

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4332**

A bill to amend 1909 PA 279, entitled
"The home rule city act,"
by amending section 4q (MCL 117.4q), as amended by 2013 PA 188.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4q. (1) A city that has a population of 7,500 or more and
2 is located in any county, or a city that has a population of 3,300
3 or more and is located in a county that has a population of
4 1,500,000 or more, may establish an administrative hearings bureau
5 to adjudicate and impose sanctions for violations of the charter or
6 ordinances designated in the charter or ordinance as a blight
7 violation. The bureau may accept admissions of responsibility for
8 blight violations. Pursuant to a schedule of civil fines and costs,
9 the bureau may collect civil fines and costs for blight violations.

1 (2) The expense of ~~the operation of~~ **operating** an
 2 administrative hearings bureau ~~shall be~~ **is** borne by the city
 3 establishing the bureau.

4 (3) An administrative hearings bureau ~~shall~~ **does** not have
 5 jurisdiction over criminal offenses, traffic civil infractions,
 6 municipal civil infractions, or state civil infractions. The bureau
 7 and its hearing officers ~~shall~~ **do** not have the authority to impose
 8 a penalty of incarceration and may not impose a civil fine in
 9 excess of \$10,000.00. This section does not authorize a proceeding
 10 against a foreclosing governmental unit as **that term is** defined
 11 under section 78 of the general property tax act, 1893 PA 206, MCL
 12 211.78, or an authority created under the land bank fast track act,
 13 2003 PA 258, MCL 124.751 to 124.774. The city may waive a fine for
 14 a blight violation at an owner-occupied dwelling for a first time
 15 offender of a blight ordinance, if the offender has corrected the
 16 circumstances for the violation.

17 (4) A city that establishes an administrative hearings bureau
 18 under this section shall establish by ordinance the jurisdiction of
 19 the bureau for adjudicating alleged blight violations, making
 20 determinations of responsibility, and imposing sanctions upon those
 21 found responsible for a violation. The city may designate only a
 22 violation of any of the following types of ordinances as a blight
 23 violation:

- 24 (a) Zoning.
- 25 (b) Building or property maintenance.
- 26 (c) Solid waste and illegal dumping.
- 27 (d) Disease and sanitation.
- 28 (e) Noxious weeds.
- 29 (f) Vehicle abandonment, inoperative vehicles, vehicle

1 impoundment, and municipal vehicle licensing.

2 (g) Right-of-way signage. For purposes of this subdivision,
3 right-of-way signage violation means the placement of signage in a
4 right-of-way without a proper permit from the city.

5 (h) An ordinance that is substantially the same as sections
6 138 to 142 of the housing law of Michigan, 1917 PA 167, MCL 125.538
7 to 125.542.

8 (5) To initiate a proceeding for a blight violation, the city
9 shall issue and serve upon an alleged violator a written violation
10 notice on which an authorized local official records the occurrence
11 or existence of 1 or more blight violations by the person cited and
12 ~~which~~**that** directs the named person to pay a civil fine for the
13 violation or appear at the administrative hearings bureau as
14 provided in this section. A violation notice to appear at an
15 administrative hearings bureau ~~shall~~**must** be treated as made under
16 oath if the violation alleged in the notice occurred in the
17 presence of the authorized local official signing the violation
18 notice and if the notice contains the following statement
19 immediately above the date and signature of the official: "I
20 declare under the penalties of perjury that the statements above
21 are true to the best of my information, knowledge, and belief." An
22 authorized local official may issue a violation notice to appear
23 if, based upon investigation, the official has reasonable cause to
24 believe that the person is responsible for a blight violation and
25 if the city attorney or an assistant city attorney approves in
26 writing ~~the issuance of~~**issuing** the violation notice.

27 (6) If a city has a rental inspection program with which a
28 landlord must register ~~in order~~ to rent premises for residential
29 purposes and if a landlord of premises rented in the city for

1 residential purposes is registered with the city's rental
2 inspection program, the city shall not issue a blight violation
3 notice during an inspection of the premises unless either of the
4 following occurs:

5 (a) The landlord is given a written correction notice of the
6 violation and a reasonable opportunity to correct the circumstances
7 before a reinspection of the premises or a date specified in the
8 notice.

9 (b) The violation is a direct result of the landlord's action
10 or inaction and creates an emergency that presents an immediate
11 risk of harm to people or damage to property including, but not
12 limited to, a flooded basement or premises without heat.

13 (7) A city that does not have a rental inspection program, or
14 does not require a landlord to register as part of a rental
15 inspection program, shall not issue a blight violation notice to a
16 landlord of premises rented in the city for residential purposes
17 during an inspection of the premises unless either of the following
18 occurs:

19 (a) The landlord is given a written correction notice of the
20 violation and a reasonable opportunity to correct the circumstances
21 before a reinspection of the premises or a date specified in the
22 notice.

23 (b) The violation is a direct result of the landlord's action
24 or inaction and creates an emergency that presents an immediate
25 risk of harm to people or damage to property, including, but not
26 limited to, a flooded basement or premises without heat.

27 (8) The person named in the violation notice shall appear on
28 or before the time specified in the violation notice and may
29 respond to the allegations in the notice, as follows:

1 (a) If the alleged violator wishes to admit responsibility for
2 the blight violation, the person may do so by appearing in person,
3 by representation, or by mail. If appearance is made by
4 representation or mail, the administrative hearings bureau may
5 accept the admission as though the person personally appeared. Upon
6 acceptance of the admission, a hearing officer may order any of the
7 sanctions permitted under this section.

8 (b) If the alleged violator wishes to deny responsibility for
9 the blight violation, or admit responsibility with an explanation,
10 the person may do so by appearing in person on the date scheduled
11 for the administrative hearing for the purpose of adjudicating the
12 alleged violation.

13 (c) If the alleged violator fails to appear, a decision and
14 order of default may be entered.

15 (9) If an admission of responsibility is not made and the
16 civil fine and costs, if any, prescribed by charter or ordinance
17 for the violation are not paid at the administrative hearings
18 bureau, and the alleged violator fails to appear at a hearing
19 scheduled in accordance with this section, a final decision and
20 order of responsibility in the amount of the prescribed civil fine
21 and costs may be issued by the administrative hearings bureau.

22 (10) The city establishing an administrative hearings bureau
23 shall establish rules and procedures for an alleged violator to set
24 aside the entry of a decision and order of default.

25 (11) The ordinance establishing the bureau ~~shall~~**must** provide
26 for adjudicatory hearings by hearing officers. Each hearing officer
27 ~~shall~~**must** be an attorney licensed to practice law in this state
28 for at least 5 years. Hearing officers ~~shall~~**must** be appointed in a
29 manner consistent with the charter of the city for the appointment

1 of other municipal officers or employees and ~~shall~~**must** only be
 2 removed for reasonable cause. Before conducting administrative
 3 adjudication proceedings, administrative hearing officers ~~shall~~
 4 **must** successfully complete a formal training program which includes
 5 all of the following:

6 (a) Instruction on the rules of procedure of the
 7 administrative hearings that they will conduct.

8 (b) Orientation to each subject area of the ordinance
 9 violations that they will adjudicate.

10 (c) Observation of administrative hearings.

11 (d) Participation in hypothetical cases, including ruling on
 12 evidence and issuing final orders.

13 (e) The importance of impartiality in the conduct of the
 14 administrative hearing and adjudication of the violation.

15 (f) Instructions on the preparation of a record that is
 16 adequate for judicial review.

17 (12) The authority and duties of a hearing officer ~~shall~~
 18 include all of the following:

19 (a) Hearing testimony and accepting evidence that is relevant
 20 to the existence of the blight violation.

21 (b) Issuing subpoenas directing witnesses to appear and give
 22 relevant testimony at the hearing, upon request of a party or a
 23 party's attorney.

24 (c) Preserving and authenticating the record of the hearing
 25 and all exhibits and evidence introduced at the hearing.

26 (d) Issuing a determination, based upon the evidence presented
 27 at the hearing, whether a blight violation exists. The
 28 determination ~~shall~~**must** be in writing and ~~shall~~**must** include
 29 written findings of fact, a decision, and an order. The city ~~shall~~

1 ~~have~~**has** the burden of establishing the responsibility of the
2 alleged violator by a preponderance of the evidence. Unless the
3 burden is met, the matter ~~shall~~**must** be dismissed. A decision and
4 an order ~~shall~~**must** not be made except upon consideration of the
5 record as a whole or a portion of the record as may be cited by any
6 party to the proceeding and as supported by and in accordance with
7 the competent, material, and substantial evidence. A decision and
8 order finding the alleged violator responsible for the violation
9 ~~shall~~**must** include the civil fine, if any, or any action with which
10 the violator must comply, or both.

11 (e) Imposing reasonable and proportionate sanctions consistent
12 with applicable ordinance provisions and assessing costs upon a
13 finding that the alleged violator is responsible for the alleged
14 violation. The maximum monetary civil fine allowed under this
15 section excludes costs of enforcement or costs imposed to secure
16 compliance with the city's ordinances and is not applicable to
17 enforce the collection of any tax imposed and collected by the
18 city.

19 (13) In addition to fines and costs imposed under subsection
20 (12), the hearing officer shall impose a justice system assessment
21 of \$10.00 for each blight violation determination. Upon payment of
22 the assessment, the city shall transmit the assessment collected to
23 the state treasury to be deposited into the justice system fund
24 created in section 181 of the revised judicature act of 1961, 1961
25 PA 236, MCL 600.181.

26 (14) A party ~~shall~~**must** be provided with the opportunity for a
27 hearing during which ~~they~~**the party** may be represented by counsel,
28 present witnesses, and cross-examine witnesses. A party may request
29 the hearing officer to issue subpoenas to direct the attendance and

1 testimony of relevant witnesses and the production of relevant
2 documents. Hearings ~~shall~~**must** be scheduled with reasonable
3 promptness, except that for hearings scheduled in all nonemergency
4 situations the alleged violator if ~~he or she~~**the alleged violator**
5 requests ~~shall~~**must** have at least 14 days after service of process
6 to prepare for the hearing. For purposes of this subsection,
7 "nonemergency situation" means any situation that does not
8 reasonably constitute a threat to the public interest, safety, or
9 welfare. If service is provided by first-class mail, the 14-day
10 period begins to run on the day that the notice is deposited in the
11 mail.

12 (15) In an administrative hearing under this section, the
13 rules of evidence as applied in a nonjury civil case in circuit
14 court ~~shall~~**must** be followed as far as practicable, but the hearing
15 officer may admit and give probative effect to evidence of a type
16 commonly relied upon by reasonably prudent persons in the conduct
17 of their affairs. Irrelevant, immaterial, or unduly repetitious
18 evidence may be excluded. Effect ~~shall~~**must** be given to the rules
19 of privilege recognized by law. Objections to offers of evidence
20 may be made and ~~shall~~**must** be noted in the record. Subject to these
21 requirements, the hearing officer, for the purpose of expediting
22 hearings and when the interests of the parties will not be
23 substantially prejudiced, ~~thereby,~~ may provide in an administrative
24 hearing or by rule for submission of all or part of the evidence in
25 written form.

26 (16) Any final decision by a hearing officer that a blight
27 violation does or does not exist constitutes a final decision and
28 order for purposes of judicial review and may be enforced in the
29 same manner as a judgment entered by a court of competent

1 jurisdiction.

2 (17) A party may file an appeal within 28 days after entry of
3 the decision and order by the hearing officer. An appeal of a final
4 decision and order of an administrative hearing officer is to the
5 circuit court.

6 (18) An alleged violator who appeals a final decision and
7 order to circuit court shall post with the administrative hearings
8 bureau, at the time the appeal is taken, a bond equal to the fine
9 and costs imposed. A party who has paid the fine and costs is not
10 required to post a bond. If a party who has posted a bond fails to
11 comply with the requirements of supreme court rules for an appeal
12 to the circuit court, the appeal may be considered abandoned, and
13 the bureau may dismiss the appeal on 7 days' notice to the parties.
14 The administrative hearings bureau ~~must~~**shall** promptly notify the
15 circuit court of a dismissal, and the circuit court shall dismiss
16 the claim of appeal. If the appeal is dismissed or the decision and
17 order are affirmed, the administrative hearings bureau may apply
18 the bond to the fine and costs. An appeal by the city must be
19 asserted by the city's attorney and a bond is not required.

20 (19) An appeal to circuit court ~~shall~~**must** be a review by the
21 court of the certified record provided by the administrative
22 hearings bureau. Pending appeal, and subject to the bond
23 requirement under subsection (18), the hearing officer may stay the
24 order and any sanctions or costs imposed. Once an appeal is filed,
25 and subject to the bond requirement under subsection (18), the
26 court may stay the order and any sanctions or costs imposed. The
27 court, as appropriate, may affirm, reverse, or modify the decision
28 or order, or remand the matter for further proceedings. The court
29 shall hold unlawful and set aside a decision or order of the

1 hearing officer if substantial rights of an alleged violator have
2 been prejudiced because the decision or order is any of the
3 following:

4 (a) In violation of the constitution or a statute, charter, or
5 ordinance.

6 (b) In excess of the authority or jurisdiction of the agency
7 as conferred by statute, charter, or ordinance.

8 (c) Made upon unlawful procedure resulting in material
9 prejudice to a party.

10 (d) Not supported by competent, material, and substantial
11 evidence on the whole record.

12 (e) Arbitrary, capricious, or clearly an abuse or unwarranted
13 exercise of discretion.

14 (f) Affected by other substantial and material error of law.

15 (20) Except as otherwise provided in subsection (21) or (22),
16 if the civil fine and costs imposed against a person under this
17 section are \$1,000.00 or more and the person does not pay the civil
18 fine and costs imposed within 30 days after a final decision and
19 order of the hearing officer or of the circuit court under this
20 section, the person is subject to the following:

21 (a) For a first violation, the person is responsible for a
22 state civil infraction and may be ordered to pay a civil fine of
23 not more than \$500.00.

24 (b) For a second violation, the person is guilty of a
25 misdemeanor punishable by imprisonment for not more than 93 days or
26 a fine of not more than \$500.00, or both.

27 (c) For a third or subsequent violation, the person is guilty
28 of a misdemeanor and may be imprisoned for not more than 1 year and
29 shall be fined \$500.00.

1 (21) ~~Subsection~~**Subsections** (20) ~~does~~**and (25) do** not apply to
2 any of the following that becomes the owner of a property after
3 foreclosure or after taking a deed in lieu of foreclosure:

4 (a) A government-sponsored enterprise. As used in this
5 subdivision, "government-sponsored enterprise" means that term as
6 defined in 2 USC 622(8), or the Michigan state housing development
7 authority created under the state housing development authority act
8 of 1966, 1966 PA 346, MCL 125.1401 to 125.1499c.

9 (b) A financial institution. As used in this subdivision,
10 "financial institution" means that term as defined in section 4(c)
11 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004.

12 (c) A mortgage servicer, as that term is defined in section 1a
13 of the mortgage brokers, lenders, and servicers licensing act, 1987
14 PA 173, MCL 445.1651a, that is subject to the mortgage brokers,
15 lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to
16 445.1684.

17 (d) A credit union service organization that is organized
18 under the laws of this state or the United States.

19 (22) ~~Subsection~~**Subsections** (20) ~~does~~**and (25) do** not apply to
20 the owner of a property if, at the time the civil fine and costs
21 are imposed against the owner, the owner had filed a principal
22 residence exemption affidavit as provided under section 7cc of the
23 general property tax act, 1893 PA 206, MCL 211.7cc, certifying that
24 the property is owned and occupied as a principal residence by that
25 owner.

26 (23) An entity described in subsection (21) that becomes the
27 owner of a property after foreclosure or after taking a deed in
28 lieu of foreclosure shall adhere to all ordinances relating to
29 vacant property or blight violations adopted by the city that

1 established an administrative hearings bureau under this section.

2 (24) As used in ~~subsection~~**subsections** (20) **and (25)**, "person"
3 means an individual, partnership, corporation, limited liability
4 company, association, or other legal entity. Person includes the
5 partners or members of a firm, a partnership, or an association and
6 the officers of a corporation.

7 (25) **Except as otherwise provided in subsection (21) or (22),**
8 **if a hearing officer or circuit court grants a final decision and**
9 **order under this section finding a person in violation of a blight**
10 **ordinance under subsection (4) and the person fails to correct the**
11 **violation no later than 30 days after the final decision and order**
12 **is granted, the person is guilty of a misdemeanor punishable by**
13 **imprisonment for not more than 90 days, a fine of not more than**
14 **\$500.00, or both.**