

# HOUSE BILL No. 4320

February 15, 1991, Introduced by Reps. Perry Bullard, Clack, DeMars, Dobronski, Saunders, Wozniak, Murphy, Bennett, Gubow, Hunter, Hertel, Bennane, Leland, Baade and Willis Bullard and referred to the Committee on Judiciary.

A bill to amend sections 8401, 8408, and 8424 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 278 of the Public Acts of 1984, being sections 600.8401, 600.8408, and 600.8424 of the Michigan Compiled Laws:

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 8401, 8408, and 8424 of Act No. 236 of  
2 the Public Acts of 1961, as amended by Act No. 278 of the Public  
3 Acts of 1984, being sections 600.8401, 600.8408, and 600.8424 of  
4 the Michigan Compiled Laws, are amended to read as follows:

5       Sec. 8401. ~~-(+)-~~ A small claims division is created in each  
6 district as a division of the district court. A judge of the  
7 district court shall sit as judge of the small claims division.

1 The jurisdiction of the small claims division shall be confined  
2 to ~~cases~~ THE FOLLOWING ACTIONS:

3 (A) CASES for the recovery of money only when the amount  
4 claimed does not exceed ~~-\$1,000.00-~~ \$1,500.00.

5 (B) ACTIONS TO COMPEL COMPLIANCE UNDER SECTION 11 OF THE  
6 BULLARD-PLAWECKI EMPLOYEE RIGHT TO KNOW ACT, ACT NO. 397 OF THE  
7 PUBLIC ACTS OF 1978, BEING SECTION 423.511 OF THE MICHIGAN  
8 COMPILED LAWS.

9 ~~(2) On and after January 1, 1986, the jurisdiction of the~~  
10 ~~small claims division shall be confined to cases for the recovery~~  
11 ~~of money only when the amount claimed does not exceed \$1,500.00.~~

12 Sec. 8408. (1) An attorney at law, except on the attorney's  
13 own behalf, a collection agency or agent or employee of a collec-  
14 tion agency, or a person other than the plaintiff and defendant,  
15 except as is otherwise provided in this chapter, shall not take  
16 part in the filing, prosecution, or defense of litigation in the  
17 small claims division.

18 (2) A sole proprietorship, partnership, or corporation as  
19 plaintiff or defendant may be represented by an officer or  
20 employee who has direct and personal knowledge of facts in  
21 dispute. If the officer or employee who has direct and personal  
22 knowledge of facts in dispute is no longer employed by the  
23 defendant or plaintiff or is medically unavailable, the represen-  
24 tation may be made by that person's supervisor, or by the sole  
25 proprietor, a partner, or an officer or a member of the board of  
26 directors of a corporation.

1       (3) A county, city, village, or township as plaintiff or  
2 defendant, OR A GOVERNMENTAL AGENCY THAT IS A DEFENDANT IN AN  
3 ACTION TO COMPEL COMPLIANCE WITH THE BULLARD-PLAWECKI RIGHT TO  
4 KNOW ACT PURSUANT TO SECTION 8401(B), may be represented only by  
5 an elected or appointed officer or an employee who has direct and  
6 personal knowledge of the facts in dispute. If the officer or  
7 employee who has direct and personal knowledge of the facts in  
8 dispute is no longer an officer or employee of the plaintiff or  
9 defendant, the representation may be made by that officer's suc-  
10 cessor or that employee's supervisor, or by a member of the gov-  
11 erning body of the county, city, village, or township. In addi-  
12 tion, a person may not represent a county, city, village, or  
13 township OR OTHER GOVERNMENTAL AGENCY in the small claims divi-  
14 sion unless authorized to appear in the case by the governing  
15 body of the county, city, village, or township OR OTHER GOVERN-  
16 MENTAL AGENCY.

17       (4) Before commencement of a trial, the plaintiff or  
18 defendant may, upon demand, require that the trial be conducted  
19 before a district court judge and not a magistrate, or may remove  
20 the case from the small claims division to the general civil  
21 division of the district court. The affidavit form, in boldface  
22 type, shall inform both parties of the right to removal before  
23 trial from magistrate jurisdiction, if applicable, and removal  
24 before the trial to the general civil division and also inform  
25 the parties of the rights waived if they choose to remain in the  
26 small claims division. If the parties commence a trial of the

1 case in the small claims division, both parties waive all rights  
2 mentioned in section 8412.

3       Sec. 8424. (1) Actions of fraud, except for actions under  
4 section 2952, and actions of libel, slander, assault, battery, or  
5 other intentional torts shall not be instituted in the small  
6 claims division.

7       (2) Except as provided in ~~subsection~~ SUBSECTIONS (3) AND  
8 (4), the state, a political subdivision of the state, or any  
9 other governmental agency shall not be a party to an action in  
10 the small claims division.

11       (3) A county, city, village, or township may file an action  
12 in the small claims division. An action may be filed in the  
13 small claims division against a county, city, village, or town-  
14 ship, but a party may not assert a claim with respect to which  
15 the county, city, village, or township has immunity.

16       (4) A STATE OR LOCAL GOVERNMENTAL AGENCY MAY BE A DEFENDANT  
17 IN AN ACTION TO COMPEL COMPLIANCE WITH THE BULLARD-PLAWECKI RIGHT  
18 TO KNOW ACT PURSUANT TO SECTION 8401(B).

19       Section 2. This amendatory act shall not take effect unless  
20 Senate Bill No. \_\_\_\_\_ or House Bill No. 4321 (request  
21 no. 01548'91) of the 86th Legislature is enacted into law.