC DEVELOPMENT OR ENHANCEMENT OF TAX REVENUES. PRIVATE  
7 PROPERTY OTHERWISE MAY BE TAKEN FOR REASONS OF PUBLIC USE AS THAT  
8 TERM IS UNDERSTOOD ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT  
9 ADDED THIS SUBDIVISION.

10 (C) "QUALIFIED LOCAL GOVERNMENTAL UNIT" MEANS THAT TERM AS  
11 DEFINED IN SECTION 2 OF THE BROWNFIELD REDEVELOPMENT FINANCING ACT,  
12 1996 PA 381, MCL 125.2652.

13 Enacting section 1. This amendatory act takes effect January  
14 1, 2007.

15 Enacting section 2. This amendatory act does not take effect  
16 unless Senate Bill No. 693 of the 93rd Legislature is enacted into  
17 law.