

Act No. 336
Public Acts of 1988
Approved by the Governor
October 17, 1988
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**STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1988**

Introduced by Reps. Saunders and Ciaramitaro

Reps. Bandstra, Bankes, Barns, Browne, Willis Bullard, Clack, DeBeaussaert, DeMars, Gire, Hart, Kilpatrick, Kosteva, Miller, Murphy, Porreca, Rocca, Sitz, Sofio, Spaniola, Trim and Varga named co-sponsors

ENROLLED HOUSE BILL No. 5603

AN ACT to amend section 5714 of Act No. 236 of the Public Acts of 1961, entitled as amended "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with, or contravening any of the provisions of this act," being section 600.5714 of the Michigan Compiled Laws; and to add chapter 57a.

The People of the State of Michigan enact:

Section 1. Section 5714 of Act No. 236 of the Public Acts of 1961, being section 600.5714 of the Michigan Compiled Laws, is amended and chapter 57a is added to read as follows:

Sec. 5714. (1) The person entitled to any premises may recover possession of the premises by summary proceedings in the following cases:

(a) When a person holds over any premises, after failing or refusing to pay rent due under the lease or agreement by which the person holds the premises within 7 days from the service of a written demand for possession for nonpayment of the rent due. For the purpose of this subdivision, rent due does not include any accelerated indebtedness by reason of a breach of the lease under which the premises are held.

(b) When a person holds over any premises in any of the following circumstances:

(i) After termination of the lease, pursuant to a power to terminate provided in the lease or implied by law.

(ii) After the term for which the premises are demised to the person or to the person under whom he or she holds.

(iii) After the termination of the person's estate by a notice to quit as provided by section 34 of chapter 66 of the Revised Statutes of 1846, as amended, being section 554.134 of the Michigan Compiled Laws.

(c) When the person in possession willfully or negligently causes a serious and continuing health hazard to exist on the premises, or causes extensive and continuing physical injury to the premises, which was discovered or should reasonably have been discovered by the party seeking possession not earlier than 90 days before the institution of proceedings under this chapter and when the person in possession neglects or refuses for 7 days after service of a demand for possession of the premises to deliver up possession of the premises or to substantially restore or repair the premises.

(d) When a person takes possession of premises by means of a forcible entry, holds possession of premises by force after a peaceable entry, or comes into possession of premises by trespass without color of title or other possessory interest.

(e) When a person continues in possession of any premises sold by virtue of any mortgage or execution, after the time limited by law for redemption of the premises.

(f) When a person continues in possession of any premises sold and conveyed by any personal representative under license from the probate court or under authority in the will.

(2) A tenant or occupant of housing operated by a city, village, township, or other unit of local government, as provided in Act No. 18 of the Public Acts of the Extra Session of 1933, as amended, being sections 125.651 to 125.709e of the Michigan Compiled Laws, is not considered to be holding over under subsection (1)(b) unless the tenancy or agreement has been terminated for just cause, as provided by lawful rules of the local housing commission or by law.

(3) A tenant of a mobile home park is not considered to be holding over under subsection (1)(b) unless the tenancy or lease agreement is terminated for just cause pursuant to chapter 57a.

CHAPTER 57a.

Sec. 5771. As used in this chapter:

(a) "Mobile home" means a mobile home as defined in section 2 of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2302 of the Michigan Compiled Laws.

(b) "Mobile home park" means a mobile home park as defined in section 2 of Act No. 96 of the Public Acts of 1987, but does not include a seasonal mobile home park as defined in section 2 of Act No. 96 of the Public Acts of 1987.

Sec. 5773. (1) The district court has jurisdiction under this chapter over proceedings for termination of tenancies in mobile home parks.

(2) Section 5706 shall govern the venue of proceedings under this chapter.

Sec. 5775. (1) The tenancy of a tenant in a mobile home park shall not be terminated unless there is just cause for the termination.

(2) For the purpose of this chapter, "just cause" means 1 or more of the following:

(a) Use of a mobile home site by the tenant for an unlawful purpose.

(b) Failure by the tenant to comply with a lease or agreement by which the tenant holds the premises or with a rule or regulation of the mobile home park, adopted pursuant to the lease or agreement, which rule or regulation is reasonably related to any of the following:

(i) The health, safety, or welfare of the mobile home park, its employees, or tenants.

(ii) The quiet enjoyment of the other tenants of the mobile home park.

(iii) Maintaining the physical condition or appearance of the mobile home park or the mobile homes located in the mobile home park to protect the value of the mobile home park or to maintain its aesthetic quality or appearance.

(c) A violation by the tenant of rules promulgated by the Michigan department of public health under section 6 of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2306 of the Michigan Compiled Laws.

(d) Intentional physical injury by the tenant to the personnel or other tenants of the mobile home park, or intentional physical damage by the tenant to the property of the mobile home park or of its other tenants.

(e) Failure of the tenant to comply with a local ordinance, state law, or governmental rule or regulation relating to mobile homes.

(f) Failure of the tenant to make timely payment of rent or other charges under the lease or rental agreement by which the tenant holds the premises on 3 or more occasions during any 12-month period, for which failure the owner or operator has served a written demand for possession for nonpayment of rent pursuant to section 5714(1)(a) and the tenant has failed or refused to pay the rent or other charges within the time period stated in the written demand for possession. The written demand for possession shall provide a notice to the tenant in substantially the following form: "Notice: Three or more late payments of rent during any 12-month period is just cause to evict you." Nothing in this subdivision shall prohibit a tenant from asserting, and the court from considering, any meritorious defenses to late payment of rent or other charges.

(g) Conduct by the tenant upon the mobile home park premises which constitutes a substantial annoyance to other tenants or to the mobile home park, after notice and an opportunity to cure.

(h) Failure of the tenant to maintain the mobile home or mobile home site in a reasonable condition consistent with aesthetics appropriate to the park.

- (i) Condemnation of the mobile home park.
- (j) Changes in the use or substantive nature of the mobile home park.
- (k) Public health and safety violations by the tenant.

(3) This section does not prohibit a change of the rental payments or the terms or conditions of tenancy in a mobile home park following the termination or expiration of a written lease agreement for the mobile home site.

Sec. 5777. Within 10 days of service of a demand for possession of premises for just cause, a tenant in a mobile home park shall have the right to request, by certified or registered mail to the owner or operator of the mobile home park at the address set forth in the demand, an in-person conference with the owner or operator of the mobile home park or representative of the owner or operator. If timely requested, the conference shall be held at the mobile home park and at a time and date established by the owner or operator but not later than 20 days after the tenant's request. The tenant may be accompanied by counsel at the conference. Nothing in this section shall affect the owner's or operator's right to commence summary proceedings pursuant to the demand for possession.

Sec. 5779. In every action to terminate a tenancy in a mobile home park for just cause, the tenant shall continue to pay all rent and other charges to the owner or operator when due following the demand for possession of the premises and during the pendency of the action, and the owner or operator may accept all such payments of rent and other charges without prejudice to the action to evict the tenant for just cause. If such a payment is not timely paid, the owner or operator may proceed under section 5714(1)(a) without prejudice to the maintenance of the just cause termination action.

Sec. 5781. If a tenancy in a mobile home park is terminated for just cause, the tenant may sell his or her mobile home on site, as provided in sections 28(1)(h) and 28a of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being sections 125.2328 and 125.2328a of the Michigan Compiled Laws, subject to all of the following conditions:

(a) The tenant shall sell or move the mobile home within 90 days after the date of the judgment of possession, except that the time period shall be extended to 90 days after the mobile home park owner or operator denies tenancy to a person making a bona fide offer to purchase the mobile home within the 90-day period or any proper extension of the time period under this subdivision.

(b) The tenant shall timely pay all rent and other charges for the mobile home site during the 90-day period or any proper extension of the time period under subdivision (a). Failure to timely pay all rent or other charges shall entitle the owner or operator to seek an immediate writ of restitution. As used in this subdivision, "rent and other charges" does not include liquidated damages awarded under section 5785.

(c) Upon the expiration of 10 days after the date of the judgment of possession, the owner or operator may disconnect all mobile home park-supplied utility services.

(d) Within 10 days after the date of the judgment of possession, the tenant shall provide the owner or operator with proof that the mobile home has been properly winterized by a licensed mobile home installer and repairer. Failure to timely provide the proof of winterization shall entitle the owner or operator to seek an immediate writ of restitution.

(e) The tenant shall continue to maintain the mobile home and mobile home site in accordance with the rules and regulations of the mobile home park.

(f) The mobile home park shall provide the tenant with reasonable access to the mobile home and the mobile home site for the purpose of maintaining the mobile home and mobile home site and selling the mobile home.

Sec. 5783. Every judgment for possession resulting from an action to terminate a tenancy in a mobile home park for just cause shall set forth the right of a tenant to sell a mobile home on site, the conditions of that right, and the consequences of a tenant's failure to meet those conditions, all as prescribed in section 5781.

Sec. 5785. In every contested action to terminate a tenancy in a mobile home park for just cause, the court shall award liquidated damages to the prevailing party if a provision requiring liquidated damages is included in the lease or rental agreement governing the tenancy or rules or regulations adopted pursuant to the lease or rental agreement, as prescribed in section 28c of the mobile home commission act, Act No. 96 of the Public Acts of 1987, being section 125.2328c of the Michigan Compiled Laws. The liquidated damages shall not be construed to be a penalty.

Section 2. This amendatory act shall take effect May 1, 1989.

Section 3. This amendatory act shall not take effect unless Senate Bill No. 912 of the 84th Legislature is enacted into law.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.