



SENATE BILL No. 1160

September 18, 1996, Introduced by Senators MC MANUS, NORTH, GAST, GOUGEON and SCHUETTE and referred to the Committee on Agriculture and Forestry.

A bill to amend sections 2918, 2919, and 5714 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," section 5714 as amended by Act No. 310 of the Public Acts of 1990, being sections 600.2918, 600.2919, and 600.5714 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2918, 2919, and 5714 of Act No. 236 of
2 the Public Acts of 1961, section 5714 as amended by Act No. 310
3 of the Public Acts of 1990, being sections 600.2918, 600.2919,
4 and 600.5714 of the Michigan Compiled Laws, are amended to read
5 as follows:

6 Sec. 2918. (1) ~~Any~~ A person ~~who is~~ DETERMINED BY A
7 COURT TO HAVE BEEN ejected or put out of ~~any~~ lands or tenements
8 in a forcible and unlawful manner, or WHO being out is afterwards

1 held and kept out ~~by~~ by force, ~~if he prevails,~~ is entitled to
2 recover 3 times the amount of his OR HER actual damages or
3 \$200.00, whichever is greater, in addition to recovering
4 possession.

5 (2) ~~Any~~ A tenant in possession of premises whose posses-
6 sory interest has been unlawfully interfered with by the owner,
7 lessor, licensor, or ~~their agents shall be~~ AGENT OF THE OWNER,
8 LESSOR, OR LICENSOR IS entitled to recover the amount of his OR
9 HER actual damages or \$200.00, whichever is greater, for each
10 occurrence and, ~~where~~ IF possession has been lost, to recover
11 possession. Unlawful interference with a possessory interest
12 ~~shall include~~ INCLUDES:

13 (a) The use of force or threat of force.

14 (b) The removal, retention, or destruction of personal prop-
15 erty of the possessor.

16 (c) A change, alteration, or addition to the locks or other
17 security devices on the property without forthwith providing keys
18 or other unlocking devices to the person in possession.

19 (d) The boarding of the premises ~~which~~ THAT prevents or
20 deters entry.

21 (e) The removal of doors, windows, or locks.

22 (f) Causing, by action or omission, the termination or
23 interruption of a service procured by the tenant or ~~which~~ THAT
24 the landlord is under an existing duty to furnish, which service
25 is so essential that its termination or interruption would con-
26 stitute constructive eviction, including heat, running water, hot
27 water, electric, or gas service.

1 (g) Introduction of noise, odor, or other nuisance.

2 (3) ~~The provisions of subsection~~ SUBSECTION (2) ~~shall~~
3 DOES not apply ~~where~~ IF the owner, lessor, licensor, OPERATOR,
4 EMPLOYER, or ~~their agents can establish that he~~ HIS OR HER
5 AGENT ESTABLISHES THAT HE OR SHE DID 1 OF THE FOLLOWING:

6 (a) Acted pursuant to court order. ~~or~~

7 (b) Interfered temporarily with possession only as necessary
8 to make needed repairs or inspection and only as provided by law.

9 ~~or~~

10 (c) Believed in good faith the tenant had abandoned the
11 premises, and after diligent inquiry had reason to believe the
12 tenant does not intend to return, and current rent is not paid.

13 (D) MADE WRITTEN DEMAND THAT THE PERSON VACATE PREMISES THAT
14 HAD BEEN ORIGINALLY PROVIDED PURSUANT TO AN EMPLOYMENT RELATION-
15 SHIP OR AS A BENEFIT OR CONDITION OF EMPLOYMENT, IF THAT EMPLOY-
16 MENT HAS BEEN TERMINATED AND THE PERSON HAS FAILED TO VACATE THE
17 PREMISES WITHIN A REASONABLE TIME AFTER RECEIVING THE WRITTEN
18 DEMAND.

19 (E) MADE WRITTEN DEMAND THAT THE PERSON VACATE PREMISES
20 LICENSED UNDER PART 124 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF
21 THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.12401 TO 333.12434 OF
22 THE MICHIGAN COMPILED LAWS, IF THE PERSON HAS FAILED TO VACATE
23 THOSE PREMISES WITHIN A REASONABLE TIME AFTER RECEIVING THE WRIT-
24 TEN DEMAND.

25 (4) ~~A~~ EXCEPT IN CIRCUMSTANCES DESCRIBED IN SUBSECTION
26 (3)(D) AND (E), A person who has lost possession or whose
27 possessory interest has been unlawfully interfered with may, if

1 that person does not peacefully regain possession, bring an
2 action for possession pursuant to section 5714(1)(d) ~~of this~~
3 ~~act~~ or bring a claim for injunctive relief in the appropriate
4 circuit court. A claim for damages pursuant to this section may
5 be joined with the claims for possession and for injunctive
6 relief or may be brought in a separate action.

7 (5) The provisions of this section may not be waived.

8 (6) An action to regain possession of ~~the~~ premises under
9 this section shall be commenced within 90 days from the time the
10 cause of action arises or becomes known to the plaintiff. An
11 action for damages under this section shall be commenced within
12 1 year from the time the cause of action arises or becomes known
13 to the plaintiff.

14 Sec. 2919. (1) ~~Any~~ SUBJECT TO SUBSECTION (2), A person
15 who DOES ANY OF THE FOLLOWING ON LAND OWNED OR LAWFULLY OCCUPIED
16 BY ANOTHER PERSON OR BY A POLITICAL SUBDIVISION IS LIABLE TO THAT
17 OTHER PERSON OR POLITICAL SUBDIVISION FOR 3 TIMES THE AMOUNT OF
18 ACTUAL DAMAGES CAUSED BY HIS OR HER CONDUCT, UNLESS HE OR SHE
19 OBTAINED THE CONSENT OF THE OTHER PERSON OR POLITICAL
20 SUBDIVISION:

21 (a) ~~cuts~~ CUTS down or carries off any wood, underwood,
22 trees, or timber or despoils or injures ~~any trees on another's~~
23 ~~lands, or~~ A TREE.

24 (b) ~~digs~~ DIGS up or carries away stone, ore, gravel, clay,
25 sand, turf, or mould or any root, fruit, or plant. ~~from~~
26 ~~another's lands, or~~

1 (c) ~~cuts~~ CUTS down or carries away any grass, hay, or any
2 kind of grain. ~~from another's lands without the permission of~~
3 ~~the owner of the lands, or on the lands or commons of any city,~~
4 ~~township, village, or other public corporation without license to~~
5 ~~do so, is liable to the owner of the land or the public corpora-~~
6 ~~tion for 3 times the amount of actual damages.~~

7 (2) If upon the trial of an action under this ~~provision~~
8 SECTION or THE TRIAL OF any other action for trespass on lands it
9 ~~appears~~ IS DETERMINED that the trespass was casual and involun-
10 tary, or that the defendant had probable cause to believe that
11 the land on which the trespass was committed was his OR HER own,
12 or that the wood, trees, or timber taken were taken for the pur-
13 pose of making or repairing any public road or bridge, ~~judgment~~
14 ~~shall be given for the amount of single~~ THE DEFENDANT IS LIABLE
15 FOR ACTUAL damages only.

16 (3) A PERSON WHO DOES EITHER OF THE FOLLOWING IS LIABLE FOR
17 3 TIMES THE ACTUAL DAMAGES CAUSED BY HIS OR HER CONDUCT DESCRIBED
18 IN THIS SUBSECTION, PLUS ACTUAL ATTORNEY FEES REASONABLY INCURRED
19 BY THE OWNER, OPERATOR, OR LICENSEE OF PREMISES DESCRIBED IN THIS
20 SUBSECTION:

21 (A) REFUSES TO VACATE PREMISES WITHIN A REASONABLE TIME
22 AFTER RECEIVING WRITTEN DEMAND FROM AN EMPLOYER THAT HE OR SHE
23 VACATE THOSE PREMISES, IF THE PREMISES WERE ORIGINALLY PROVIDED
24 HIM OR HER BY THE EMPLOYER PURSUANT TO AN EMPLOYMENT RELATIONSHIP
25 OR AS A BENEFIT OR CONDITION OF EMPLOYMENT, AND THE EMPLOYMENT
26 HAS TERMINATED.

1 (B) REFUSES TO VACATE PREMISES LICENSED UNDER PART 124 OF
 2 THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978,
 3 BEING SECTIONS 333.12401 TO 333.12434 OF THE MICHIGAN COMPILED
 4 LAWS, WITHIN A REASONABLE TIME AFTER RECEIVING WRITTEN DEMAND
 5 FROM THE OWNER OR OPERATOR OF THOSE PREMISES TO SURRENDER POSSES-
 6 SION OF THOSE PREMISES.

7 (4)(A) ~~(2)(a) Any~~ A guardian, tenant in dower, life
 8 tenant, or tenant for years who commits or suffers any waste ~~→~~
 9 ~~during his term or estate,~~ to the lands, tenements, or heredita-
 10 ments ~~→~~ DURING HIS OR HER TERM OR ESTATE without having a
 11 lawful license to do so ~~→~~ is liable for double the amount of
 12 actual damages. ~~Any~~ A joint tenant or tenant in common who
 13 commits or suffers waste of the lands, tenements, or heredita-
 14 ments held in joint tenancy ~~→~~ without having a lawful license
 15 in writing to do so ~~→~~ is liable for double the amount of actual
 16 damages at the suit of his cotenant.

17 (b) A claim under this provision may be brought by the
 18 person having the next immediate estate, in fee, for life, or for
 19 years or by any person who has the remainder or reversion in fee
 20 or for life after an intervening estate for life or for years. ~~→~~
 21 ~~and each~~ EACH of the parties shall recover damages according to
 22 his OR HER estate in the premises. A joint tenant or tenant in
 23 common may bring the claim in case of waste by ~~one~~ 1 of his OR
 24 HER joint tenants or tenants in common. An heir, whether of full
 25 age or not, after coming into possession of his OR HER inheri-
 26 tance, may maintain a claim for waste done in the time of his OR
 27 HER ancestor as well as in his OR HER own time, unless recovery

1 has been had by the executor or administrator of the ancestor. A
2 tenant who assigns his OR HER full interest is not liable for
3 waste done or suffered by his OR HER assignees while he OR SHE
4 remains out of possession of the premises.

5 (5)(A) ~~(3)(a)~~ The circuit court shall grant injunctions to
6 stay and prevent threatened trespass when the remedies provided
7 by subsection (1) ~~, above,~~ are not fully adequate ~~and in any~~
8 ~~case where~~ OR IF the trespass is of a continuing nature.

9 (b) ~~In any case where there is not~~ IF a plain, adequate,
10 and complete remedy ~~provided~~ for waste IS NOT PROVIDED by sub-
11 section ~~(2), above,~~ (4) or ~~where~~ IF waste is threatened, the
12 circuit court may grant injunctions to stay and prevent waste.

13 ~~(c) Having taken jurisdiction of the case the~~ THE circuit court
14 may at the same time dispose of all questions involved, including
15 the assessing and awarding of money damages.

16 (6) ~~(4)~~ After the commencement of any action based on a
17 claim for WASTE damages, ~~for waste, or~~ for the recovery of
18 land, or for the possession of land, ~~for~~ THE defendant shall
19 not make any waste of the land in demand or premises in question
20 during the pendency of the action. If the defendant commits,
21 threatens to commit, or makes preparations to commit waste, the
22 court in which the action is pending or any circuit judge ~~or~~
23 ~~circuit court commissioner~~ may make, on the application of the
24 plaintiff, an order restraining the defendant from the commission
25 of ~~any~~ waste or further waste of the land in demand or premises
26 in question. ~~Any~~ A person violating the ~~terms of any such~~

1 order is guilty of a contempt of the court in which the action is
2 pending, which is punishable as other cases of contempt.

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

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

26 (b) Whenever ~~any~~ lands or tenements are sold by virtue of
27 an execution issued upon any judgment, the person to whom the

1 conveyance is executed by the sheriff pursuant to the sale has a
2 claim for damages for ~~any~~ waste committed on the premises by
3 any person after the sale.

4 (c) Any person entitled to the possession of lands or tene-
5 ments sold under execution may use and enjoy the premises until
6 the period of redemption has run in the following ways without
7 being ~~guilty of~~ LIABLE FOR waste:

8 (i) ~~He may in all cases use~~ USE and enjoy the premises
9 sold in the same manner and for the same purposes in and for
10 which they were used and enjoyed prior to the sale, doing no per-
11 manent injury to the freehold. ~~—~~

12 (ii) If the premises sold were buildings or other erections,
13 ~~he may~~ make necessary repairs, ~~to them although he shall not~~
14 ~~make~~ BUT NOT alterations in the form or structure of them. ~~—~~

15 (iii) If the premises sold were land, ~~he may~~ use and
16 improve the land in the ordinary course of husbandry. ~~— but he~~
17 ~~shall~~ HOWEVER, THE PERSON IS not ~~be~~ entitled to ~~any~~ crops
18 growing on the premises at the expiration of the period of
19 redemption. ~~—~~

20 (iv) ~~He may apply any~~ APPLY wood or timber on the land to
21 the necessary repair of ~~any~~ fences, buildings, or erections
22 ~~which~~ THAT were on the premises at the time of sale. ~~—~~

23 (v) If ~~he~~ THE PERSON is in actual occupation of the land
24 sold, he OR SHE may take necessary firewood from the land for the
25 use of his OR HER family.

26 (9) AS USED IN THIS SECTION, "POLITICAL SUBDIVISION" MEANS A
27 CITY, TOWNSHIP, VILLAGE, OR OTHER PUBLIC CORPORATION.

1 Sec. 5714. (1) A person entitled to premises may recover
2 possession of the premises by summary proceedings in the follow-
3 ing cases:

4 (a) When a person holds over premises, after failing or
5 refusing to pay rent due under the lease or agreement by which
6 the person holds the premises within 7 days from the service of a
7 written demand for possession for nonpayment of the rent due.
8 For the purpose of this subdivision, rent due does not include
9 any accelerated indebtedness by reason of a breach of the lease
10 under which the premises are held.

11 (b) When a person holds over premises for 7 days following
12 service of a written demand for possession for termination of the
13 lease pursuant to a clause in the lease providing for termination
14 because a tenant, a member of the tenant's household, or other
15 person under the tenant's control has unlawfully manufactured,
16 delivered, possessed with intent to deliver, or possessed a con-
17 trolled substance on the leased premises. This subdivision
18 applies only if a formal police report has been filed by the
19 landlord alleging that the person has unlawfully manufactured,
20 delivered, possessed with intent to deliver, or possessed a con-
21 trolled substance on the leased premises. For purposes of this
22 subdivision, "controlled substance" means a substance or a coun-
23 terfeit substance classified in schedule 1, 2, or 3 pursuant to
24 sections 7211, 7212, 7213, 7214, 7215, and 7216 of THE PUBLIC
25 HEALTH CODE, Act No. 368 of the Public Acts of 1978, being sec-
26 tions 333.7211, 333.7212, 333.7213, 333.7214, 333.7215, and
27 333.7216 of the Michigan Compiled Laws.

1 (c) When a person holds over premises in 1 or more of the
2 following circumstances:

3 (i) After termination of the lease, pursuant to a power to
4 terminate provided in the lease or implied by law.

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

7 (iii) After the termination of the person's estate by a
8 notice to quit as provided by section 34 of chapter 66 of the
9 Revised Statutes of 1846, ~~as amended,~~ being section 554.134 of
10 the Michigan Compiled Laws.

11 (d) When the person in possession willfully or negligently
12 causes a serious and continuing health hazard to exist on the
13 premises, or causes extensive and continuing physical injury to
14 the premises, which was discovered or should reasonably have been
15 discovered by the party seeking possession not earlier than 90
16 days before the institution of proceedings under this chapter and
17 when the person in possession neglects or refuses for 7 days
18 after service of a demand for possession of the premises to
19 deliver up possession of the premises or to substantially restore
20 or repair the premises.

21 (e) When a person takes possession of premises by means of a
22 forcible entry, holds possession of THOSE premises by force after
23 a peaceable entry, or comes into possession of THOSE premises by
24 trespass without color of title or other possessory interest.

25 (f) When a person continues in possession of premises sold
26 by virtue of a mortgage or execution, after the time limited by
27 law for redemption of the premises.

1 (g) When a person continues in possession of premises sold
2 and conveyed by a personal representative under license from the
3 probate court or under authority in the will.

4 (H) REGARDLESS OF WHETHER RENT HAS BEEN RESERVED, WHEN AN
5 EMPLOYEE REMAINS IN POSSESSION OF PREMISES ORIGINALLY PROVIDED BY
6 AN EMPLOYER PURSUANT TO AN EMPLOYMENT RELATIONSHIP OR AS A CONDI-
7 TION OF EMPLOYMENT, IF THE EMPLOYER HAS TERMINATED THE EMPLOYMENT
8 RELATIONSHIP AND HAS MADE WRITTEN DEMAND FOR RETURN OF
9 POSSESSION.

10 (I) REGARDLESS OF WHETHER RENT HAS BEEN RESERVED, WHEN AN
11 INDIVIDUAL REMAINS IN POSSESSION OF PREMISES LICENSED UNDER PART
12 124 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF
13 1978, BEING SECTIONS 333.12401 TO 333.12434 OF THE MICHIGAN
14 COMPILED LAWS, IF THE OWNER OR OPERATOR OF THOSE PREMISES HAS
15 PROVIDED THE INDIVIDUAL WITH WRITTEN DEMAND THAT HE OR SHE VACATE
16 THE PREMISES.

17 (2) A tenant or occupant of housing operated by a city, vil-
18 lage, township, or other unit of local government, as provided in
19 Act No. 18 of the Public Acts of the Extra Session of 1933, ~~as~~
20 ~~amended,~~ being sections 125.651 to 125.709e of the Michigan
21 Compiled Laws, is not considered to be holding over under subsec-
22 tion (1)(b) or (c) unless the tenancy or agreement has been ter-
23 minated for just cause, as provided by lawful rules of the local
24 housing commission or by law.

25 (3) A tenant of a mobile home park is not considered to be
26 holding over under subsection (1)(b) or (c) unless the tenancy or

1 lease agreement is terminated for just cause pursuant to
2 chapter 57a.