

# HOUSE BILL No. 5041

November 3, 2015, Introduced by Reps. Chatfield, Runestad, Maturen, Heise, Aaron Miller, Sheppard, Brunner and Rutledge and referred to the Committee on Local Government.

A bill to amend 2006 PA 110, entitled "Michigan zoning enabling act," by amending section 208 (MCL 125.3208), as amended by 2010 PA 330.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 208. (1) If the use of a dwelling, building, or structure  
2 or of the land is lawful at the time of enactment of a zoning  
3 ordinance or an amendment to a zoning ordinance, then that use may  
4 be continued although the use does not conform to the zoning  
5 ordinance or amendment. ~~This~~ **SUBJECT TO SUBSECTIONS (5) TO (7),**  
6 **THIS** subsection is intended to codify the law as it existed before  
7 July 1, 2006 in section 16(1) of ~~the former county zoning act, 1943~~  
8 PA 183, section 16(1) of ~~the former township zoning act, 1943~~ PA  
9 184, and section 3a(1) of ~~the former city and village zoning act,~~  
10 1921 PA 207, as they applied to counties, townships, and cities and

1 villages, respectively, and shall be construed as a continuation of  
2 those laws and not as a new enactment.

3 (2) ~~The~~**SUBJECT TO SUBSECTION (5), THE** legislative body may  
4 provide in a zoning ordinance for the completion, resumption,  
5 restoration, reconstruction, extension, or substitution of  
6 nonconforming uses or structures upon terms and conditions provided  
7 in the zoning ordinance. In establishing terms for the completion,  
8 resumption, restoration, reconstruction, extension, or substitution  
9 of nonconforming uses or structures, different classes of  
10 nonconforming uses may be established in the zoning ordinance with  
11 different requirements applicable to each class.

12 (3) The legislative body may acquire, by purchase,  
13 condemnation, or otherwise, private property or an interest in  
14 private property for the removal of nonconforming uses and  
15 structures. The legislative body may provide that the cost and  
16 expense of acquiring private property may be paid from general  
17 funds or assessed to a special district in accordance with the  
18 applicable statutory provisions relating to the creation and  
19 operation of special assessment districts for public improvements  
20 in local units of government. Property acquired under this  
21 subsection by a city or village shall not be used for public  
22 housing.

23 (4) The elimination of the nonconforming uses and structures  
24 in a zoning district is declared to be for a public purpose and for  
25 a public use. ~~The~~**SUBJECT TO SUBSECTION (5), THE** legislative body  
26 may institute proceedings for condemnation of nonconforming uses  
27 and structures under 1911 PA 149, MCL 213.21 to 213.25.

1           (5) EXCEPT AS PROVIDED IN SUBSECTION (6), THE OWNER OF A  
2 RESIDENTIAL PROPERTY USED FOR A NONCONFORMING RESIDENTIAL RENTAL  
3 USE OR OF A NONCONFORMING RESIDENTIAL RENTAL STRUCTURE MAY DO ANY  
4 OF THE FOLLOWING:

5           (A) MAKE ANY IMPROVEMENTS OR ADDITIONS TO THE NONCONFORMING  
6 RESIDENTIAL RENTAL USE OR NONCONFORMING RESIDENTIAL RENTAL  
7 STRUCTURE.

8           (B) COMPLETE, RESUME, RESTORE, RECONSTRUCT, REMODEL,  
9 RECONFIGURE, EXTEND, OR ENLARGE THE NONCONFORMING RESIDENTIAL  
10 RENTAL USE OR NONCONFORMING RESIDENTIAL RENTAL STRUCTURE.

11           (6) SUBSECTION (5) DOES NOT AUTHORIZE ANY OF THE FOLLOWING:

12           (A) AN INCREASE IN THE MAXIMUM LEGAL OR LICENSED OCCUPANCY OF  
13 A RESIDENTIAL RENTAL STRUCTURE.

14           (B) AN INCREASE IN THE FOOTPRINT OR HEIGHT OF A RESIDENTIAL  
15 RENTAL STRUCTURE UNLESS THE INCREASE COMPLIES WITH THE EXISTING  
16 ZONING REGULATIONS THAT APPLY TO THE LOCATION OR THE OWNER OBTAINS  
17 A VARIANCE AUTHORIZING THE INCREASE.

18           (7) IN EVALUATING AN APPLICATION FOR A VARIANCE FOR A  
19 NONCONFORMING RESIDENTIAL RENTAL STRUCTURE OR NONCONFORMING  
20 RESIDENTIAL RENTAL USE, A LOCAL UNIT OF GOVERNMENT SHALL USE THE  
21 SAME STANDARDS THAT APPLY TO CONFORMING RESIDENTIAL RENTAL  
22 STRUCTURES OR CONFORMING RESIDENTIAL RENTAL USES.

23           (8) A LOCAL UNIT OF GOVERNMENT SHALL NOT, BECAUSE A  
24 RESIDENTIAL RENTAL STRUCTURE OR RESIDENTIAL RENTAL USE IS  
25 NONCONFORMING, REVOKE OR ALTER A RESIDENTIAL RENTAL LICENSE, RENTAL  
26 CERTIFICATE, OR APPROVAL FOR OR REDUCE THE EXISTING MAXIMUM LEGAL  
27 OR LICENSED OCCUPANCY OF THE RESIDENTIAL RENTAL STRUCTURE OR

1 **RESIDENTIAL RENTAL USE.**

2           Enacting section 1. This amendatory act takes effect 90 days  
3 after the date it is enacted into law.