

Legislative Analysis



BLIGHT SIGNAGE VIOLATIONS; PENALTIES FOR NONCOMPLIANCE WITH BLIGHT VIOLATIONS

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House Bill 4868 as enrolled
Public Act 51 of 2008
Sponsor: Rep. Coleman Young

House Bill 5319 as enrolled
Public Act 50 of 2008
Sponsor: Rep. Shanelle Jackson

House Committee: Intergovernmental, Urban and Regional Affairs
Senate Committee: Local, Urban and State Affairs

Second Analysis (7-15-08)

BRIEF SUMMARY: The bills would amend the Home Rule City Act and the Housing Law of Michigan, respectively, to expand the list of potential blight violations to include right-of-way signage violations, as well as violations of local ordinances that are substantially the same as Sections 138 to 142 of the Housing Law and Michigan; and allow a home rule city to designate a violation of its local ordinance as a blight violation if that local ordinance is substantially similar to the state housing law.

FISCAL IMPACT: The bills would have no state fiscal impact. To the extent that fines are imposed, local revenue would increase by an unknown amount.

THE APPARENT PROBLEM:

In 2003, in order to relieve the backlogs in urban district courts and decriminalize certain ordinance violations, the Legislature enacted laws that allow certain Michigan municipalities (depending on their size) to establish administrative hearings bureaus. Under the Home Rule City Act, a hearings officer in an administrative hearings bureau can adjudicate and impose sanctions for violations of city charters or local ordinances. In particular, a city that establishes an administrative hearings bureau may enforce the violation of blight ordinances. See [Background Information](#).

Under the law, blight violations fall in six broad categories: zoning; buildings or property maintenance; solid waste and illegal dumping; disease and sanitation; noxious weeds; and vehicle abandonment, inoperative vehicles, vehicle impounding, and municipal vehicle licensing.

The municipal hearings bureau may set a fine schedule, and collect civil fines and costs for blight violations. No civil fine can exceed \$10,000.

According to committee testimony, the change in policy is working well in Michigan's largest city, Detroit. Recently, the *Detroit News* reported "...the Department of Administrative Hearings, commonly called blight court, is gaining on the problem of illegal dumping and dilapidated properties and is far superior to the system in the old days, when violators were taken to 36th District Court." (<http://www.detnews.com> 11-12-07) In the past three years, the city has collected 15 percent of \$26 million in fines it has issued. What's more, teams of citizen volunteers have worked to remove illegal signs throughout the city—sometimes taking down more than 150 signs in a single targeted area during a day's work.

Legislation has been proposed to expand the number of blight categories—to add right-of-way signage and dangerous buildings—in order to increase the municipal hearings bureaus' ability to better control urban blight.

THE CONTENT OF THE BILLS:

House Bill 4868

House Bill 4868 would amend the Home Rule City Act (MCL 117.4q and 117.4r) to expand the list of potential blight violations to include right-of-way signage violations, and local blight ordinances that are substantially the same as the Michigan Housing Law.

Currently under the law, certain cities (depending upon total population) may establish an administrative hearings bureau to adjudicate and impose sanctions for violations of their charters or their ordinances designated as blight violations. The bureau may set a fine schedule and collect civil fines and costs for such violations. No civil fine can exceed \$10,000. A city that establishes an administrative hearings bureau may designate a violation of any of the following types of ordinances as blight violation:

- Zoning.
- Building or property maintenance.
- Solid waste and illegal dumping.
- Disease and sanitation.
- Noxious weeds.
- Vehicle abandonment, inoperative vehicles, vehicle impoundment, and municipal vehicle licensing.

House Bill 4868 would retain these provisions, and add the following type of ordinance as a possible blight violation:

- Right-of-way signage, meaning the placement of signage in a right-of-way without a proper permit from the city.
- An ordinance that is substantially the same as sections 138 to 142 of the Housing Law of Michigan (MCL 125.538 to 125.542) [which concern dangerous buildings and orders to demolish them after a hearing before a hearing officer; boards of appeals; appeals; and noncompliance]

Under the current law, an administrative hearings bureau does not have jurisdiction over criminal offenses, traffic civil infractions, municipal civil infractions, or state civil infractions. And the bureau and its hearing officers do not have the authority to impose a penalty of incarceration or to impose a civil fine in excess of \$10,000. House Bill 4868 would retain these provisions. In addition, the bill specifies that this section of the law would not authorize a proceeding against a foreclosing governmental unit or an authority created under the Land Bank Fast Track Act.

Further, House Bill 4868 specifies that a city could waive a fine for a blight violation at an owner-occupied dwelling for a first-time offender, if the offender had corrected the circumstances for the violation.

The bill also updates references to the General Property Tax Act in the event of a lien against a dangerous property, as well as the reference to the Housing Law of Michigan in the event a city institutes an action in circuit court for the collection of a judgment imposed by an order for a blight violation.

House Bill 5319

House Bill 5319 would amend the Housing Law of Michigan (MCL 125.541b) to allow a home rule city to designate a violation of its ordinance as a blight violation, if its legislative body had enacted an ordinance that was substantially the same as Sections 138 to 145 of the state housing law. [These sections of the state law concern dangerous buildings and orders to demolish them after a hearing before a hearing officer; boards of appeals; appeals; and noncompliance.]

Currently under the state Housing Law, generally speaking, if a building or structure is found to be dangerous, notice is given to its owner, agent, or lessee by local officials, and a hearing date is set to determine whether the building is dangerous. That hearing is conducted by a hearing officer, according to protocols described in the law. A person who fails to comply with an order in a timely manner is guilty of a misdemeanor, punishable by imprisonment for not more than 120 days, or a fine of not more than \$1,000, or both.

House Bill 5319 would retain these provisions, but provide an exception that allows the legislative body of a home rule city that has enacted a local ordinance substantially the same as the state Housing Law to designate the violation of its ordinance as a blight violation (which carries a civil fine).

BACKGROUND INFORMATION:

In 2003, the Michigan Legislature enacted a six-bill package of laws Public Acts 316 - 321 (House Bills 5216-5220 and 5224) to help local governments eradicate urban blight. Among the new laws, one (Public Act 316) allowed certain cities to set up administrative hearings bureaus.

The House Legislative Analysis Section's enrolled analysis of that package, dated 9-1-04, notes that legislation in the mid-1990s established a procedure for initiating, adjudicating, and imposing sanctions for ordinance violations designated by a city, village, township, or county as "municipal civil infractions." Primarily, the types of infractions that could be designated as municipal civil infractions are related to zoning and building code violations, noxious weeds, and related ordinances. (The legislation specifically excluded certain violations relating to drunk driving, drug use, and other crimes from being designated as municipal civil infractions.) It was believed at the time that the municipal civil infraction system would enable local governments to expedite enforcement of building code violations and clean up properties with junked cars, tall weeds, and piles of rubbish.

In 2003, almost a decade later, some communities were still struggling with backlogs of months or years before an ordinance violation had a hearing in municipal or district court. With many district courts overwhelmed by serious criminal cases, municipal civil infractions often were given low priority. For example, in Detroit, the 36th District Court had limited the amount of time set aside to hear such cases to one judge three afternoons a week. Further, the low civil penalties (fines were capped at \$500) were not sufficient to stop chronic violators from illegal dumping that polluted streams, lakes, groundwater, and property. More than eyesores, these dilapidated properties, buildings with code violations, and dump sites posed serious health threats to residents and wildlife and discourage new residents and businesses from relocating in the area.

While Detroit and other urban areas struggled to clean up their communities, Chicago had initiated an intriguing approach that appeared to be successful. In 1997 the city established the Department of Administrative Hearings, the first such system in the nation. According to information supplied on that department's website, the department heard cases "involving some form of public disorder, blight or nuisance that may directly impact the public health, safety, welfare and quality-of-life" in the community. Seen as a way to hear ordinance violation cases in a fair, expedient, and cost-effective manner, attorneys serving as administrative law officers were presiding over 400,000 cases a year.

The laws enacted in 2003 allowed Detroit, as well as many of Michigan's other urban centers, to use the Chicago model to create administrative hearings bureaus that could more effectively deal with ordinance violations than the then-existing system of municipal civil infraction violations that had to be heard in a state court.

The legislation allowed cities organized under the Home Rule City Act to establish administrative hearings bureaus that would have the authority to issue violations and impose sanctions for certain types of ordinance violations, mainly those infractions contributing to blight.

To read about Detroit's experience with its administrative hearings bureau, see <http://www.detnews.com> "Detroit Finds Blight Fight Hard to Win: City Prosecutes More Cases, But Collecting Fines Difficult" by David Jones. November 12, 2007.

ARGUMENTS:

For:

According to committee testimony, the City of Detroit has 9,000 dangerous buildings that put residents and visitors at risk. Many of these structures have been damaged by fire, flood, wind, neglect, and vandalism. Each year the city sets aside money in its budget to raze about 1,000 of these threatening eyesores. The president of the Detroit City Council argues that the structures could be cleared more quickly and efficiently if municipalities were permitted to decriminalize their dangerous buildings ordinances and try such offences through their departments of administrative hearings. Further, the owners of dangerous buildings could be held responsible for demolition costs, if cities could file an action in circuit court to collect a judgment imposed by a municipal hearings officer for a blight violation.

These bills would allow cities to further eradicate blight from the urban landscape; promote the health, safety, and welfare of residents and visitors; maintain residential property values; advance civic pride and attract economic development; shift the costs of demolishing dangerous buildings from the taxpayers to the owners of such structures; and mitigate congestion in district court.

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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.