

SENATE BILL No. 590

July 10, 2001, Introduced by Senator GARCIA and referred to the Committee on Economic Development, International Trade and Regulatory Affairs.

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 is on file with the secretary of state or appropriate register of
10 deeds, if the property is real property, a ~~mobile~~ MANUFACTURED
11 home, motor vehicle, watercraft, or other personal property.

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

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

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

26 (g) Each victim of the crime.

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

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

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

21 (a) When a person holds over premises, after failing or
22 refusing to pay rent due under the lease or agreement by which
23 the person holds the premises within 7 days from the service of a
24 written demand for possession for nonpayment of the rent due.
25 For the purpose of this subdivision, rent due does not include
26 ~~any~~ AN accelerated indebtedness ~~by reason of~~ DUE TO a breach
27 of the lease under which the premises are held.

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

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

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

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

26 (iii) After the termination of the person's estate by a
27 notice to quit as provided by section 34 of ~~chapter 66 of the~~

1 ~~Revised Statutes of 1846, as amended, being section 554.134 of~~
2 ~~the Michigan Compiled Laws 1846 RS 84, MCL 554.134.~~

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

13 (e) When a person takes possession of premises by means of a
14 forcible entry, holds possession of premises by force after a
15 peaceable entry, or comes into possession of premises by trespass
16 without color of title or other possessory interest.

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

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

23 (2) A tenant or occupant of housing operated by a city, vil-
24 lage, township, or other unit of local government, as provided in
25 ~~Act No. 18 of the Public Acts of the Extra Session of 1933, as~~
26 ~~amended, being sections 125.651 to 125.709e of the Michigan~~
27 ~~Compiled Laws 1933 (EX SESS) PA 18, MCL 125.651 TO 125.709C, is~~

1 not considered to be holding over under subsection (1)(b) or (c)
2 unless the tenancy or agreement has been terminated for just
3 cause, as provided by lawful rules of the local housing commis-
4 sion or by law.

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

9 Sec. 5771. As used in this chapter:

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

15 (b) ~~"Mobile~~ "MANUFACTURED home park" means ~~a mobile home~~
16 park THAT TERM as defined in section 2 of ~~Act No. 96 of the~~
17 ~~Public Acts of 1987~~ THE MANUFACTURED HOUSING COMMISSION ACT,
18 1987 PA 96, MCL 125.2302, but does not include a seasonal
19 ~~mobile~~ MANUFACTURED home park as defined in section 2 of ~~Act~~
20 ~~No. 96 of the Public Acts of 1987~~ THE MANUFACTURED HOUSING COM-
21 MISSION ACT, 1987 PA 96, MCL 125.2302.

22 Sec. 5773. (1) The district court has jurisdiction under
23 this chapter over proceedings for termination of tenancies in
24 ~~mobile~~ MANUFACTURED home parks.

25 (2) Section 5706 ~~shall govern~~ GOVERNS the venue of pro-
26 ceedings under this chapter.

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

4 (2) ~~For the purpose of~~ AS USED IN this chapter, "just
5 cause" means 1 or more of the following:

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

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

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

16 (ii) The quiet enjoyment of the other tenants of the
17 ~~mobile~~ MANUFACTURED home park.

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

23 (c) A violation by the tenant of rules promulgated by the
24 Michigan department of ~~public health~~ ENVIRONMENTAL QUALITY
25 under section 6 of the ~~mobile home~~ MANUFACTURED HOUSING commis-
26 sion act, ~~Act No. 96 of the Public Acts of 1987, being section~~

1 ~~125.2306 of the Michigan Compiled Laws 1987 PA 96, MCL~~

2 125.2306.

3 (d) Intentional physical injury by the tenant to the person-
4 nel or other tenants of the ~~mobile~~ MANUFACTURED home park, or
5 intentional physical damage by the tenant to the property of the
6 ~~mobile~~ MANUFACTURED home park or of its other tenants.

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

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

25 (g) Conduct by the tenant upon the ~~mobile~~ MANUFACTURED
26 home park premises ~~which~~ THAT constitutes a substantial

1 annoyance to other tenants or to the ~~mobile~~ MANUFACTURED home
2 park, after notice and an opportunity to cure HAVE BEEN GIVEN.

3 (h) Failure of the tenant to maintain the ~~mobile~~
4 MANUFACTURED home or ~~mobile~~ MANUFACTURED home site in a reason-
5 able condition consistent with aesthetics appropriate to the
6 park.

7 (i) Condemnation of the ~~mobile~~ MANUFACTURED home park.

8 (j) Changes in the use or substantive nature of the ~~mobile~~
9 MANUFACTURED home park.

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

11 (3) This section does not prohibit a change of the rental
12 payments or the terms or conditions of tenancy in a ~~mobile~~
13 MANUFACTURED home park following the termination or expiration of
14 a written lease agreement for the ~~mobile~~ MANUFACTURED home
15 site.

16 Sec. 5777. Within 10 days ~~of~~ AFTER service of a demand
17 for possession of premises for just cause, a tenant in a ~~mobile~~
18 MANUFACTURED home park ~~shall have~~ HAS the right to request, by
19 certified or registered mail to the owner or operator of the
20 ~~mobile~~ MANUFACTURED home park at the address set forth in the
21 demand, an in-person conference with the owner or operator of the
22 ~~mobile~~ MANUFACTURED home park or representative of the owner or
23 operator. If timely requested, the conference shall be held at
24 the ~~mobile~~ MANUFACTURED home park and at a time and date estab-
25 lished by the owner or operator but not later than 20 days after
26 the tenant's request. The tenant may be accompanied by counsel
27 at the conference. Nothing in this section ~~shall affect~~

1 AFFECTS the owner's or operator's right to commence summary
2 proceedings ~~pursuant~~ ACCORDING to the demand for possession.

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

13 Sec. 5781. If a tenancy in a ~~mobile~~ MANUFACTURED home
14 park is terminated for just cause, the tenant may sell his or her
15 ~~mobile~~ MANUFACTURED home on-site, as provided in sections
16 28(1)(h) and 28a of the ~~mobile home~~ MANUFACTURED HOUSING com-
17 mission act, ~~Act No. 96 of the Public Acts of 1987, being sec-~~
18 ~~tions 125.2328 and 125.2328a of the Michigan Compiled Laws 1987~~
19 PA 96, MCL 125.2328 AND 125.2328A, subject to all of the follow-
20 ing conditions:

21 (a) The tenant shall sell or move the ~~mobile~~ MANUFACTURED
22 home within 90 days after the date of the judgment of possession,
23 except that the time period shall be extended to 90 days after
24 the ~~mobile~~ MANUFACTURED home park owner or operator denies ten-
25 ancy to a person making a bona fide offer to purchase the
26 ~~mobile~~ MANUFACTURED home within the 90-day period or ~~any~~ A
27 proper extension of the time period under this subdivision.

1 (b) The tenant shall timely pay all rent and other charges
2 for the ~~mobile~~ MANUFACTURED home site during the 90-day period
3 or ~~any~~ A proper extension of the time period under subdivision
4 (a). Failure to timely pay all rent or other charges ~~shall~~
5 ~~entitle~~ ENTITLES the owner or operator to seek an immediate writ
6 of restitution. As used in this subdivision, "rent and other
7 charges" does not include liquidated damages awarded under
8 section 5785.

9 (c) Upon the expiration of 10 days after the date of the
10 judgment of possession, the owner or operator may disconnect all
11 ~~mobile~~ MANUFACTURED home park-supplied utility services.

12 (d) Within 10 days after the date of the judgment of posses-
13 sion, the tenant shall provide the owner or operator with proof
14 that the ~~mobile~~ MANUFACTURED home has been properly winterized
15 by a licensed ~~mobile~~ MANUFACTURED home installer and repairer.
16 Failure to timely provide the proof of winterization ~~shall~~
17 ~~entitle~~ ENTITLES the owner or operator to seek an immediate writ
18 of restitution.

19 (e) The tenant shall continue to maintain the ~~mobile~~
20 MANUFACTURED home and ~~mobile~~ MANUFACTURED home site in accord-
21 ance with the rules and regulations of the ~~mobile~~ MANUFACTURED
22 home park.

23 (f) The ~~mobile~~ MANUFACTURED home park shall provide the
24 tenant with reasonable access to the ~~mobile~~ MANUFACTURED home
25 and the ~~mobile~~ MANUFACTURED home site for the purpose of main-
26 taining the ~~mobile~~ MANUFACTURED home and ~~mobile~~ MANUFACTURED
27 home site and selling the ~~mobile~~ MANUFACTURED home.

1 Sec. 5783. ~~Every~~ A judgment for possession resulting from
2 an action to terminate a tenancy in a ~~mobile~~ MANUFACTURED home
3 park for just cause shall set forth the right of a tenant to sell
4 a ~~mobile~~ MANUFACTURED home on site, the conditions of that
5 right, and the consequences of a tenant's failure to meet those
6 conditions, all as prescribed in section 5781.

7 Sec. 5785. In ~~every~~ A contested action to terminate a
8 tenancy in a ~~mobile~~ MANUFACTURED home park for just cause, the
9 court shall award liquidated damages to the prevailing party if a
10 provision requiring liquidated damages is included in the lease
11 or rental agreement governing the tenancy or rules or regulations
12 adopted ~~pursuant~~ ACCORDING to the lease or rental agreement, as
13 prescribed in section 28c of the ~~mobile home~~ MANUFACTURED
14 HOUSING commission act, ~~Act No. 96 of the Public Acts of 1987,~~
15 ~~being section 125.2328c of the Michigan Compiled Laws~~ 1987 PA
16 96, MCL 125.2328C. The liquidated damages shall not be construed
17 to be a penalty.

18 Enacting section 1. This amendatory act does not take
19 effect unless Senate Bill No. _____ or House Bill No. _____
20 (request no. 00205'01) of the 91st Legislature is enacted into
21 law.