

HOUSE BILL No. 5625

February 1, 2006, Introduced by Rep. Mortimer and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 8408 (MCL 600.8408), as amended by 1991 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

7 (2) A sole proprietorship, partnership, or corporation as
8 plaintiff or defendant may be represented by an officer or employee
9 who has direct and personal knowledge of facts in dispute. If the

1 officer or employee who has direct and personal knowledge of facts
2 in dispute is no longer employed by the defendant or plaintiff or
3 is medically unavailable, the representation may be made by that
4 person's supervisor, or by the sole proprietor, a partner, or an
5 officer or a member of the board of directors of a corporation.

6 (3) A county, city, village, township, or local or
7 intermediate school district as plaintiff or defendant may be
8 represented only by an elected or appointed officer or an employee
9 who has direct and personal knowledge of the facts in dispute. If
10 the officer or employee who has direct and personal knowledge of
11 the facts in dispute is no longer an officer or employee of the
12 plaintiff or defendant, the representation may be made by that
13 officer's successor or that employee's supervisor, or by a member
14 of the governing body of the county, city, village, township, or
15 local or intermediate school district. In addition, a person may
16 not represent a county, city, village, township, or local or
17 intermediate school district in the small claims division unless
18 authorized to appear in the case by the governing body of the
19 county, city, village, township, or local or intermediate school
20 district.

21 (4) IN AN ACTION BROUGHT BY A LANDLORD TO RECOVER A MONEY
22 JUDGMENT OR A SECURITY DEPOSIT OR THE BALANCE OF A SECURITY DEPOSIT
23 UNDER SECTION 13 OF 1972 PA 348, MCL 554.613, THE LANDLORD MAY BE
24 REPRESENTED BY A PERSON WHO MEETS ALL OF THE FOLLOWING
25 REQUIREMENTS:

26 (A) IS LICENSED AS A REAL ESTATE BROKER, ASSOCIATE REAL ESTATE
27 BROKER, OR REAL ESTATE SALESPERSON UNDER ARTICLE 25 OF THE

1 OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2501 TO 339.2518.

2 (B) ACTS AS THE LANDLORD'S AGENT PURSUANT TO A WRITTEN
3 AGREEMENT, OR IS EMPLOYED BY A CORPORATION, PARTNERSHIP, OR OTHER
4 LEGAL ENTITY THAT ACTS AS THE LANDLORD'S AGENT PURSUANT TO A
5 WRITTEN AGREEMENT, IN RENTING OR MANAGING THE RENTAL UNIT FOR WHICH
6 THE CONTESTED SECURITY DEPOSIT WAS REQUIRED.

7 (C) HAS DIRECT AND PERSONAL KNOWLEDGE OF THE FACTS IN DISPUTE.

8 (5) ~~—(4)—~~ Before commencement of a trial, the plaintiff or
9 defendant may, upon demand, require that the trial be conducted
10 before a district court judge and not a magistrate, or may remove
11 the case from the small claims division to the general civil
12 division of the district court. If the parties commence a trial of
13 the case in the small claims division, both parties waive all
14 rights mentioned in section 8412.