

# HOUSE BILL No. 5677

December 9, 2009, Introduced by Reps. Amash, Agema, Meekhof, Horn, Walsh, McMillin, Moss, Lori, Calley, Haveman, Daley, Genetski, Lund, Rogers, Kowall and Opsommer and referred to the Committee on Judiciary.

A bill to require just compensation for certain reductions in the value of real property due to land use regulations; and to require certain duties of certain governmental entities.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. As used in this act:

2       (a) "Land use regulation" means a statute, rule, ordinance,  
3 resolution, or law enacted by this state or a political subdivision  
4 of this state that regulates the use or division of land or any  
5 interest in land or that regulates accepted farming or forestry  
6 practices.

7       (b) "Governmental entity" means any of the following:

8       (i) The legislative branch of state government.

9       (ii) A board, commission, council, department, or other agency

1 in the executive branch of state government, including an  
2 institution of higher education.

3 (iii) A political subdivision of this state.

4 (c) "Owner" means a person with legal or equitable title to  
5 affected private real property.

6 (d) "Fair market value" means the price a buyer would pay a  
7 seller in a voluntary exchange.

8 (e) "Property" means an interest in private real property  
9 recognized by common law, including a groundwater or surface water  
10 right of any kind, that is not owned by the federal government,  
11 this state, or a political subdivision of this state.

12 Sec. 2. If a governmental entity enacts a land use regulation  
13 that restricts the use of property and that reduces the value of  
14 the property to the owner, then the owner is entitled to just  
15 compensation from the governmental entity that enacted the land use  
16 regulation.

17 Sec. 3. (1) The governmental entity that enacted the land use  
18 regulation that gives rise to a claim under section 2 shall provide  
19 just compensation for that claim.

20 (2) Just compensation under this act shall be based on the  
21 reduction in the fair market value of the property resulting from  
22 the land use regulation.

23 Sec. 4. This act does not apply to a land use regulation that  
24 was enacted before the effective date of this act or before the  
25 claimant's acquisition date, or to a land use regulation that does  
26 either of the following:

27 (a) Restricts or prohibits activities commonly and

1 historically recognized as public nuisances under common law.

2 (b) Is required by federal law.

3 Sec. 5. A governmental entity may adopt or apply procedures  
4 for the processing of claims for just compensation under this act.  
5 However, these procedures shall not be a prerequisite to the filing  
6 of a claim for just compensation under this act, and the failure of  
7 the owner to file an application for a land use permit with the  
8 governmental entity shall not serve as grounds for dismissal,  
9 abatement, or delay of a claim for just compensation under this  
10 act.

11 Sec. 6. For claims arising from land use regulations enacted  
12 on or after the effective date of this act, written demand for just  
13 compensation shall be made within 2 years after the enactment of  
14 the land use regulation, or within 2 years after the date the owner  
15 submits a land use application in which the land use regulation is  
16 an approval criterion, whichever is later.

17 Sec. 7. Just compensation is due the owner if the land use  
18 regulation continues to apply to the property 180 days after the  
19 owner makes written demand for just compensation under section 6 to  
20 the governmental entity enacting or enforcing the land use  
21 regulation.

22 Sec. 8. (1) If the land use regulation that is the subject of  
23 a claim for just compensation continues to apply to the property  
24 for more than 180 days after the owner has made written demand for  
25 just compensation under this act, then the owner, or any interest  
26 therein, may bring an action for just compensation under this act  
27 in the circuit court for the county in which the property is

1 located.

2 (2) In lieu of payment of just compensation under this act,  
3 the governmental entity responsible for enacting the land use  
4 regulation may modify or remove the land use regulation or land use  
5 regulations.

6 (3) The owner is entitled to reasonable attorney fees,  
7 expenses, costs, and other disbursements reasonably incurred in an  
8 action brought under this act.

9 Sec. 9. The remedies created by this act are in addition to  
10 any other remedy under the state constitution of 1963 or the United  
11 States constitution and are not intended to modify or replace any  
12 constitutional remedy.