



HOUSE BILL No. 4199

February 10, 1993, Introduced by Reps. Gubow, DeMars and Leland and referred to the Committee on Housing and Urban Affairs.

A bill to amend section 5720 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 75 of the Public Acts of 1980, being section 600.5720 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 5720 of Act No. 236 of the Public Acts
2 of 1961, as amended by Act No. 75 of the Public Acts of 1980,
3 being section 600.5720 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 5720. (1) A judgment for possession of the premises
6 for an alleged termination of tenancy shall not be entered
7 against a defendant if 1 or more of the following is
8 established:

1 (a) That the alleged termination was intended primarily as a
2 penalty for the defendant's attempt to secure or enforce rights
3 under the lease or agreement or under the laws of the state, of a
4 governmental subdivision of this state, or of the United States.

5 (b) That the alleged termination was intended primarily as a
6 penalty for the defendant's complaint to a governmental authority
7 with a report of plaintiff's violation of a health or safety code
8 or ordinance.

9 (c) That the alleged termination was intended primarily as
10 retribution for a lawful act arising out of the tenancy, includ-
11 ing membership in a tenant organization and a lawful activity of
12 a tenant organization arising out of the tenancy.

13 (d) That the alleged termination was of a tenancy in housing
14 operated by a city, village, township, or other unit of local
15 government and was terminated without cause.

16 (e) That the plaintiff attempted to increase the defendant's
17 obligations under the lease or contract as a penalty for the
18 lawful acts as are described in subdivisions (a) to (c) and that
19 the defendant's failure to perform the additional obligations was
20 the primary reason for the alleged termination of tenancy.

21 (F) THAT THE ALLEGED TERMINATION WAS OF A TENANCY IN AN
22 UNREGISTERED RENTAL DWELLING REQUIRED TO BE REGISTERED UNDER
23 SECTION 125 OF THE HOUSING LAW OF MICHIGAN, ACT NO. 167 OF THE
24 PUBLIC ACTS OF 1917, BEING SECTION 125.525 OF THE MICHIGAN
25 COMPILED LAWS, OR THAT THE ALLEGED TERMINATION WAS OF A TENANCY
26 IN AN UNLICENSED RENTAL DWELLING REQUIRED TO BE LICENSED BY AN
27 ORDINANCE ADOPTED UNDER THE AUTHORITY OF SECTION 143 OF ACT

1 NO. 167 OF THE PUBLIC ACTS OF 1917, BEING SECTION 125.543 OF THE
2 MICHIGAN COMPILED LAWS.

3 (G) ~~(f)~~ That the plaintiff committed a breach of the lease
4 which excuses the payment of rent if possession is claimed for
5 nonpayment of rent.

6 (H) ~~(g)~~ That the rent allegedly due, in an action where
7 possession is claimed for nonpayment of rent, was paid into an
8 escrow account under section 130 of Act No. 167 of the Public
9 Acts of 1917, being section 125.530 of the Michigan Compiled
10 Laws; was paid pursuant to a court order under section 134(5) of
11 Act No. 167 of the Public Acts of 1917, as amended, being section
12 125.534 of the Michigan Compiled Laws; or was paid to a receiver
13 under section 135 of Act No. 167 of the Public Acts of 1917,
14 being section 125.535 of the Michigan Compiled Laws.

15 (2) If a defendant who alleges a retaliatory termination of
16 the tenancy shows that within 90 days before the commencement of
17 summary proceedings the defendant attempted to secure or enforce
18 rights against the plaintiff or to complain against the plain-
19 tiff, as provided in subsection (1)(a), (b), (c), or (e), by
20 means of official action to or through a court or other govern-
21 mental agency and the official action has not resulted in dis-
22 missal or denial of the attempt or complaint, a presumption in
23 favor of the defense of retaliatory termination arises, unless
24 the plaintiff establishes by a preponderance of the evidence that
25 the termination of tenancy was not in retaliation for the acts.
26 If the defendant's alleged attempt to secure or enforce rights or
27 to complain against the plaintiff occurred more than 90 days

1 before the commencement of proceedings or was terminated
2 adversely to the defendant, a presumption adverse to the defense
3 of retaliatory termination arises and the defendant has the
4 burden to establish the defense by a preponderance of the
5 evidence.

6 Section 2. This amendatory act shall not take effect unless
7 Senate Bill No. ____ or House Bill No. 4198 (request
8 no. 01651'93) of the 87th Legislature is enacted into law.