EDUCATIONAL INSTRUCTION ACCESS ACT

Act 98 of 2017

AN ACT to create the educational instruction access act; to limit the powers of local governmental bodies regarding the selling, transferring, leasing, or renting of property; and to provide remedies and penalties.

History: 2017, Act 98, Imd. Eff. July 13, 2017

The People of the State of Michigan enact:

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123.1041 Short title.

Sec. 1.

This act shall be known and may be cited as the "educational instruction access act".

History: 2017, Act 98, Imd. Eff. July 13, 2017

123.1043 Definitions.

Sec. 3.

As used in this act:

(a) "Educational institution" means any of the following:

(i) A school district, an intermediate school district, or a public school academy as those terms are defined in sections 4 to 6 of the revised school code, 1976 PA 451, MCL 380.4 to 380.6.

(ii) A community college established under the community college act of 1966, 1966 PA 331, MCL 389.1 to 389.195, or under part 25 of the revised school code, 1976 PA 451, MCL 380.1601 to 380.1607.

(b) "Local governmental body" means any local government or its subdivision, including, but not limited to, a city, village, township, county, or educational institution; a local public authority, agency, board, commission, or other local governmental, quasi-governmental, or quasi-public body; or a public body that acts or purports to act in a commercial, business, economic development, or similar capacity for a local government or its subdivision.

(c) "Private school" means a private, denominational, or parochial school as described in section 2 of 1921 PA 302, MCL 388.552.

History: 2017, Act 98, Imd. Eff. July 13, 2017

123.1045 Sale, lease, or transfer of property by local governmental body for use by educational institution or private school; imposition, enforcement, or application of deed restriction or affirmative use deed restriction.

Sec. 5.

(1) Except as otherwise provided in this subsection, a local governmental body shall not adopt, enforce, impose, or administer an ordinance, local policy, or local resolution that prohibits property sold, leased, or transferred by the local governmental body from being used for any lawful educational purpose by an educational institution or private school. This subsection does not apply to either of the following:

(a) A zoning ordinance adopted by the local governmental body under the Michigan zoning enabling act, 2006

PA 110, MCL 125.3101 to 125.3702.

(b) The administrative review of a site plan as provided in section 1263(4) of the revised school code, 1976 PA 451, MCL 380.1263.

(2) A local governmental body shall not impose, enforce, or apply any deed restriction that expressly, or by its operation, prohibits property sold, leased, or transferred by the local governmental body from being used for any lawful educational purpose by an educational institution or private school. Any deed restriction or affirmative use deed restriction that affirmatively allows for only 1 or more specified uses or purposes that do not include an educational use or purpose is prohibited under this subsection. Any deed restriction or affirmative use deed restriction in effect on the effective date of the amendatory act that amended this section that prohibits or does not permit property previously used for an educational purpose from being used for any future educational purpose is void.

(3) If a local governmental body offers property of the local governmental body for sale, lease, or rent, the local governmental body shall not refuse to sell, lease, or rent the property to an educational institution or private school solely because the educational institution or private school intends to use the property for an educational purpose, if the intent of the educational institution or private school is to use the property for a lawful educational purpose. If a local governmental body offers property of the local governmental body for sale, lease, or rent, the local governmental body is not required to sell, lease, or rent the property to an educational institution or private school solely because the educational institution or private school intends to use the property for an educational purpose. This subsection does not require a local governmental body to do either of the following:

(a) Provide special notice of property offers to an educational institution or a private school.

(b) Provide a right of first refusal to an educational institution or a private school.

History: 2017, Act 98, Imd. Eff. July 13, 2017 ;-- Am. 2018, Act 7, Imd. Eff. Jan. 26, 2018

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123.1047 Noncompliance with act; civil action or injunctive relief; court costs and attorney fees.

Sec. 7.

(1) If a local governmental body is allegedly not complying with this act, the attorney general, prosecuting attorney of the county in which the local governmental body serves, or educational institution or private school aggrieved by the local governmental body may provide written notice of noncompliance to the local governmental body. If the local governmental body fails to cure the noncompliance within 30 days after receiving the written notice of noncompliance, the attorney general, prosecuting attorney of the county in which the local governmental body serves, or educational institution or private school aggrieved by the local governmental body may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

(2) An action for injunctive relief against a local governmental body must be commenced in the circuit court, and venue is proper in any county in which the local governmental body serves. If an educational institution or private school commences an action for injunctive relief, that educational institution or private school is not required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

(3) If a local governmental body is not complying with this act, and an educational institution or private school commences a civil action against the local governmental body for injunctive relief to compel compliance or to enjoin further noncompliance with the act and succeeds in obtaining relief in the action, the educational institution or private school may recover court costs and reasonable attorney fees for the action.

History: 2017, Act 98, Imd. Eff. July 13, 2017