



# HOUSE BILL No. 5449

November 30, 1995, Introduced by Reps. Pitoniak, DeMars, Brewer, Varga, Scott, Bobier and Hanley and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 2919, 2931, 2933, 3340, and 6069 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," being sections 600.2919, 600.2931, 600.2933, 600.3340, and 600.6069 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2919, 2931, 2933, 3340, and 6069 of Act  
2 No. 236 of the Public Acts of 1961, being sections 600.2919,  
3 600.2931, 600.2933, 600.3340, and 600.6069 of the Michigan  
4 Compiled Laws, are amended to read as follows:

5 Sec. 2919. (1) ~~Any person who~~ A PERSON SHALL NOT DO 1 OR  
6 MORE OF THE FOLLOWING WITHOUT PERMISSION:

7 (a) ~~cuts down or carries off any wood~~ CUT DOWN OR CARRY  
8 OFF WOOD, underwood, trees, or timber or ~~despoils or injures any~~  
9 ~~trees~~ DESPOIL OR INJURE A TREE on another's lands ~~,~~ or ON THE

1 LANDS OR COMMONS OF ANY CITY, TOWNSHIP, VILLAGE, OR OTHER PUBLIC  
2 CORPORATION.

3 (b)  ~~digs up or carries~~ DIG UP OR CARRY away stone, ore,  
4 gravel, clay, sand, turf, or mould or any root, fruit, or plant  
5 from another's lands  ~~,~~ or ON THE LANDS OR COMMONS OF ANY CITY,  
6 TOWNSHIP, VILLAGE, OR OTHER PUBLIC CORPORATION.

7 (c)  ~~cuts down or carries away any~~ CUT DOWN OR CARRY AWAY  
8 grass, hay, or  ~~any kind of~~ grain from another's lands without  
9 the permission of the owner of the lands, or on the lands or com-  
10 mons of any city, township, village, or other public corporation.  
11  ~~without license to do so,~~

12 (2) A PERSON WHO VIOLATES SUBSECTION (1) is liable to the  
13 owner of the land or the public corporation for 3 times the  
14 amount of actual damages. If upon the trial of an action under  
15 this provision or any other action for trespass on lands it  
16 appears that the trespass was casual and involuntary, or that the  
17 defendant had probable cause to believe that the land on which  
18 the trespass was committed was his OR HER own, or that the wood,  
19 trees, or timber taken were taken for the purpose of making or  
20 repairing  ~~any~~ A public road or bridge, judgment shall be given  
21 for the amount of single damages only.

22  ~~Waste by holder of present estate, double damages.~~

23 (3)  ~~(2)(a) Any~~ A guardian, tenant in dower, life tenant,  
24 or tenant for years who commits or suffers  ~~any~~ waste, during  
25 his OR HER term or estate, to the lands, tenements, or heredita-  
26 ments, without having a lawful license to do so, is liable for  
27 double the amount of actual damages.  ~~Any~~ A joint tenant or

1 tenant in common who commits or suffers waste of the lands,  
 2 tenements, or hereditaments held in joint tenancy, without having  
 3 a lawful license in writing to do so, is liable for double the  
 4 amount of actual damages at the suit of his OR HER cotenant.

5 (4) ~~(b)~~ A claim under ~~this provision~~ SUBSECTION (3) may  
 6 be brought by the person having the next immediate estate, in  
 7 fee, for life, or for years, or by ~~any~~ A person who has the  
 8 remainder or reversion in fee or for life after an intervening  
 9 estate for life or for years; and each ~~of the parties~~ PARTY  
 10 shall recover damages according to his OR HER estate in the  
 11 premises. A joint tenant or tenant in common may bring the claim  
 12 in case of waste by ~~one~~ 1 of his OR HER joint tenants or  
 13 tenants in common. An heir, whether of full age or not, after  
 14 coming into possession of his OR HER inheritance, may maintain a  
 15 claim for waste done in the time of his OR HER ancestor as well  
 16 as in his OR HER own time, unless recovery has been had by the  
 17 executor or administrator of the ancestor. A tenant who assigns  
 18 his OR HER full interest is not liable for waste done or suffered  
 19 by his OR HER assignees while he ~~remains out of possession of~~  
 20 OR SHE DID NOT POSSESS the premises.

21 ~~Threatened waste, injunction, damages.~~

22 (5) ~~(3)(a)~~ The circuit court shall grant ~~injunctions~~ AN  
 23 INJUNCTION to stay and prevent threatened trespass ~~when~~ IF the  
 24 remedies provided by subsection ~~(1), above,~~ (2) are not fully  
 25 adequate, ~~and in any case where~~ IF the trespass is of a con-  
 26 tinuing nature, OR BOTH.

1           (6) ~~(b) In any case where there is not a~~ IF THERE IS NO  
 2 plain, adequate, and complete remedy ~~provided for waste by~~  
 3 ~~subsection (2), above,~~ FOR WASTE UNDER SUBSECTIONS (3) AND (4),  
 4 or where waste is threatened, the circuit court may grant  
 5 ~~injunctions~~ AN INJUNCTION to stay and prevent waste.

6           (7) ~~(c) Having taken~~ A CIRCUIT COURT THAT TAKES jurisdic-  
 7 tion of the case ~~the circuit court~~ may at the same time dispose  
 8 of all questions involved, including the assessing and awarding  
 9 of money damages.

10           ~~Waste after commencement of action, restraining order,~~  
 11           ~~contempt.~~

12           (8) ~~(4)~~ After the commencement of ~~any~~ AN action based on  
 13 a claim for damages for waste, ~~or~~ for the recovery of land, or  
 14 for the possession of land, the defendant shall not make ~~any~~ A  
 15 waste of the land in demand or premises in question during the  
 16 pendency of the action. If the defendant commits, threatens to  
 17 commit, or makes preparations to commit waste, THEN the court in  
 18 which the action is pending or any circuit judge or circuit court  
 19 commissioner may ~~make~~ ISSUE, on the application of the plain-  
 20 tiff, an order restraining the defendant from the commission of  
 21 ~~any~~ A waste or further waste of the land in demand or premises  
 22 in question. ~~Any person violating~~ A PERSON WHO VIOLATES the  
 23 terms of ~~any~~ such AN order is guilty of a contempt of the court  
 24 in which the action is pending ~~which~~ AND is punishable as IN  
 25 other cases of contempt.

26           ~~Waste on land under levy, restraining order, contempt.~~

1       (9) ~~(5)~~ If ~~any~~ A person commits, threatens to commit, or  
 2 makes preparations to commit ~~any~~ A waste on real estate ~~which~~  
 3 THAT has been attached or levied upon by execution in ~~any~~ A  
 4 civil action, THEN the court ~~from which~~ THAT ISSUED the execu-  
 5 tion or attachment ~~issued~~ or any circuit judge or circuit court  
 6 commissioner may ~~make~~ ISSUE, on the application of the plain-  
 7 tiff, an order restraining the person from committing ~~any~~ A  
 8 waste or further waste on the land ~~which~~ THAT has been attached  
 9 or levied upon. ~~Any person who shall violate~~ A PERSON WHO  
 10 VIOLATES the terms of ~~any~~ such AN order is guilty of contempt  
 11 of the court in which the action is pending and is punishable as  
 12 in other cases of contempt.

13       ~~Land sold on execution, liability of person entitled to pos-~~  
 14       ~~session, acts after sale not waste.~~

15       (10) ~~(6)(a)~~ If, ~~at any time~~ after the sale of real  
 16 estate on execution and before a deed is executed ~~in pursuance~~  
 17 ~~of~~ FOR the sale, the defendant in the execution or ~~any other~~  
 18 ANOTHER person commits waste on the real estate or removes from  
 19 it ~~any buildings, fences, or other fixtures~~ A BUILDING, FENCE,  
 20 OR OTHER FIXTURE belonging to the land ~~which~~ THAT would pass to  
 21 the grantee by a deed of conveyance of the land, the purchaser at  
 22 the sale or ~~any~~ A person who has acquired his OR HER rights may  
 23 ~~have and maintain,~~ BRING against the person doing the injury  
 24 and against ~~any other~~ ANOTHER person who has the ~~buildings,~~  
 25 ~~fences, or fixtures in his~~ BUILDING, FENCE, OR FIXTURE IN HIS OR  
 26 HER possession after their removal, the same actions TO which the  
 27 absolute owner of the premises would be entitled. ~~to.~~

1           (11) ~~(b) Whenever any~~ IF lands or tenements are sold ~~by~~  
 2 ~~virtue of~~ UNDER an execution issued upon ~~any~~ A judgment, the  
 3 person to whom the conveyance is executed by the sheriff  
 4 ~~pursuant to~~ FOR the sale has a claim for damages for ~~any~~  
 5 waste committed on the premises by ~~any~~ A person after the  
 6 sale.

7           (12) ~~(c) Any~~ A person entitled to the possession of lands  
 8 or tenements sold under execution may use and enjoy the premises,  
 9 until the period of redemption has run, in ALL OF the following  
 10 ways without being guilty of waste:

11           (A) ~~(i) He~~ THE PERSON may in all cases use and enjoy the  
 12 premises sold in the same manner and for the same purposes in and  
 13 for which they were used and enjoyed prior to the sale, doing no  
 14 permanent injury to the freehold. ~~—~~

15           (B) ~~(ii)~~ If the premises sold ~~were buildings or other~~  
 16 ~~erections he~~ WAS A BUILDING OR OTHER STRUCTURE, THE PERSON may  
 17 make necessary repairs to ~~them although he shall~~ IT, BUT MAY  
 18 not make alterations in ~~the~~ ITS form or structure. ~~of them,~~

19           (C) ~~(iii)~~ If the premises ~~sold were land, he~~ WAS LAND,  
 20 THE PERSON may use and improve the land in the ordinary course of  
 21 husbandry, but ~~he shall~~ IS not ~~be~~ entitled to ~~any crops~~ A  
 22 CROP growing on the premises at the expiration of the period of  
 23 redemption. ~~—~~

24           (D) ~~(iv) He may apply any~~ THE PERSON MAY USE wood or  
 25 timber on the land ~~to~~ FOR the necessary repair of ~~any~~ fences,  
 26 buildings, or ~~erections which~~ STRUCTURES THAT were on the  
 27 premises at the time of sale. ~~—~~

1 (E) ~~(v)~~ If ~~he is in actual occupation of~~ THE PERSON  
2 OCCUPIES the land sold, ~~he~~ THE PERSON may take necessary fire-  
3 wood from the land for the use of ~~his~~ THE PERSON'S family.

4 Sec. 2931. (1) The ~~husband~~ SPOUSE of an insane or other-  
5 wise incompetent ~~wife~~ INDIVIDUAL or ~~any~~ other person who has  
6 an interest in the real estate in which ~~she~~ THE INDIVIDUAL has  
7 a right of dower may maintain an action to bar ~~her of~~ THE INDI-  
8 VIDUAL OF HIS OR her right of dower in the premises.

9 ~~Determination by court; payment to guardian; disposition of~~  
10 ~~proceeds.~~

11 (2) If the court finds that the ~~wife~~ INDIVIDUAL is incur-  
12 ably insane or for more than 2 years has remained insane or oth-  
13 erwise incompetent so that HE OR she has been unable from defec-  
14 tive intellect to join HIS OR her ~~husband~~ SPOUSE in the convey-  
15 ance of the real estate, and that it is proper or necessary to  
16 sell the real estate or bar the ~~wife's~~ INDIVIDUAL'S right of  
17 dower in it, then the court shall determine the cash value of the  
18 ~~wife's~~ INDIVIDUAL'S dower interest in the premises, taking into  
19 consideration the respective ages of the ~~husband and wife~~  
20 SPOUSE AND THE INDIVIDUAL, and order that the ~~wife shall~~  
21 INDIVIDUAL be barred of ~~her~~ dower by the payment of this sum to  
22 a guardian other than HIS OR her ~~husband~~ SPOUSE who shall  
23 receive and invest this sum for ~~her~~ THE INDIVIDUAL'S sole use  
24 and support subject to the supervision of the court. ~~On her~~  
25 ~~becoming sound in mind~~ IF THE INDIVIDUAL BECOMES COMPETENT, the  
26 court shall direct the remainder to be delivered to ~~her~~ THE  
27 INDIVIDUAL. On ~~her~~ THE death OF THE INDIVIDUAL, the court

1 shall direct the remainder to be delivered to HIS OR her  
 2 ~~husband~~ SPOUSE, if living, or if not, to HIS OR her personal  
 3 representatives.

4 ~~Guardian, bond, conveyance of wife's dower interest.~~

5 (3) The guardian, after posting bond approved by the court,  
 6 may sell at private sale the interest of his OR HER ward at a sum  
 7 not less than the value of the dower as fixed by the court or  
 8 ~~he~~ THE GUARDIAN may, in a conveyance with the ~~husband~~ WARD'S  
 9 SPOUSE, or by separate conveyance, transfer the interest of the  
 10 ward in the property to the ~~husband's~~ SPOUSE'S grantee or  
 11 grantees, or their heirs and assigns but to no other person.  
 12 ~~Such~~ THE conveyance shall bar dower as if the ward had, being  
 13 in sound mind, joined HIS OR her ~~husband~~ SPOUSE in a deed of  
 14 the premises.

15 ~~Proceedings equitable in nature.~~

16 (4) Proceedings under this section are equitable in nature.

17 Sec. 2933. (1) ~~A widow~~ AN INDIVIDUAL entitled to dower,  
 18 or ~~a woman~~ AN INDIVIDUAL entitled to dower and HIS OR her  
 19 ~~husband~~ SPOUSE, may maintain a claim to recover ~~her~~ THE  
 20 INDIVIDUAL'S dower in lands, tenements, and hereditaments under  
 21 section 2932 after the expiration of 6 months from the time HIS  
 22 OR her right to dower accrued. If an action is brought to  
 23 recover the dower of ~~any widow which~~ AN INDIVIDUAL THAT has not  
 24 been admeasured to HIM OR her before the commencement of ~~such~~  
 25 THE action, instead of a writ of possession being issued, ~~such~~  
 26 THE plaintiff shall proceed to have HIS OR her dower assigned to  
 27 HIM OR her in the following manner:



1 (a) Upon the filing of the record of judgment, the court, on  
2 the motion of the plaintiff, shall appoint 3 discreet and disin-  
3 terested freeholders commissioners, for the purpose of making  
4 admeasurement of the dower of the plaintiff out of the lands  
5 described in the record; and the commissioners so appointed shall  
6 proceed in like manner, possess the like powers, and be subject  
7 to the like obligations as commissioners appointed by the judge  
8 of probate to set off dower. —

9 (b) The commissioners shall make a report of their doings to  
10 the court, in writing, as soon as may be after their appointment,  
11 ~~which~~ AND THE report shall be confirmed by ~~such~~ THE court —  
12 unless good cause to the contrary is shown, — and shall be  
13 entered at large in the minutes of the court. —

14 (c) Upon the confirmation of the report of the commission-  
15 ers, a writ of possession shall be issued to the sheriff of the  
16 proper county ~~, describing~~ THAT DESCRIBES the premises assigned  
17 for the dower and commanding the sheriff to put the plaintiff in  
18 possession ~~thereof~~ OF THOSE PREMISES.

19 (d) The costs and expenses incurred in ~~such~~ THE admeasure-  
20 ment are subject to the same provisions as in cases of admeasure-  
21 ment of dower by commissioners appointed by the judge of  
22 probate.

23 (2) In ~~any~~ AN action commenced by ~~any widow~~ AN  
24 INDIVIDUAL for the recovery of dower in lands ~~which~~ THAT were  
25 aliened by HIS OR her ~~husband~~ SPOUSE in his OR HER lifetime, if  
26 dower cannot be assigned in the land by metes and bounds without  
27 injustice or manifest injury to the ~~widow~~ INDIVIDUAL or to the

1 owners or persons in possession of the land or some one of them,  
 2 the court having cognizance of the matter may award a sum of  
 3 money in lieu of dower to be paid to the ~~widow~~ INDIVIDUAL, or  
 4 may assign to ~~her~~ THE INDIVIDUAL, as tenant in common, a just  
 5 proportion of the rents, issues, and profits of the lands. In  
 6 all cases, the court shall consider the true value of the lands  
 7 at the time of their alienation by the ~~husband~~ INDIVIDUAL'S  
 8 SPOUSE, and of the probable duration of the life of the  
 9 ~~dowress~~ INDIVIDUAL at the time the sum of money is awarded or  
 10 the rents, issues, and profits are assigned to HIM OR her.

11 (3) Actions under this section are equitable in nature.

12 Sec. 3340. In all cases of sales under judgment in parti-  
 13 tion where it appears that ~~any married woman~~ A MARRIED  
 14 INDIVIDUAL has an inchoate right of dower in ~~any of~~ the lands  
 15 divided or sold, or that ~~any~~ A person has a vested or contin-  
 16 gent future right or estate in the lands, the court under whose  
 17 judgment the sale is made shall ascertain and settle the propor-  
 18 tional value of the inchoate, ~~contingent, or~~ vested, OR  
 19 CONTINGENT right or estate ~~—~~ according to the principles of law  
 20 applicable to annuities and survivorships, and shall direct the  
 21 proportion of the proceeds of the sale to be invested, secured,  
 22 or paid over in the manner considered the best to secure the  
 23 rights and interests of the parties. The payment, investment, or  
 24 other securing of the proceeds of the sale ~~shall be~~ IS a bar to  
 25 that right, estate, or claim.

26 Sec. 6069. (1) ~~After the expiration of 15 months from~~ IF,  
 27 15 MONTHS AFTER the time of the sale of ~~any~~ real estate, ~~if~~

1 ~~any~~ A part of the premises sold ~~shall remain~~ REMAINS  
 2 unredeemed by the person against whom the execution issued, or by  
 3 ~~any~~ A person entitled to redeem the ~~same~~ REAL ESTATE within 1  
 4 year from the time of ~~such~~ ITS sale, according to the provi-  
 5 sions of this chapter, the officer making ~~such~~ THE sale, or his  
 6 OR HER successor in office, shall complete the ~~same,~~ SALE by  
 7 executing  in due form of law  a conveyance of the premises  
 8 ~~so remaining~~ THAT REMAIN unredeemed, ~~either to the~~ TO 1 OF  
 9 THE FOLLOWING:

10 (A) THE original purchaser. ~~or to the~~

11 (B) THE creditor who ~~may have~~ acquired the title of ~~such~~  
 12 THE original purchaser. ~~, or to the~~

13 (C) THE assigns of ~~such~~ THE ORIGINAL purchaser. ~~, or to~~  
 14 the-

15 (D) THE creditor who ~~may have~~ purchased ~~such~~ THE title  
 16 from ~~any other~~ ANOTHER creditor. ~~, as the case may be, which~~

17 (2) A conveyance ~~shall be~~ EXECUTED UNDER SUBSECTION (1) IS  
 18 valid and effectual to convey all the right, title, and interest  
 19 ~~which~~ THAT was sold on ~~such~~ THE execution.

20 (3) ~~(2) In case~~ IF the person who would be entitled to a  
 21 conveyance of ~~any~~ real estate sold by virtue of an execution  
 22 dies before the execution of the conveyance, the officer shall  
 23 execute and deliver ~~such~~ THE conveyance to the executor or  
 24 administrator of the DECEASED person. ~~so deceased.~~ In any case  
 25 under this section, ~~where~~ IF the rights of the person or per-  
 26 sons entitled to ~~such~~ real estate ~~, or any interest therein,~~  
 27 ~~shall render~~ OR AN INTEREST IN REAL ESTATE MAKES it necessary,

1 the circuit court of the county in which the officer who made the  
 2 sale resided, on a hearing of the parties interested, properly  
 3 brought before it by complaint, may direct the conveyance to be  
 4 made to the person or persons equitably entitled ~~thereto, in~~  
 5 ~~such manner as shall be just,~~ TO THE CONVEYANCE IN A JUST  
 6 MANNER, and ~~such~~ THE conveyance ~~shall have the same effect as~~  
 7 HAS THE EFFECT provided in subsection ~~(1) of this section~~ (2).

8 (4) ~~(3)~~ The real estate so conveyed to ~~any such~~ AN exec-  
 9 utor or administrator shall be held in trust for the use of the  
 10 heirs of ~~such~~ THE deceased person. ~~, subject to the dower of~~  
 11 ~~his widow, if there be any, but the same~~ HOWEVER, THE REAL  
 12 ESTATE may be sold for the payment of debts and legacies, in the  
 13 same manner as lands ~~whereof~~ OF WHICH the deceased died  
 14 seized.

15 Section 2. This amendatory act shall not take effect unless  
 16 Senate Bill No. \_\_\_\_\_ or House Bill No. 5441 (request  
 17 no. 03904'95) of the 88th Legislature is enacted into law.