



HOUSE BILL No. 5243

December 16, 1993, Introduced by Reps. Rivers, Barns, Yokich, Joe Young, Jr., Jaye, Stallworth, Jersevic, Freeman, Willard, Pitoniak, DeMars and Palamara and referred to the Committee on Judiciary.

A bill to amend sections 8303, 8401, 8408, and 8424 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," section 8303 as added by Act No. 104 of the Public Acts of 1988 and sections 8401, 8408, and 8424 as amended by Act No. 192 of the Public Acts of 1992, being sections 600.8303, 600.8401, 600.8408, and 600.8424 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 8303, 8401, 8408, and 8424 of Act
2 No. 236 of the Public Acts of 1961, section 8303 as added by Act
3 No. 104 of the Public Acts of 1988 and sections 8401, 8408, and
4 8424 as amended by Act No. 192 of the Public Acts of 1992, being
5 sections 600.8303, 600.8401, 600.8408, and 600.8424 of the
6 Michigan Compiled Laws, are amended to read as follows:

1 Sec. 8303. The district court ~~shall have~~ HAS equitable
2 jurisdiction over ~~forfeiture~~ BOTH OF THE FOLLOWING:

3 (A) FORFEITURE proceedings brought under chapter 47. The
4 district court may hear and determine a forfeiture action or a
5 motion relating to a forfeiture action, and may issue and enforce
6 any order or judgment relating to a forfeiture action, as pro-
7 vided in chapter 47.

8 (B) ACTIONS TO COMPEL COMPLIANCE UNDER SECTION 10 OF THE
9 FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF
10 1976, BEING SECTION 15.240 OF THE MICHIGAN COMPILED LAWS. THE
11 DISTRICT COURT MAY HEAR AND DETERMINE AN ACTION TO COMPEL COMPLI-
12 ANCE OR A MOTION RELATING TO AN ACTION TO COMPEL COMPLIANCE, AND
13 MAY ENFORCE ANY ORDER, AWARD, OR JUDGMENT RELATING TO AN ORDER TO
14 COMPEL COMPLIANCE, AS PROVIDED IN SECTION 10 OF ACT NO. 442 OF
15 THE PUBLIC ACTS OF 1976.

16 Sec. 8401. A small claims division is created in each dis-
17 trict as a division of the district court. A judge of the dis-
18 trict court shall sit as judge of the small claims division. The
19 jurisdiction of the small claims division shall be confined to
20 ~~cases~~ THE FOLLOWING ACTIONS:

21 (A) ACTIONS for the recovery of money only when the amount
22 claimed does not exceed \$1,750.00.

23 (B) ACTIONS TO COMPEL COMPLIANCE UNDER SECTION 10 OF THE
24 FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF
25 1976, BEING SECTION 15.240 OF THE MICHIGAN COMPILED LAWS. THE
26 DISTRICT COURT MAY HEAR AND DETERMINE AN ACTION TO COMPEL
27 COMPLIANCE OR A MOTION RELATING TO AN ACTION TO COMPEL

1 COMPLIANCE, AND MAY ENFORCE ANY ORDER, AWARD, OR JUDGMENT
2 RELATING TO AN ORDER TO COMPEL COMPLIANCE, AS PROVIDED IN
3 SECTION 10 OF ACT NO. 442 OF THE PUBLIC ACTS OF 1976.

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

10 (2) A sole proprietorship, partnership, or corporation as
11 plaintiff or defendant may be represented by an officer or
12 employee who has direct and personal knowledge of facts in
13 dispute. If the officer or employee who has direct and personal
14 knowledge of facts in dispute is no longer employed by the
15 defendant or plaintiff or is medically unavailable, the represen-
16 tation may be made by that person's supervisor, or by the sole
17 proprietor, a partner, or an officer or a member of the board of
18 directors of a corporation.

19 (3) A county, city, village, township, or local or interme-
20 diate school district as plaintiff or defendant, OR A GOVERNMEN-
21 TAL AGENCY THAT IS A DEFENDANT IN AN ACTION TO COMPEL COMPLIANCE
22 WITH SECTION 10 OF THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF
23 THE PUBLIC ACTS OF 1976, BEING SECTION 15.240 OF THE MICHIGAN
24 COMPILED LAWS, may be represented only by an elected or appointed
25 officer or an employee who has direct and personal knowledge of
26 the facts in dispute. If the officer or employee who has direct
27 and personal knowledge of the facts in dispute is no longer an

1 officer or employee of the plaintiff or defendant, the
2 representation may be made by that officer's successor or that
3 employee's supervisor, or by a member of the governing body of
4 the county, city, village, township, ~~or~~ local or intermediate
5 school district, OR OTHER GOVERNMENTAL AGENCY. In addition, a
6 person may not represent a county, city, village, township, ~~or~~
7 local or intermediate school district, OR OTHER GOVERNMENTAL
8 AGENCY in the small claims division unless authorized to appear
9 in the case by the governing body of the county, city, village,
10 township, ~~or~~ local or intermediate school district, OR OTHER
11 GOVERNMENTAL AGENCY.

12 (4) Before commencement of a trial, the plaintiff or
13 defendant may, upon demand, require that the trial be conducted
14 before a district court judge and not a magistrate, or may remove
15 the case from the small claims division to the general civil
16 division of the district court. If the parties commence a trial
17 of the case in the small claims division, both parties waive all
18 rights mentioned in section 8412.

19 Sec. 8424. (1) Actions of fraud, except for actions under
20 section 2952 or under the Michigan consumer protection act, Act
21 No. 331 of the Public Acts of 1976, being sections 445.901 to
22 445.922 of the Michigan Compiled Laws, and actions of libel,
23 slander, assault, battery, or other intentional torts shall not
24 be instituted in the small claims division.

25 (2) Except as provided in ~~subsection~~ SUBSECTIONS (3) AND
26 (4), the state, a political subdivision of the state, or any

1 other governmental agency shall not be a party to an action in
2 the small claims division.

3 (3) A county, city, village, township, or local or interme-
4 diate school district may file an action in the small claims
5 division. An action may be filed in the small claims division
6 against a county, city, village, township, or local or intermedi-
7 ate school district, but a party may not assert a claim with
8 respect to which the county, city, village, township, or local or
9 intermediate school district has immunity.

10 (4) A STATE OR LOCAL GOVERNMENTAL AGENCY MAY BE A DEFENDANT
11 IN AN ACTION TO COMPEL COMPLIANCE WITH SECTION 10 OF THE FREEDOM
12 OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF 1976, BEING
13 SECTION 15.240 OF THE MICHIGAN COMPILED LAWS.

14 Section 2. This amendatory act shall not take effect unless
15 Senate Bill No. _____ or House Bill No. 5244 (request
16 no. 03522'93 a) of the 87th Legislature is enacted into law.