

HOUSE BILL NO. 4332

March 23, 2023, Introduced by Reps. Whitsett, Farhat, Price, Morgan, Edwards, Wilson, Tsernoglou, Brenda Carter, O'Neal, Hope, Roth, Steckloff, Haadsma, Snyder and Liberati and referred to the Committee on Local Government and Municipal Finance.

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

1 violation. The bureau may accept admissions of responsibility for
 2 blight violations. Pursuant to a schedule of civil fines and costs,
 3 the bureau may collect civil fines and costs for blight violations.

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

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

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

- 27 (a) Zoning.
- 28 (b) Building or property maintenance.
- 29 (c) Solid waste and illegal dumping.

1 (d) Disease and sanitation.

2 (e) Noxious weeds.

3 (f) Vehicle abandonment, inoperative vehicles, vehicle
4 impoundment, and municipal vehicle licensing.

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

8 (h) An ordinance that is substantially the same as sections
9 138 to 142 of the housing law of Michigan, 1917 PA 167, MCL 125.538
10 to 125.542.

11 (5) To initiate a proceeding for a blight violation, the city
12 shall issue and serve upon an alleged violator a written violation
13 notice on which an authorized local official records the occurrence
14 or existence of 1 or more blight violations by the person cited and
15 ~~which~~**that** directs the named person to pay a civil fine for the
16 violation or appear at the administrative hearings bureau as
17 provided in this section. **The city shall serve the written**
18 **violation notice on the alleged violator personally or if the city**
19 **makes a good-faith effort but is unable to serve the written**
20 **violation notice on the alleged violator personally, by first-class**
21 **mail or email. If the written violation notice is served by first-**
22 **class mail or email, the written violation notice must be publicly**
23 **posted on the city's website.** A violation notice to appear at an
24 administrative hearings bureau ~~shall~~**must** be treated as made under
25 oath if the violation alleged in the notice occurred in the
26 presence of the authorized local official signing the violation
27 notice and if the notice contains the following statement
28 immediately above the date and signature of the official: "I
29 declare under the penalties of perjury that the statements above

1 are true to the best of my information, knowledge, and belief.". An
2 authorized local official may issue a violation notice to appear
3 if, based upon investigation, the official has reasonable cause to
4 believe that the person is responsible for a blight violation and
5 if the city attorney or an assistant city attorney approves in
6 writing ~~the issuance of~~ **issuing** the violation notice.

7 (6) If a city has a rental inspection program with which a
8 landlord must register ~~in order to~~ rent premises for residential
9 purposes and if a landlord of premises rented in the city for
10 residential purposes is registered with the city's rental
11 inspection program, the city shall not issue a blight violation
12 notice during an inspection of the premises unless either of the
13 following occurs:

14 (a) The landlord is given a written correction notice of the
15 violation and a reasonable opportunity to correct the circumstances
16 before a reinspection of the premises or a date specified in the
17 notice.

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

22 (7) A city that does not have a rental inspection program, or
23 does not require a landlord to register as part of a rental
24 inspection program, shall not issue a blight violation notice to a
25 landlord of premises rented in the city for residential purposes
26 during an inspection of the premises unless either of the following
27 occurs:

28 (a) The landlord is given a written correction notice of the
29 violation and a reasonable opportunity to correct the circumstances

1 before a reinspection of the premises or a date specified in the
2 notice.

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

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

10 (a) If the alleged violator wishes to admit responsibility for
11 the blight violation, the person may do so by appearing in person,
12 by representation, or by mail. If appearance is made by
13 representation or mail, the administrative hearings bureau may
14 accept the admission as though the person personally appeared. Upon
15 acceptance of the admission, a hearing officer may order any of the
16 sanctions permitted under this section.

17 (b) If the alleged violator wishes to deny responsibility for
18 the blight violation, or admit responsibility with an explanation,
19 the person may do so by appearing in person on the date scheduled
20 for the administrative hearing for the purpose of adjudicating the
21 alleged violation.

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

24 (9) If an admission of responsibility is not made and the
25 civil fine and costs, if any, prescribed by charter or ordinance
26 for the violation are not paid at the administrative hearings
27 bureau, and the alleged violator fails to appear at a hearing
28 scheduled in accordance with this section, a final decision and
29 order of responsibility in the amount of the prescribed civil fine

1 and costs may be issued by the administrative hearings bureau.

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

5 (11) The ordinance establishing the bureau ~~shall~~**must** provide
6 for adjudicatory hearings by hearing officers. Each hearing officer
7 ~~shall~~**must** be an attorney licensed to practice law in this state
8 for at least 5 years. Hearing officers ~~shall~~**must** be appointed in a
9 manner consistent with the charter of the city for the appointment
10 of other municipal officers or employees and ~~shall~~**must** only be
11 removed for reasonable cause. Before conducting administrative
12 adjudication proceedings, administrative hearing officers ~~shall~~
13 **must** successfully complete a formal training program which includes
14 all of the following:

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

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

19 (c) Observation of administrative hearings.

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

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

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

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

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

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

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

6 (d) Issuing a determination, based upon the evidence presented
7 at the hearing, whether a blight violation exists. The
8 determination ~~shall~~**must** be in writing and ~~shall~~**must** include
9 written findings of fact, a decision, and an order. The city ~~shall~~
10 ~~have~~**has** the burden of establishing the responsibility of the
11 alleged violator by a preponderance of the evidence. Unless the
12 burden is met, the matter ~~shall~~**must** be dismissed. A decision and
13 an order ~~shall~~**must** not be made except upon consideration of the
14 record as a whole or a portion of the record as may be cited by any
15 party to the proceeding and as supported by and in accordance with
16 the competent, material, and substantial evidence. A decision and
17 order finding the alleged violator responsible for the violation
18 ~~shall~~**must** include the civil fine, if any, or any action with which
19 the violator must comply, or both.

20 (e) Imposing reasonable and proportionate sanctions consistent
21 with applicable ordinance provisions and assessing costs upon a
22 finding that the alleged violator is responsible for the alleged
23 violation. The maximum monetary civil fine allowed under this
24 section excludes costs of enforcement or costs imposed to secure
25 compliance with the city's ordinances and is not applicable to
26 enforce the collection of any tax imposed and collected by the
27 city.

28 (13) In addition to fines and costs imposed under subsection
29 (12), the hearing officer shall impose a justice system assessment

1 of \$10.00 for each blight violation determination. Upon payment of
2 the assessment, the city shall transmit the assessment collected to
3 the state treasury to be deposited into the justice system fund
4 created in section 181 of the revised judicature act of 1961, 1961
5 PA 236, MCL 600.181.

6 (14) A party ~~shall~~**must** be provided with the opportunity for a
7 hearing during which ~~they~~**the party** may be represented by counsel,
8 present witnesses, and cross-examine witnesses. A party may request
9 the hearing officer to issue subpoenas to direct the attendance and
10 testimony of relevant witnesses and the production of relevant
11 documents. Hearings ~~shall~~**must** be scheduled with reasonable
12 promptness, except that for hearings scheduled in all nonemergency
13 situations the alleged violator if he or she requests ~~shall~~**must**
14 have at least 14 days after service of process to prepare for the
15 hearing. For purposes of this subsection, "nonemergency situation"
16 means any situation that does not reasonably constitute a threat to
17 the public interest, safety, or welfare. If service is provided by
18 first-class mail, the 14-day period begins to run on the day that
19 the notice is deposited in the mail.

20 (15) In an administrative hearing under this section, the
21 rules of evidence as applied in a nonjury civil case in circuit
22 court ~~shall~~**must** be followed as far as practicable, but the hearing
23 officer may admit and give probative effect to evidence of a type
24 commonly relied upon by reasonably prudent persons in the conduct
25 of their affairs. Irrelevant, immaterial, or unduly repetitious
26 evidence may be excluded. Effect ~~shall~~**must** be given to the rules
27 of privilege recognized by law. Objections to offers of evidence
28 may be made and ~~shall~~**must** be noted in the record. Subject to these
29 requirements, the hearing officer, for the purpose of expediting

1 hearings and when the interests of the parties will not be
2 substantially prejudiced, ~~thereby,~~ may provide in an administrative
3 hearing or by rule for submission of all or part of the evidence in
4 written form.

5 (16) Any final decision by a hearing officer that a blight
6 violation does or does not exist constitutes a final decision and
7 order for purposes of judicial review and may be enforced in the
8 same manner as a judgment entered by a court of competent
9 jurisdiction.

10 (17) A party may file an appeal within 28 days after entry of
11 the decision and order by the hearing officer. An appeal of a final
12 decision and order of an administrative hearing officer is to the
13 circuit court.

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

28 (19) An appeal to circuit court ~~shall~~ **must** be a review by the
29 court of the certified record provided by the administrative

1 hearings bureau. Pending appeal, and subject to the bond
2 requirement under subsection (18), the hearing officer may stay the
3 order and any sanctions or costs imposed. Once an appeal is filed,
4 and subject to the bond requirement under subsection (18), the
5 court may stay the order and any sanctions or costs imposed. The
6 court, as appropriate, may affirm, reverse, or modify the decision
7 or order, or remand the matter for further proceedings. The court
8 shall hold unlawful and set aside a decision or order of the
9 hearing officer if substantial rights of an alleged violator have
10 been prejudiced because the decision or order is any of the
11 following:

12 (a) In violation of the constitution or a statute, charter, or
13 ordinance.

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

16 (c) Made upon unlawful procedure resulting in material
17 prejudice to a party.

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

20 (e) Arbitrary, capricious, or clearly an abuse or unwarranted
21 exercise of discretion.

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

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

29 (a) For a first violation, the person is responsible for a

1 state civil infraction and may be ordered to pay a civil fine of
2 not more than \$500.00.

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

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

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

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

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

20 (c) A mortgage servicer, as that term is defined in section 1a
21 of the mortgage brokers, lenders, and servicers licensing act, 1987
22 PA 173, MCL 445.1651a, that is subject to the mortgage brokers,
23 lenders, and servicers licensing act, 1987 PA 173, MCL 445.1651 to
24 445.1684.

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

27 (22) ~~Subsection~~ **Subsections** (20) ~~does~~ **and (25) do** not apply to
28 the owner of a property if, at the time the civil fine and costs
29 are imposed against the owner, the owner had filed a principal

1 residence exemption affidavit as provided under section 7cc of the
2 general property tax act, 1893 PA 206, MCL 211.7cc, certifying that
3 the property is owned and occupied as a principal residence by that
4 owner.

5 (23) An entity described in subsection (21) that becomes the
6 owner of a property after foreclosure or after taking a deed in
7 lieu of foreclosure shall adhere to all ordinances relating to
8 vacant property or blight violations adopted by the city that
9 established an administrative hearings bureau under this section.

10 (24) As used in ~~subsection~~**subsections** (20) **and (25)**, "person"
11 means an individual, partnership, corporation, limited liability
12 company, association, or other legal entity. Person includes the
13 partners or members of a firm, a partnership, or an association and
14 the officers of a corporation.

15 (25) **Except as otherwise provided in subsection (21) or (22),**
16 **if a hearing officer or circuit court grants a final decision and**
17 **order under this section finding a person in violation of a blight**
18 **ordinance under subsection (4) and the person fails to correct the**
19 **violation no later than 30 days after the final decision and order**
20 **is granted, the person is subject to the following:**

21 (a) For a second violation, the person is guilty of a
22 misdemeanor punishable by imprisonment for not more than 90 days, a
23 fine of not more than \$500.00, or both.

24 (b) For a third or subsequent violation, the person is guilty
25 of a misdemeanor and may be imprisoned for not more than 1 year and
26 shall be fined \$500.00.