

Act No. 571
Public Acts of 1996
Approved by the Governor
January 15, 1997
Filed with the Secretary of State
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. 575

AN ACT to amend the title of Act No. 207 of the Public Acts of 1921, entitled as amended "An act to provide for the establishment in cities and villages of districts or zones within which the use of land and structures and the height, area, size, and location of buildings may be regulated by ordinance, and for which districts regulations shall be established for the light and ventilation of those buildings, and for which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property that does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for amendments, supplements, or changes in zoning ordinances, zones, or districts; to provide for conflict with the state housing code or other acts, ordinances, or regulations; and to provide sanctions for the violation of this act," as amended, being sections 125.581 to 125.592 of the Michigan Compiled Laws; and to add sections 13, 14, 15, and 20.

The People of the State of Michigan enact:

Section 1. The title of Act No. 207 of the Public Acts of 1921, as amended, being sections 125.581 to 125.592 of the Michigan Compiled Laws, is amended and sections 13, 14, 15, and 20 are added to read as follows:

TITLE

An act to provide for the establishment in cities and villages of districts or zones within which the use of land and structures and the height, area, size, and location of buildings may be regulated by ordinance, and for which districts

regulations shall be established for the light and ventilation of those buildings, and for which districts or zones the density of population may be regulated by ordinance; to designate the use of certain state licensed residential facilities; to provide by ordinance for the acquisition by purchase, condemnation, or otherwise of private property that does not conform to the regulations and restrictions of the various zones or districts provided; to provide for the administering of this act; to provide for amendments, supplements, or changes in zoning ordinances, zones, or districts; to provide for conflict with the state housing code or other acts, ordinances, or regulations; to provide sanctions for the violation of this act; to authorize the purchase of development rights; to authorize the issuance of bonds and notes; and to provide for special assessments.

Sec. 13. (1) The legislative body of a city or village may adopt a development rights ordinance limited to the establishment, financing, and administration of a PDR program as provided under this section and sections 14 and 15. The PDR program may be used only to protect agricultural land and other eligible land. This section and sections 14 and 15 do not expand the condemnation authority of a city or village as otherwise provided for in this act. A PDR program shall not acquire development rights by condemnation. This section and sections 14 and 15 do not limit any authority that may otherwise be provided by law for a city or village to protect natural resources, preserve open space, provide for historic preservation, or accomplish similar purposes.

(2) A city or village shall not establish, finance, or administer a PDR program unless the legislative body of the city or village adopts a development rights ordinance. If the city or village 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 city or village 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) The legislative body of a city or village 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 cities and villages and similar ordinances of counties and townships.

Sec. 14. (1) A development rights ordinance shall provide for a PDR program. Under a PDR program, the city or village 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 city or village may seek through the purchase of development rights.

(b) The procedure by which the city or village or a landowner may by application initiate a purchase of development rights.

(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 legislative body of the city or village 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 city or village.

(2) If the city or village has a zoning ordinance, the purchase of development rights shall be consistent with the plan referred to in section 1 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).

Sec. 15. (1) A PDR program may be financed through 1 or more of the following sources:

(a) General appropriations by the city or village.

(b) Proceeds from the sale of development rights by the city or village subject to section 14(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 city or village and permitted by law.

(2) The city or village 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 city or village. 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 legislative body of the city or village 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 legislative body of the city or village 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 city or village, 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 legislative body of the city or village 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 legislative body of the city or village to finance a PDR program by special assessments. In addition to meeting the requirements of section 14, 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 legislative body 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 legislative body specify how the proposed purchase of development rights will specially benefit the land in the proposed special assessment district.

Sec. 20. (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 13.

(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 14 for the purchase of development rights by a city or village.

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

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

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.