

Legislative Analysis



ZONING: NON-CONFORMING USES OF RESIDENTIAL RENTALS

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House Bill 5041 (proposed substitute H-1)
Sponsor: Rep. Lee Chatfield
Committee: Local Government
Complete to 5-3-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5041 would amend the Michigan Zoning Enabling Act to allow for certain improvements or additions to a residential rental property that has been declared by local officials to be a non-conforming use, if the property is in a municipality with a large university (45,000 or more students) and at least 30% of the rental properties are nonconforming.

The bill would take effect 90 days after it was enacted into law. A more detailed description of the bill follows.

Now under the law, if the use of a dwelling, building, or structure or of the land is lawful when a zoning ordinance is enacted (or later amended) by local officials, then that use may be continued, despite the fact that it does not conform to the zoning ordinance. House Bill 5041 would retain this provision.

In addition, the bill specifies that, if a residential property used for a nonconforming residential rental use or a nonconforming residential rental structure is located in the same municipality as a university with 45,000 or more students and where 30% or more of the residential rental properties are nonconforming, the owner may do any of the following:

- Make any improvements or additions; and
- Complete, resume, restore, reconstruct, remodel, reconfigure, extend, or enlarge the residential rental.

However, the bill does not authorize (1) an increase in the maximum legal or licensed occupancy, nor (2) an increase in the footprint or height of the residential rental (unless the increase complied with the existing zoning regulations, or the owner had obtained a variance authorizing the increase).

Further, when evaluating an application for a nonconforming variance, the bill requires local officials to use the same standards that apply to conforming residential rental structures or uses.

Finally, with regard to nonconforming residential rental structures or uses, local officials would be prohibited from both 1) revoking or altering a residential rental license, rental certificate, or approval; and 2) reducing the existing maximum legal or licensed occupancy.

MCL 125.3208

FISCAL IMPACT:

As written, to the extent that the bill would result in increases to the taxable values of these nonconforming rental properties, there could be increases in local unit property tax revenue as well as the 6-mill State Education Tax (SET) revenue, which constitutionally is dedicated to the School Aid Fund. In addition, the revenue from the non-homestead levy, which is dedicated to local schools, could also rise.

Because there is no way to know to the extent in which these improvements would occur, a precise fiscal estimate cannot be determined.

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