

SENATE BILL No. 1494

November 9, 2006, Introduced by Senator GILBERT and referred to the Committee on Judiciary.

A bill to amend 1927 PA 210, entitled

"An act to provide for the termination of tenancies by the entirety and the conveyance of interests therein,"

by amending sections 1 and 2 (MCL 557.101 and 557.102).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) In all cases where husband and wife own any
2 interest in land as tenants by the entirety, ~~such~~ THE tenancy by
3 the entirety may be terminated by ~~a~~ EITHER OF THE FOLLOWING:

4 (A) A conveyance from either one to the other of his or her
5 interest in the land so held.

6 (B) SUBJECT TO SUBSECTION (2), A CONVEYANCE FROM THE HUSBAND
7 OR WIFE TO A THIRD PARTY IF, FOR A PERIOD OF 1 YEAR PRECEDING THE
8 CONVEYANCE, THE SPOUSE OF THE CONVEYING HUSBAND OR WIFE DID ANY OF

1 THE FOLLOWING:

2 (i) WAS WILLFULLY ABSENT FROM THE CONVEYING HUSBAND OR WIFE.

3 (ii) DESERTED THE CONVEYING HUSBAND OR WIFE.

4 (iii) WILLFULLY NEGLECTED OR REFUSED TO PROVIDE SUPPORT FOR THE
5 CONVEYING HUSBAND OR WIFE IF REQUIRED TO DO SO BY LAW.

6 (2) THE HUSBAND OR WIFE WHO WISHES TO TERMINATE A TENANCY BY
7 THE ENTIRETY PURSUANT TO SUBSECTION (1) (B) OR, IF HE OR SHE IS
8 DECEASED, A PERSON TO WHOM HE OR SHE CONVEYED OR GRANTED AN
9 INTEREST IN THE PROPERTY BY DEED, WILL, OR TRUST, SHALL PETITION
10 THE COURT FOR A DETERMINATION OF 1 OR MORE OF THE CONDITIONS
11 PRESCRIBED IN SUBSECTION (1) (B) (i) TO (iii). VENUE FOR A PROCEEDING
12 UNDER THIS SUBSECTION IS IN THE CIRCUIT COURT IN THE COUNTY IN
13 WHICH THE PETITIONER RESIDES OR IN WHICH THE PROPERTY IS LOCATED. A
14 PETITION UNDER THIS SUBSECTION SHALL BE FILED NOT LESS THAN 63 DAYS
15 OR MORE THAN 7 YEARS AFTER THE EXPIRATION OF THE 1-YEAR PERIOD
16 DESCRIBED IN SUBSECTION (1) (B). A PETITION UNDER THIS SECTION SHALL
17 SET FORTH THE FACTS AND CIRCUMSTANCES SUPPORTING THE PETITIONER'S
18 CONTENTION. UPON THE FILING OF A PETITION UNDER THIS SECTION, THE
19 COURT SHALL FIX THE TIME AND PLACE FOR A HEARING. THE PETITIONER
20 SHALL GIVE OR CAUSE TO BE GIVEN NOTICE OF THE HEARING AS PROVIDED
21 BY SUPREME COURT RULE. IF THE COURT DETERMINES, BY THE
22 PREPONDERANCE OF THE EVIDENCE, THAT 1 OR MORE OF THE CONDITIONS
23 PRESCRIBED IN SUBSECTION (1) (B) (i) TO (iii) HAVE BEEN ESTABLISHED,
24 THE COURT SHALL ISSUE AN ORDER STATING THAT THE TENANCY BY THE
25 ENTIRETY HAS BEEN TERMINATED.

26 Sec. 2. ~~This~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 1, THIS
27 act shall be deemed to be declaratory of the common law as

1 heretofore existing in this state.

2 Enacting section 1. The changes made by this amendatory act
3 apply retroactively to January 1, 2006 and apply to cases pending
4 on or commenced after that date in the circuit court or an
5 appellate court in this state.