

Act No. 569
Public Acts of 1996
Approved by the Governor
January 15, 1997
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January 16, 1997

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senators Schuette, Stille, North, McManus, Rogers, Gougeon, Gast, Cisky, A. Smith, Shugars, Steil, Stallings, Byrum, Peters, Bennett, Dunaskiss, Young, V. Smith and Bouchard

ENROLLED SENATE BILL No. 573

AN ACT to amend the title and sections 31 and 32 of Act No. 183 of the Public Acts of 1943, entitled as amended "An act to provide for the establishment in portions of counties lying outside the limits of incorporated cities and villages of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that are required for, and the maximum number of families that may be housed in dwellings, buildings, and structures that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise, of property that does not conform to the requirements of the zoning districts so provided; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for referenda; to provide for appeals; and to provide for the repeal of acts in conflict with this act," being sections 125.231 and 125.232 of the Michigan Compiled Laws; to add sections 33, 39, and 40; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Section 1. The title and sections 31 and 32 of Act No. 183 of the Public Acts of 1943, being sections 125.231 and 125.232 of the Michigan Compiled Laws, are amended and sections 33, 39, and 40 are added to read as follows:

TITLE

An act to provide for the establishment in portions of counties lying outside the limits of incorporated cities and villages of zoning districts within which the proper use of land and natural resources may be encouraged or regulated by ordinance, and for which districts provisions may also be adopted designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety, and protective measures that are required for, and the maximum number of families that may be housed in dwellings, buildings, and structures that are erected or altered; to designate the use of certain state licensed residential facilities; to provide for a method for the adoption of ordinances and amendments to ordinances; to provide for emergency interim ordinances; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise, of property that does not conform to the requirements of the zoning districts so provided; to provide for the administering of ordinances adopted; to provide for conflicts with other acts, ordinances, or regulations; to provide sanctions for violations; to provide for the assessment, levy, and collection of taxes; to provide for referenda; to provide for appeals; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; and to provide for special assessments.

Sec. 31. (1) The county board of commissioners of a county may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program, as provided under this section and sections 32 and 33. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 32 and 33 do not expand the condemnation authority of a county as otherwise provided for in this act. A PDR program shall not acquire development rights by condemnation. This section and sections 32 and 33 do not limit any authority that may otherwise be provided by law for a county to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

(2) A county shall not establish, finance, or administer a PDR program unless the county board of commissioners adopts a development rights ordinance. If the county has a zoning ordinance, the development rights ordinance may be adopted as part of the zoning ordinance pursuant to the procedures governing adoption of a zoning ordinance set forth in this act. Whether or not the county has a zoning ordinance, the development rights ordinance may be adopted as a separate ordinance pursuant to the procedures governing ordinance adoption in general.

(3) A county board of commissioners may promote and enter into agreements between counties, cities, villages, and townships for the purchase of development rights, including cross-jurisdictional purchase, subject to applicable development rights ordinances of counties and similar ordinances of cities, villages, and townships.

Sec. 32. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the county purchases development rights, but only from a willing landowner. A development rights ordinance providing for a PDR program shall specify all of the following:

(a) The public benefits that the county may seek through the purchase of development rights.

(b) The procedure by which the county or a landowner may by application initiate a purchase of development rights, which shall include city, village, or township approval if required under subsection (5).

(c) The development rights authorized to be purchased subject to a determination under standards and procedures required by subdivision (d).

(d) The standards and procedure to be followed by the county board of commissioners for approving, modifying, or rejecting an application to purchase development rights including the determination of all of the following:

(i) Whether to purchase development rights.

(ii) Which development rights to purchase.

(iii) The intensity of development permitted after the purchase on the land from which the development rights are purchased.

(iv) The price at which development rights will be purchased and the method of payment.

(v) The procedure for ensuring that the purchase or sale of development rights is legally fixed so as to run with the land.

(e) The circumstances under which an owner of land from which development rights have been purchased under a PDR program may repurchase those development rights and how the proceeds of the purchase are to be used by the county.

(2) If the county has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 3 upon which the zoning ordinance is based.

(3) Development rights acquired under a PDR program may be conveyed only as provided pursuant to subsection (1)(e).

(4) The county shall notify each city, village, or township in which is located land from which development rights are proposed to be purchased of the receipt of an application for the purchase of development rights and shall notify each such city, village, or township of the disposition of that application.

(5) The county shall not purchase development rights under a development rights ordinance from land subject to a city, village, or township zoning ordinance unless all of the following requirements are met:

(a) The development rights ordinance provisions for the PDR program are consistent with the plan upon which the city, village, or township zoning is based.

(b) The legislative body of the city, village, or township adopts a resolution authorizing the PDR program to apply in the city, village, or township.

(c) As part of the application procedure for the specific proposed purchase of development rights, the city, village, or township provides the county with written approval of the purchase.

Sec. 33. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the county.

(b) Proceeds from the sale of development rights by the county subject to section 32(3).

(c) Grants.

- (d) Donations.
- (e) Bonds or notes issued under subsections (2) to (6).
- (f) General fund revenue.
- (g) Special assessments under subsection (7).
- (h) Other sources approved by the county board of commissioners and permitted by law.

(2) The county board of commissioners may borrow money and issue bonds or notes under the municipal finance act, Act No. 202 of the Public Acts of 1943, being sections 131.1 to 139.3 of the Michigan Compiled Laws, subject to the general debt limit applicable to the county. The bonds or notes may be revenue bonds or notes; general obligation limited tax bonds or notes; subject to section 6 of article IX of the state constitution of 1963, general obligation unlimited tax bonds or notes; or bonds or notes to refund in advance bonds or notes issued under this section.

(3) The county board of commissioners may secure bonds or notes issued under this section by mortgage, assignment, or pledge of property including, but not limited to, anticipated tax collections, revenue sharing payments, or special assessment revenues. A pledge made by the county board of commissioners is valid and binding from the time the pledge is made. The pledge immediately shall be subject to the lien of the pledge without a filing or further act. The lien of the pledge shall be valid and binding as against parties having claims in tort, contract, or otherwise against the county, irrespective of whether the parties have notice of the lien. Filing of the resolution, the trust agreement, or another instrument by which a pledge is created is not required.

(4) Bonds or notes issued under this section are exempt from all taxation in this state except inheritance and transfer taxes, and the interest on the bonds or notes is exempt from all taxation in this state, notwithstanding that the interest may be subject to federal income tax.

(5) The bonds and notes issued under this section may be invested in by the state treasurer and all other public officers, state agencies and political subdivisions, insurance companies, banks, savings and loan associations, investment companies, and fiduciaries and trustees, and may be deposited with and received by the state treasurer and all other public officers and the agencies and political subdivisions of this state for all purposes for which the deposit of bonds or notes is authorized. The authority granted by this section is in addition to all other authority granted by law.

(6) The county board of commissioners may borrow money and issue bonds or notes for refunding all or part of existing bond or note indebtedness only if the net present value of the principal and interest to be paid on the refunding bonds or notes, excluding the cost of issuance, will be less than the net present value of the principal and interest to be paid on the bonds or notes being refunded, as calculated using a method approved by the department of treasury.

(7) A development rights ordinance may authorize the county board of commissioners to finance a PDR program by special assessments. In addition to meeting the requirements of section 32, the development rights ordinance shall include in the procedure to approve and establish a special assessment district both of the following:

- (a) The requirement that there be filed with the county board of commissioners a petition containing all of the following:
 - (i) A description of the development rights to be purchased, including a legal description of the land from which the purchase is to be made.
 - (ii) A description of the proposed special assessment district.
 - (iii) The signatures of the owners of at least 66% of the land area in the proposed special assessment district.
 - (iv) The amount and duration of the proposed special assessments.
- (b) The requirement that the county board of commissioners specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

Sec. 39. A township in which an ordinance enacted under the township zoning act, Act No. 184 of the Public Acts of 1943, being sections 125.271 to 125.310 of the Michigan Compiled Laws, is in effect is not subject, unless otherwise provided in this act, to an ordinance, rule, or regulation adopted under this act.

Sec. 40. (1) As used in this act:

- (a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including forage and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities.
- (b) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.
- (c) "Development rights ordinance" means an ordinance, which may comprise part of a zoning ordinance, adopted under section 31.

(d) "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(e) "Other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and that is not divided from that agricultural land by a state or federal limited access highway.

(f) "PDR program" means a program under section 32 for the purchase of development rights by a county.

(2) This act shall be known and may be cited as the "county zoning act".

Section 2. Section 27 of Act No. 184 of the Public Acts of 1943, being section 125.297 of the Michigan Compiled Laws, is repealed.

This act did not receive immediate effect and will take effect 90 days after the final adjournment of the Legislature.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.