

HOUSE BILL No. 5170

October 10, 2001, Introduced by Reps. Schermesser, DeRossett, Richardville, Lockwood, Ruth Johnson and Jannick and referred to the Committee on Commerce.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 4704, 5714, 5771, 5773, 5775, 5777, 5779, 5781, 5783, and 5785 (MCL 600.4704, 600.5714, 600.5771, 600.5773, 600.5775, 600.5777, 600.5779, 600.5781, 600.5783, and 600.5785), section 4704 as added by 1988 PA 104, section 5714 as amended by 1990 PA 310, and sections 5771, 5773, 5775, 5777, 5779, 5781, 5783, and 5785 as added by 1988 PA 336.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4704. (1) Within 7 days after personal property is
2 seized or a lien notice is filed against real property under sec-
3 tion 4703, the seizing agency or, if the property is real proper-
4 ty, the attorney general, the prosecuting attorney, or the city
5 or township attorney shall give notice of the seizure of the

1 property and the intent to forfeit and dispose of the property
2 according to this chapter to each of the following persons:

3 (a) If charges have been filed against a person for a crime,
4 the person charged.

5 (b) Each person with a known ownership interest in the
6 property.

7 (c) Each mortgagee, person holding a security interest, or
8 person having a lien that appears on the certificate of title OR
9 CERTIFICATE OF OWNERSHIP or THAT is on file with the secretary of
10 state or appropriate register of deeds, if the property is real
11 property, a ~~mobile~~ MANUFACTURED home, A motor vehicle, A water-
12 craft, or other personal property.

13 (d) Each holder of a preferred ship mortgage of record in
14 the appropriate public office ~~pursuant to~~ UNDER the FORMER ship
15 mortgage act, 1920, chapter 250, 41 Stat. 1000, ~~46 U.S.C.~~
16 ~~App. 911, 921 to 927, 941, 951 to 954, 961, 971 to 975, and 981~~
17 ~~to 984,~~ if the property is a watercraft more than 28 feet long
18 or a watercraft that has a capacity of 5 net tons or more.

19 (e) Each person whose security interest is recorded with the
20 appropriate public office ~~pursuant to~~ UNDER the FORMER federal
21 aviation act of 1958, Public Law 85-726, ~~27 Stat. 731,~~ if the
22 property is an aircraft, aircraft engine, or aircraft propeller,
23 or a part of an aircraft, aircraft engine, or aircraft
24 propeller.

25 (f) Each person with a known security interest in the
26 property.

1 (g) Each victim of the crime.

2 (2) The notice required under subsection (1) shall be a
3 written notice delivered to the person or sent to the person by
4 certified mail. If the name and address of the person are not
5 reasonably ascertainable or delivery of the notice cannot reason-
6 ably be accomplished, the notice shall be published in a newspa-
7 per of general circulation in the county in which the personal
8 property was seized or the real property is located for 10 suc-
9 cessive publishing days. Proof of written notice or publication
10 shall be filed with the court having jurisdiction over the sei-
11 zure or forfeiture.

12 (3) If personal property was seized, the seizing agency
13 shall immediately notify the prosecuting attorney for the county
14 in which the property was seized or, if the attorney general is
15 actively handling a case involving or relating to the property,
16 the attorney general of the seizure of the property and the
17 intent to forfeit and dispose of the property according to this
18 chapter.

19 Sec. 5714. (1) A person entitled to premises may recover
20 possession of the premises by summary proceedings in 1 OR MORE OF
21 the following cases:

22 (a) ~~When~~ IF a person holds over premises, after failing or
23 refusing to pay rent due under the lease or agreement by which
24 the person holds the premises within 7 days from the service of a
25 written demand for possession for nonpayment of the rent due.
26 For the purpose of this subdivision, rent due does not include

1 ~~any~~ accelerated indebtedness by reason of a breach of the lease
2 under which the premises are held.

3 (b) ~~When~~ IF a person holds over premises for 7 days fol-
4 lowing service of a written demand for possession for termination
5 of the lease pursuant to a clause in the lease providing for ter-
6 mination because a tenant, a member of the tenant's household, or
7 other person under the tenant's control has unlawfully manufac-
8 tured, delivered, possessed with intent to deliver, or possessed
9 a controlled substance on the leased premises. This subdivision
10 applies only if a formal police report has been filed by the
11 landlord alleging that the person has unlawfully manufactured,
12 delivered, possessed with intent to deliver, or possessed a con-
13 trolled substance on the leased premises. For purposes of this
14 subdivision, "controlled substance" means a substance or a coun-
15 terfeit substance classified in schedule 1, 2, or 3 ~~pursuant to~~
16 UNDER sections 7211, 7212, 7213, 7214, 7215, and 7216 of ~~Act No.~~
17 ~~368 of the Public Acts of 1978, being sections 333.7211,~~
18 ~~333.7212, 333.7213, 333.7214, 333.7215, and 333.7216 of the~~
19 ~~Michigan Compiled Laws~~ THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
20 333.7211, 333.7212, 333.7213, 333.7214, 333.7215, AND 333.7216.

21 (c) ~~When~~ IF a person holds over premises in 1 or more of
22 the following circumstances:

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

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

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

5 (d) ~~When~~ IF the person in possession willfully or negli-
6 gently causes a serious and continuing health hazard to exist on
7 the premises, or causes extensive and continuing physical injury
8 to the premises, ~~which~~ THAT was discovered or should reasonably
9 have been discovered by the party seeking possession not earlier
10 than 90 days before the institution of proceedings under this
11 chapter and ~~when~~ IF the person in possession neglects or
12 refuses for 7 days after service of a demand for possession of
13 the premises to deliver up possession of the premises or to sub-
14 stantially restore or repair the premises.

15 (e) ~~When~~ IF a person takes possession of premises by means
16 of a forcible entry, holds possession of premises by force after
17 a peaceable entry, or comes into possession of premises by tres-
18 pass without color of title or other possessory interest.

19 (f) ~~When~~ IF a person continues in possession of premises
20 sold by virtue of a mortgage or execution, after the time limited
21 by law for redemption of the premises.

22 (g) ~~When~~ IF a person continues in possession of premises
23 sold and conveyed by a personal representative under license from
24 the probate court or under authority in the will.

25 (2) A tenant or occupant of housing operated by a city, vil-
26 lage, township, or other unit of local government, as provided in
27 ~~Act No. 18 of the Public Acts of the Extra Session of 1933, as~~

1 amended, being sections ~~125.651 to 125.709e~~ of the Michigan
 2 ~~Compiled Laws~~ 1933 (EX SESS) PA 18, MCL 125.651 TO 125.709C, is
 3 not considered to be holding over under subsection (1)(b) or (c)
 4 unless the tenancy or agreement has been terminated for just
 5 cause, as provided by lawful rules of the local housing commis-
 6 sion or by law.

7 (3) A tenant of a ~~mobile~~ MANUFACTURED home ~~park~~
 8 COMMUNITY is not considered to be holding over under
 9 subsection (1)(b) or (c) unless the tenancy or lease agreement is
 10 terminated for just cause ~~pursuant to~~ UNDER chapter 57a.

11 Sec. 5771. As used in this chapter:

12 (a) ~~"Mobile~~ "MANUFACTURED home" means a ~~mobile~~
 13 MANUFACTURED home as defined in section 2 of the ~~mobile home~~
 14 MANUFACTURED HOUSING commission act, ~~Act No. 96 of the Public~~
 15 ~~Acts of 1987, being section 125.2302 of the Michigan Compiled~~
 16 ~~Laws~~ 1987 PA 96, MCL 125.2302.

17 (b) ~~"Mobile~~ "MANUFACTURED home ~~park~~ COMMUNITY" means a
 18 ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY as defined in
 19 section 2 of ~~Act No. 96 of the Public Acts of 1987~~ THE MANUFAC-
 20 TURED HOUSING COMMISSION ACT, 1987 PA 96, MCL 125.2302, but does
 21 not include a seasonal ~~mobile~~ MANUFACTURED home ~~park~~
 22 COMMUNITY as defined in section 2 of ~~Act No. 96 of the Public~~
 23 ~~Acts of 1987~~ THE MANUFACTURED HOUSING COMMISSION ACT, 1987 PA
 24 96, MCL 125.2302.

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

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

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

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

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

10 (b) Failure by the tenant to comply with a lease or agree-
11 ment by which the tenant holds the premises or with a rule or
12 regulation of the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY,
13 adopted pursuant to the lease or agreement, ~~which~~ IF THE rule
14 or regulation is reasonably related to ~~any~~ 1 OR MORE of the
15 following:

16 (i) The health, safety, or welfare of the ~~mobile~~
17 MANUFACTURED home ~~park~~ COMMUNITY, its employees, or tenants.

18 (ii) The quiet enjoyment of the other tenants of the
19 ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY.

20 (iii) Maintaining the physical condition or appearance of
21 the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY or the ~~mobile~~
22 MANUFACTURED homes located in the ~~mobile~~ MANUFACTURED home
23 ~~park~~ COMMUNITY to protect the value of the ~~mobile~~
24 MANUFACTURED home ~~park~~ COMMUNITY or to maintain its aesthetic
25 quality or appearance.

26 (c) A violation by the tenant of rules promulgated by the
27 Michigan department of ~~public health~~ ENVIRONMENTAL QUALITY

1 under section 6 of the ~~mobile home~~ MANUFACTURED HOUSING
2 commission act, ~~Act No. 96 of the Public Acts of 1987, being~~
3 ~~section 125.2306 of the Michigan Compiled Laws~~ 1987 PA 96, MCL
4 125.2306.

5 (d) Intentional physical injury by the tenant to the person-
6 nel or ~~other tenants~~ ANOTHER TENANT of the ~~mobile~~
7 MANUFACTURED home ~~park~~ COMMUNITY, or intentional physical
8 damage by the tenant to the property of the ~~mobile~~ MANUFACTURED
9 home ~~park~~ COMMUNITY or of its other tenants.

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

13 (f) Failure of the tenant to make timely payment of rent or
14 other charges under the lease or rental agreement by which the
15 tenant holds the premises on 3 or more occasions during ~~any~~ A
16 12-month period, for which failure the owner or operator has
17 served a written demand for possession for nonpayment of rent
18 ~~pursuant to~~ UNDER section 5714(1)(a) and the tenant has failed
19 or refused to pay the rent or other charges within the time
20 period stated in the written demand for possession. The written
21 demand for possession shall provide a notice to the tenant in
22 substantially the following form: "Notice: Three or more late
23 payments of rent during any 12-month period is just cause to
24 evict you." Nothing in this subdivision ~~shall prohibit~~
25 PROHIBITS a tenant from asserting, and the court from consider-
26 ing, ~~any~~ A meritorious ~~defenses~~ DEFENSE to late payment of
27 rent or other charges.

1 (g) Conduct by the tenant ~~upon~~ ON the ~~mobile~~
2 MANUFACTURED home ~~park~~ COMMUNITY premises ~~which~~ THAT consti-
3 tutes a substantial annoyance to ~~other tenants~~ ANOTHER TENANT
4 or to the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY, after
5 notice and an opportunity to cure.

6 (h) Failure of the tenant to maintain the ~~mobile~~
7 MANUFACTURED home or ~~mobile~~ MANUFACTURED home site in a reason-
8 able condition consistent with aesthetics appropriate to the
9 ~~park~~ MANUFACTURED HOME COMMUNITY.

10 (i) Condemnation of the ~~mobile~~ MANUFACTURED home ~~park~~
11 COMMUNITY.

12 (j) Changes in the use or substantive nature of the ~~mobile~~
13 MANUFACTURED home ~~park~~ COMMUNITY.

14 (k) Public health and safety violations by the tenant.

15 (3) This section does not prohibit a change of the rental
16 payments or the terms or conditions of tenancy in a ~~mobile~~
17 MANUFACTURED home ~~park~~ COMMUNITY following the termination or
18 expiration of a written lease agreement for the ~~mobile~~
19 MANUFACTURED home site.

20 Sec. 5777. Within 10 days of service of a demand for pos-
21 session of premises for just cause, a tenant in a ~~mobile~~
22 MANUFACTURED home ~~park shall have~~ COMMUNITY HAS the right to
23 request, by certified or registered mail to the owner or operator
24 of the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY at the address
25 set forth in the demand, an in-person conference with the owner
26 or operator of the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY or
27 representative of the owner or operator. If timely requested,

1 the conference shall be held at the ~~mobile~~ MANUFACTURED home
2 ~~park~~ COMMUNITY and at a time and date established by the owner
3 or operator but not later than 20 days after the tenant's
4 request. The tenant may be accompanied by counsel at the
5 conference. Nothing in this section ~~shall affect~~ AFFECTS the
6 owner's or operator's right to commence summary proceedings pur-
7 suant to the demand for possession.

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

18 Sec. 5781. If a tenancy in a ~~mobile~~ MANUFACTURED home
19 ~~park~~ COMMUNITY is terminated for just cause, the tenant may
20 sell his or her ~~mobile~~ MANUFACTURED home on-site, as provided
21 in sections 28(1)(h) and 28a of the ~~mobile home~~ MANUFACTURED
22 HOUSING commission act, ~~Act No. 96 of the Public Acts of 1987,~~
23 ~~being sections 125.2328 and 125.2328a of the Michigan Compiled~~
24 ~~Laws~~ 1987 PA 96, MCL 125.2328 AND 125.2328A, subject to all of
25 the following conditions:

26 (a) The tenant shall sell or move the ~~mobile~~ MANUFACTURED
27 home within 90 days after the date of the judgment of possession,

1 except that the time period shall be extended to 90 days after
2 the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY owner or operator
3 denies tenancy to a person making a bona fide offer to purchase
4 the ~~mobile~~ MANUFACTURED home within the 90-day period or any
5 proper extension of the time period under this subdivision.

6 (b) The tenant shall timely pay all rent and other charges
7 for the ~~mobile~~ MANUFACTURED home site during the 90-day period
8 or any proper extension of the time period under subdivision

9 (a). Failure to timely pay all rent or other charges shall enti-
10 tle the owner or operator to seek an immediate writ of
11 restitution. As used in this subdivision, "rent and other
12 charges" does not include liquidated damages awarded under
13 section 5785.

14 (c) Upon the expiration of 10 days after the date of the
15 judgment of possession, the owner or operator may disconnect all
16 ~~mobile~~ MANUFACTURED home ~~park-supplied~~ COMMUNITY-SUPPLIED
17 utility services.

18 (d) Within 10 days after the date of the judgment of posses-
19 sion, the tenant shall provide the owner or operator with proof
20 that the ~~mobile~~ MANUFACTURED home has been properly winterized
21 by a licensed ~~mobile~~ MANUFACTURED home installer and ~~repairer~~
22 SERVICER. Failure to timely provide the proof of winterization
23 shall entitle the owner or operator to seek an immediate writ of
24 restitution.

25 (e) The tenant shall continue to maintain the ~~mobile~~
26 MANUFACTURED home and ~~mobile~~ MANUFACTURED home site in

1 accordance with the rules and regulations of the ~~mobile~~
2 MANUFACTURED home ~~park~~ COMMUNITY.

3 (f) The ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY shall
4 provide the tenant with reasonable access to the ~~mobile~~
5 MANUFACTURED home and the ~~mobile~~ MANUFACTURED home site for the
6 purpose of maintaining the ~~mobile~~ MANUFACTURED home and
7 ~~mobile~~ MANUFACTURED home site and selling the ~~mobile~~
8 MANUFACTURED home.

9 Sec. 5783. Every judgment for possession resulting from an
10 action to terminate a tenancy in a ~~mobile~~ MANUFACTURED home
11 ~~park~~ COMMUNITY for just cause shall set forth the right of a
12 tenant to sell a ~~mobile~~ MANUFACTURED home on site, the condi-
13 tions of that right, and the consequences of a tenant's failure
14 to meet those conditions, all as prescribed in section 5781.

15 Sec. 5785. In ~~every~~ A contested action to terminate a
16 tenancy in a ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY for just
17 cause, the court shall award liquidated damages to the prevailing
18 party if a provision requiring liquidated damages is included in
19 the lease or rental agreement governing the tenancy or rules or
20 regulations adopted ~~pursuant to~~ UNDER the lease or rental
21 agreement, as prescribed in section 28c of the ~~mobile home~~
22 MANUFACTURED HOUSING commission act, ~~Act No. 96 of the Public~~
23 ~~Acts of 1987, being section 125.2328c of the Michigan Compiled~~
24 ~~Laws~~ 1987 PA 96, MCL 125.2328C. The liquidated damages shall
25 not be construed to be a penalty.

26 Enacting section 1. This amendatory act does not take
27 effect unless Senate Bill No. _____ or House Bill No. 5169

1 (request no. 02555'01) of the 91st Legislature is enacted into
2 law.