



SENATE BILL No. 574

June 6, 1995, Introduced by Senators SCHUETTE, STILLE, NORTH, MC MANUS, ROGERS, GOUGEON, GAST and CISKY and referred to the Committee on Local, Urban and State Affairs.

A bill to amend the title and section 31 of Act No. 184 of the Public Acts of 1943, entitled as amended "The township rural zoning act," being section 125.301 of the Michigan Compiled Laws; and to add sections 32, 33, and 40.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 31 of Act No. 184 of the
2 Public Acts of 1943, being section 125.301 of the Michigan
3 Compiled Laws, are amended and sections 32, 33, and 40 are added
4 to read as follows:

TITLE

5
6 An act to provide for the establishment in townships of
7 zoning districts within which the proper use of land and natural
8 resources may be encouraged or regulated by ordinance, and for
9 which districts provisions may also be adopted designating the

1 location of, the size of, the uses that may be made of, the
2 minimum open spaces, sanitary, safety, and protective measures
3 that shall be required for, and the maximum number of families
4 that may be housed in dwellings, buildings, and structures,
5 including tents and trailer coaches, that are erected or altered;
6 to designate the use of certain state licensed residential facil-
7 ities; to provide for a method for the adoption of ordinances and
8 amendments to ordinances; to provide for emergency interim ordi-
9 nances; to provide for the acquisition by purchase, condemnation,
10 or otherwise of nonconforming property; to provide for the admin-
11 istering of ordinances adopted; to provide for conflicts with
12 other acts, ordinances, or regulations; to provide sanctions for
13 violations; to provide for the assessment, levy, and collection
14 of taxes; to provide for the collection of fees for building per-
15 mits; to provide for petitions, public hearings, and referenda;
16 to provide for appeals; ~~and to provide for the repeal of acts in~~
17 ~~conflict with this act~~ TO AUTHORIZE THE TRANSFER OF DEVELOPMENT
18 RIGHTS; TO AUTHORIZE THE ESTABLISHMENT OF AUTHORITIES TO PURCHASE
19 AND HOLD DEVELOPMENT RIGHTS; TO GRANT THE POWER OF EMINENT
20 DOMAIN; AND TO AUTHORIZE THE PURCHASE OF DEVELOPMENT RIGHTS.

21 Sec. 31. (1) ~~This act shall be known and may be cited as~~
22 ~~"The township rural zoning act."~~ THE TOWNSHIP BOARD OF A TOWN-
23 SHIP MAY ADOPT AN ORDINANCE TO AUTHORIZE THE TRANSFER OF DEVELOP-
24 MENT RIGHTS TO ACHIEVE A DEVELOPMENT RIGHTS BENEFIT. THE ORDI-
25 NANCE SHALL REQUIRE THAT, AS PART OF THE DETERMINATION TO TRANS-
26 FER DEVELOPMENT RIGHTS, THERE BE SPECIFIED THE DEVELOPMENT RIGHTS
27 THAT WILL REMAIN ON THE PROPERTY FROM WHICH THE DEVELOPMENT

1 RIGHTS ARE TO BE TRANSFERRED AND THE MEANS BY WHICH THE
2 LIMITATION OF USE OF THE PROPERTY SHALL BE LEGALLY FIXED AND
3 SHALL RUN WITH THE LAND. THE ORDINANCE SHALL SPECIFY ALL OF THE
4 FOLLOWING RELATIVE TO THE TRANSFER OF DEVELOPMENT RIGHTS:

5 (A) THE DEVELOPMENT RIGHTS BENEFITS THAT THE TOWNSHIP MAY
6 SEEK.

7 (B) THE PROCEDURES BY WHICH A TRANSFER OF DEVELOPMENT RIGHTS
8 MAY BE INITIATED BY THE TOWNSHIP OR BY A PROPERTY OWNER, INCLUD-
9 ING THE PROCEDURE AND DOCUMENTATION TO BE USED FOR THE TRANSFER
10 OF DEVELOPMENT RIGHTS.

11 (C) THE TYPE OF DEVELOPMENT RIGHTS THAT MAY BE TRANSFERRED.

12 (D) THE STANDARDS TO BE USED BY THE TOWNSHIP BOARD IN DETER-
13 MINING WHETHER TO GRANT A TRANSFER OF DEVELOPMENT RIGHTS.

14 (E) THE STANDARDS AND PROCEDURE FOR EVALUATING AND SPECIFY-
15 ING ALL OF THE FOLLOWING:

16 (i) THE DEVELOPMENT RIGHTS TO BE TRANSFERRED, INCLUDING A
17 FORMULA FOR MEASURING DEVELOPMENT RIGHTS.

18 (ii) THE USE OF DEVELOPMENT RIGHTS THAT WILL REMAIN ON THE
19 PROPERTY FROM WHICH THE TRANSFER OF DEVELOPMENT RIGHTS IS MADE.

20 (iii) THE IDENTITY OF THE PROPERTY TO WHICH THE TRANSFER OF
21 DEVELOPMENT RIGHTS IS MADE.

22 (iv) THE DEVELOPMENT PERMITTED, AFTER THE TRANSFER, ON THE
23 PROPERTY TO WHICH THE TRANSFER OF DEVELOPMENT RIGHTS IS MADE.

24 (F) WHETHER THE TRANSFER OF DEVELOPMENT RIGHTS TO OTHER
25 LOCAL UNITS OF GOVERNMENT IS PERMITTED AND, IF SO, THE CONTENTS
26 OF AN AGREEMENT TO BE EXECUTED BY THE LEGISLATIVE BODIES OF THE

1 LOCAL UNITS OF GOVERNMENT PROVIDING FOR THE TRANSFER OF
2 DEVELOPMENT RIGHTS.

3 (G) THE LOCATION OF SENDING ZONES.

4 (H) THE LOCATION OF RECEIVING ZONES. THE CAPACITY OF THE
5 RECEIVING ZONES SHALL BE SUFFICIENT TO RECEIVE ALL DEVELOPMENT
6 RIGHTS FROM THE SENDING ZONES.

7 (2) THE ORDINANCE AUTHORIZING THE TRANSFER OF DEVELOPMENT
8 RIGHTS SHALL NOT TAKE EFFECT UNTIL THE TOWNSHIP PREPARES A REPORT
9 THAT INCLUDES ALL OF THE FOLLOWING:

10 (A) THE PRECISE LOCATION OF EACH PROPOSED SENDING AND
11 RECEIVING ZONE.

12 (B) AN ESTIMATE OF POPULATION AND ECONOMIC GROWTH DURING THE
13 NEXT 10 YEARS IN THE TOWNSHIP AND EACH PROPOSED RECEIVING ZONE.

14 (C) AN ESTIMATE OF THE DEVELOPMENT POTENTIAL OF EACH PRO-
15 POSED SENDING AND RECEIVING ZONE.

16 (D) AN ESTIMATE OF THE EXISTING AND PROPOSED INFRASTRUCTURE
17 OF EACH PROPOSED RECEIVING ZONE.

18 (E) FOR EACH PROPOSED RECEIVING ZONE, AN ANALYSIS OF THE
19 IMPACT UPON AND CONSISTENCY WITH THE TOWNSHIP BASIC PLAN OF THE
20 TRANSFER OF DEVELOPMENT RIGHTS TO THAT RECEIVING ZONE.

21 (F) A STATEMENT OF THE LIMITATIONS UPON THE DEVELOPMENT
22 RIGHTS THAT MAY BE TRANSFERRED TO EACH RECEIVING ZONE, TAKING
23 INTO CONSIDERATION ALL OF THE FOLLOWING OBJECTIVES:

24 (i) ENSURING CONSISTENCY WITH THE TOWNSHIP BASIC PLAN.

25 (ii) ENSURING ADEQUATE SERVICES AND FACILITIES CONSISTENT
26 WITH THE SERVICES AND FACILITIES PLAN FOR THE RECEIVING ZONE, IN
27 TERMS OF BOTH CAPACITY AND AVAILABILITY.

1 (iii) AVOIDING UNDUE BURDEN UPON THE PEOPLE AND LAND WITHIN
2 THE RECEIVING ZONE.

3 (iv) ENSURING CONSISTENCY WITH THE PURPOSES OF THIS SECTION
4 AND WITH THIS ACT.

5 (3) AN ORDINANCE ADOPTED UNDER THIS SECTION OR SECTION 32
6 APPLIES IN ADDITION TO OTHER LAWS AND ORDINANCES ADOPTED TO
7 ACHIEVE SIMILAR PURPOSES. NEITHER THIS SECTION NOR SECTION 32
8 INVALIDATES A LAW OR ORDINANCE THAT DOES NOT CONTEMPLATE CONSID-
9 ERATION BEING GIVEN FOR THE ACHIEVEMENT OF THE PURPOSES OF THIS
10 SECTION.

11 (4) EXCEPT AS PROVIDED IN SECTION 32, THE TRANSFER OF DEVEL-
12 OPMENT RIGHTS FROM PROPERTY IN A SENDING ZONE SHALL COINCIDE WITH
13 THE RECEIPT OF THOSE DEVELOPMENT RIGHTS BY PROPERTY IN A RECEIV-
14 ING ZONE.

15 SEC. 32. (1) TO ACHIEVE A DEVELOPMENT RIGHTS BENEFIT, THE
16 TOWNSHIP BOARD OF A TOWNSHIP THAT HAS ADOPTED AN ORDINANCE UNDER
17 SECTION 31 MAY ESTABLISH AN AUTHORITY FOR THE PURPOSE OF PURCHAS-
18 ING AND TEMPORARILY HOLDING DEVELOPMENT RIGHTS.

19 (2) IF THE TOWNSHIP BOARD WISHES TO ESTABLISH AN AUTHORITY,
20 THE TOWNSHIP BOARD SHALL ADOPT A RESOLUTION OF INTENT, SETTING A
21 DATE FOR A PUBLIC HEARING ON WHETHER AN ORDINANCE ESTABLISHING AN
22 AUTHORITY SHOULD BE ADOPTED. NOTICE OF THE PUBLIC HEARING SHALL
23 BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION IN THE TOWN-
24 SHIP, NOT LESS THAN 20 OR MORE THAN 40 DAYS BEFORE THE DATE OF
25 THE HEARING. THE NOTICE SHALL STATE THE TIME, DATE, AND PLACE OF
26 THE HEARING, AND SHALL INCLUDE A STATEMENT DESCRIBING THE PURPOSE

1 OF THE AUTHORITY. AFTER THE HEARING, THE TOWNSHIP BOARD MAY
2 ADOPT AN ORDINANCE ESTABLISHING THE AUTHORITY.

3 (3) EXCEPT AS PROVIDED IN THIS SUBSECTION, AN AUTHORITY
4 SHALL CONSIST OF 5 MEMBERS, INCLUDING THE CHIEF ADMINISTRATIVE
5 OFFICIAL OF THE TOWNSHIP, THE TOWNSHIP TREASURER, AND 3 MEMBERS
6 AT LARGE APPOINTED FOR 3-YEAR TERMS BY THE TOWNSHIP SUPERVISOR,
7 SUBJECT TO THE APPROVAL OF THE TOWNSHIP BOARD. ONE OF THE MEM-
8 BERS AT LARGE SHALL BE A REPRESENTATIVE OF DEVELOPMENT
9 INTERESTS. A MEMBER AT LARGE SHALL BE A RESIDENT OF THE TOWN-
10 SHIP, SHALL HOLD OFFICE UNTIL HIS OR HER SUCCESSOR IS APPOINTED,
11 AND SHALL SERVE AT THE PLEASURE OF THE TOWNSHIP BOARD. THE ORDI-
12 NANCE CREATING THE AUTHORITY MAY PROVIDE THAT THE TOWNSHIP BOARD
13 SHALL SERVE AS THE AUTHORITY BOARD. THE MEMBERS OF THE AUTHORITY
14 SHALL ELECT A CHAIRPERSON OF THE AUTHORITY. IF THE TOWNSHIP HAS
15 ENTERED AN INTERGOVERNMENTAL AGREEMENT FOR THE CREATION OF A
16 JOINT AUTHORITY, THE AGREEMENT SHALL SPECIFY THE MEMBERSHIP AND,
17 IF APPLICABLE, THE MANNER OF APPOINTMENT OF AUTHORITY MEMBERS.

18 (4) A MEMBER OF THE AUTHORITY SHALL SERVE WITHOUT COMPENSA-
19 TION, BUT SHALL BE REIMBURSED FOR ACTUAL AND REASONABLE
20 EXPENSES.

21 (5) ACTIVITIES OF THE AUTHORITY SHALL BE FINANCED BY 1 OR
22 MORE OF THE FOLLOWING SOURCES:

23 (A) MONEY PROVIDED BY THE TOWNSHIP.

24 (B) PROCEEDS FROM THE SALE OF DEVELOPMENT RIGHTS.

25 (C) GRANTS.

26 (D) DONATIONS.

1 (E) OTHER SOURCES APPROVED BY THE TOWNSHIP BOARD.

2 (6) THE AUTHORITY MAY ACQUIRE BY PURCHASE OR CONDEMNATION
3 PURSUANT TO THE UNIFORM CONDEMNATION PROCEDURES ACT, ACT NO. 87
4 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 213.51 TO 213.77 OF
5 THE MICHIGAN COMPILED LAWS, DEVELOPMENT RIGHTS ON PROPERTY
6 LOCATED IN A SENDING ZONE IN THE TOWNSHIP. TITLE TO THE DEVELOP-
7 MENT RIGHTS SHALL BE TAKEN AND HELD IN THE NAME OF THE TOWNSHIP.

8 (7) AT ITS DISCRETION, THE AUTHORITY MAY HOLD OR SELL DEVEL-
9 OPMENT RIGHTS THAT IT HAS ACQUIRED. THE AUTHORITY SHALL SELL
10 DEVELOPMENT RIGHTS ONLY TO A PURCHASER WHO WILL DO 1 OF THE
11 FOLLOWING:

12 (A) UTILIZE THE DEVELOPMENT RIGHTS IN A RECEIVING ZONE IN
13 ACCORDANCE WITH THE ORDINANCE ADOPTED PURSUANT TO SECTION 31.

14 (B) PERMANENTLY TERMINATE THE DEVELOPMENT RIGHTS BY OPEN
15 SPACE EASEMENT TO THE TOWNSHIP, DEED RESTRICTION, OR OTHER LAWFUL
16 MEANS, IN A MANNER AND FORM APPROVED BY THE AUTHORITY.

17 (8) THE PURCHASE AND SALE OF DEVELOPMENT RIGHTS BY THE
18 AUTHORITY SHALL BE AT FAIR MARKET VALUE, BASED UPON A BONA FIDE
19 APPRAISAL. UNLESS THE TOWNSHIP BOARD SERVES AS THE AUTHORITY,
20 THE PURCHASE AND SALE OF DEVELOPMENT RIGHTS BY THE AUTHORITY
21 SHALL BE SUBJECT TO APPROVAL BY THE TOWNSHIP BOARD.

22 SEC. 33. (1) BY ORDINANCE, THE TOWNSHIP BOARD OF A TOWNSHIP
23 MAY AUTHORIZE THE PURCHASE OF DEVELOPMENT RIGHTS BY THE TOWNSHIP
24 TO ACHIEVE A PUBLIC PURPOSE OR BENEFIT PERMITTED IN THE EXERCISE
25 OF AUTHORITY UNDER THIS ACT. THE TOWNSHIP MAY PURCHASE THE
26 DEVELOPMENT RIGHTS BY VOLUNTARY SALE OR BY CONDEMNATION. THE
27 ORDINANCE SHALL REQUIRE THAT, AS PART OF THE DETERMINATION TO

1 PURCHASE DEVELOPMENT RIGHTS, THERE SHALL BE SPECIFIED THE
2 DEVELOPMENT RIGHTS THAT WILL REMAIN ON THE PROPERTY FROM WHICH
3 THE DEVELOPMENT RIGHTS ARE TO BE TRANSFERRED AND THE MEANS BY
4 WHICH THE LIMITATION OF USE OF THE PROPERTY SHALL BE LEGALLY
5 FIXED AND SHALL RUN WITH THE LAND. THE ORDINANCE SHALL SPECIFY
6 ALL OF THE FOLLOWING RELATIVE TO THE PURCHASE OF DEVELOPMENT
7 RIGHTS:

8 (A) THE PUBLIC PURPOSES OR BENEFITS THAT THE TOWNSHIP MAY
9 SEEK.

10 (B) THE PROCEDURES BY WHICH A PURCHASE OF DEVELOPMENT RIGHTS
11 MAY BE INITIATED BY THE TOWNSHIP OR BY A PROPERTY OWNER.

12 (C) THE TYPE OF DEVELOPMENT RIGHTS THAT MAY BE PURCHASED.

13 (D) THE STANDARDS TO BE USED BY THE TOWNSHIP BOARD IN DETER-
14 MINING WHETHER TO PURCHASE DEVELOPMENT RIGHTS.

15 (E) THE STANDARDS TO BE USED BY THE TOWNSHIP BOARD IN EVALU-
16 ATING AND SPECIFYING THE DEVELOPMENT RIGHTS THAT WILL REMAIN ON
17 THE PROPERTY AFTER THE PURCHASE.

18 (F) THE STANDARDS TO BE USED IN ESTABLISHING THE PRICE IN A
19 PURCHASE IN WHICH AN EXERCISE OF THE POWER OF EMINENT DOMAIN IS
20 NOT CONTEMPLATED.

21 (2) IF A TOWNSHIP ADOPTS AN ORDINANCE PURSUANT TO THIS SEC-
22 TION, A PERSON MAY PETITION THE TOWNSHIP BOARD FOR THE PURCHASE
23 OF DEVELOPMENT RIGHTS AND FOR THE ESTABLISHMENT OF A SPECIAL
24 ASSESSMENT DISTRICT TO PAY FOR ALL OR A PORTION OF THE DEVELOP-
25 MENT RIGHTS. THE PETITION SHALL CONTAIN ALL OF THE FOLLOWING:

1 (A) A DESCRIPTION OF THE DEVELOPMENT RIGHTS TO BE PURCHASED,
2 INCLUDING A LEGAL DESCRIPTION OF THE REAL PROPERTY FROM WHICH THE
3 PURCHASE IS TO BE MADE.

4 (B) A DESCRIPTION OF THE PROPOSED SPECIAL ASSESSMENT
5 DISTRICT.

6 (C) THE SIGNATURES OF THE OWNERS OF AT LEAST 51% OF THE LAND
7 IN THE PROPOSED SPECIAL ASSESSMENT DISTRICT.

8 (3) THE TOWNSHIP BOARD MAY PURCHASE DEVELOPMENT RIGHTS PETI-
9 TIONED FOR UNDER SUBSECTION (2) IF THE TOWNSHIP BOARD DETERMINES
10 THAT THE PURCHASE OF THE DEVELOPMENT RIGHTS WOULD ACCOMPLISH A
11 PUBLIC PURPOSE OR BENEFIT SET FORTH IN THE ORDINANCE AND WOULD BE
12 IN THE BEST INTEREST OF THE TOWNSHIP. IF THE TOWNSHIP BOARD PUR-
13 CHASES THE DEVELOPMENT RIGHTS PETITIONED FOR UNDER
14 SUBSECTION (2), THE TOWNSHIP BOARD SHALL PROCEED WITH RESPECT TO
15 THE SPECIAL ASSESSMENTS IN THE MANNER PROVIDED BY LAW OR CHARTER
16 FOR FINANCING THE ACQUISITION OF PARK LANDS BY SPECIAL
17 ASSESSMENTS.

18 (4) AN ORDINANCE ADOPTED UNDER THIS SECTION APPLIES IN ADDI-
19 TION TO OTHER LAWS AND ORDINANCES ADOPTED TO ACHIEVE SIMILAR
20 PURPOSES. THIS SECTION DOES NOT IMPLY THAT LAWS AND ORDINANCES
21 THAT DO NOT CONTEMPLATE CONSIDERATION BEING GIVEN FOR THE
22 ACHIEVEMENT OF THE PURPOSES OF THIS SECTION ARE INVALID.

23 SEC. 40. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS "THE
24 TOWNSHIP ZONING ACT".