



**House  
Legislative  
Analysis  
Section**

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## ***A SUMMARY OF HOUSE BILL 4196 AS INTRODUCED 2-15-89***

The Housing Law allows the owner or occupant of a dwelling upon which any violation of the act exists to file a suit in the person's own name to enforce the act's provisions regarding safe housing conditions. The bill would amend the act to permit a nonprofit organization, whose primary purpose was to improve housing conditions in the locale where the dwelling was located, to bring legal action in its own or the owner/occupant's name to enforce the act. The bill would also permit an owner or lessor of real property located within 500 feet of the violating premises, including someone who was purchasing property by land contract or under a duly executed purchase contract, to bring a suit. After a court obtained jurisdiction over a property, it could authorize a financial institution with an interest in the property (in addition to an enforcing agency) to make repairs or remove the structure. In general, the bill would strengthen the act's receivership provisions.

**Court-appointed Receiver.** The act currently provides that when a lawsuit is brought against the owner of a dwelling, the court may appoint a receiver of the premises, and when it finds adequate grounds to do so, must appoint a receiver. The bill would require a court, upon the suit's filing, to determine whether adequate grounds existed to appoint a receiver. If it found adequate grounds existed it would have to appoint a receiver, which, in addition to a municipality, local agency or officer, or any competent person, could be a nonprofit organization whose primary purpose was improving housing conditions in the area, or a for-profit corporation, partnership, sole proprietorship, or other association whose goals and practices were consistent with the act's purposes. If more than one person or organization was proposed by the court as a potential receiver, the court would give preference to the persons and organizations in the order these are listed in the act, but could decide to appoint the person or organization that was most likely to create or preserve safe and sanitary housing for lower income persons, and perform the duties as receiver competently.

An owner or lienholder, in addition to being served a summons and copies of a complaint made against him or her, would be served any receivership order issued pursuant to the bill. Service could be made either in person or by posting a copy of each document at the premises on which the violation existed and mailing copies of the documents by registered mail to each owner or lienholder at his or her last known address of record.

If the court entered an injunctive order, appointed a receiver, or awarded damages under the act, it would have to award reasonable attorney fees and court costs to the plaintiff. Attorney fees awarded could become a lien on the property.

## **HOUSING RECEIVERSHIP ENFORCEMENT**

### **House Bill 4196**

**Sponsor: Rep. Raymond Murphy**

**Committee: Urban Affairs**

**Complete to 3-7-89**

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**Lien On Property.** The act specifies that when expenses of repair or removal are not otherwise provided for, the court may enter an order approving the expenses and providing that a lien be placed on the real property for the payment of the expenses. The court also may establish the lien's priority over all other liens, except taxes and assessments, except when the owner complies with the act as specified. The bill would make the placing of a lien mandatory when expenses related to repair or removal were not provided for. The court also would have to provide that the lien had priority over all other prior and subsequent liens except for taxes and assessments. A court, however, would not have to give priority of a lien over a mortgage of record which was prior to the lien if either of the following were true:

- the mortgagee had not been served with notice specifying that a receiver could be appointed with rights superior to those of the owner, mortgagee, and lienholder. If the mortgagee presented to the court a plan acceptable to it for repairing the premises, and within a reasonable amount of time — determined by the court — furnished the materials and undertook the repairs needed to bring the building up to code, the costs incurred in performing the repairs would be added to the mortgagee's lien amount; or
- the receiver issued notes secured by a mortgage (with court-approved terms) for the purpose of contracting for services to restore the property to code.

**Receiver Responsibility.** A receiver's responsibilities to repair, renovate, and rehabilitate a dwelling, or completely remove a building if so ordered, so that the law's requirements are satisfied would be expanded to include returning the premises to "economic life and acceptable usefulness" under the bill. To accomplish the act's purposes, the bill would permit the court, in supervising the receivership, to resolve conflicting claims of title to the real property subject to the receivership. In addition to collecting rent, managing rental units, issuing receivership certificates, contracting for services to pay for rehabilitation of a dwelling, or exercising other powers a receiver could do the following:

- compensate tenants occupying the premises for any deprivation of their rental agreement rights that resulted from the conditions that gave rise to the receivership, including a violation of real estate laws governing the lease or rent of property, and for the reasonable value of any labor and materials for tenant-performed tasks done to make the premises comply with the act. Compensation could include reimbursing tenants by means of rent abatements, and would become an expense of the receivership;
- issue notes secured by a mortgage with interest and terms approved by the court. When sold or transferred by the receiver in return for valuable consideration of money, material, labor, or services, the notes and certificates would be freely transferable. If, within 60 days after the secured note were issued, the mortgage was filed for record with the county register of deeds

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where the real property was located, the mortgage would be a first lien on the property and would be superior to any claims of the receiver and to all prior and subsequent liens and encumbrances except taxes and assessments. Priority among the receiver's mortgages would be determined in the order in which they were recorded; and

- obtain mortgage insurance from a federal governmental agency on the receiver's mortgage, notes, or certificates.

Discharge Of A Receiver. The court would have to discharge the receiver when a) the building was in compliance with the act, b) all expenses of the receivership were paid, and c) either all the receiver's notes/mortgages issued pursuant to the bill were paid, or all holders of the notes/mortgages requested that the receiver be discharged. Even if these conditions were not met, the court could discharge the receiver a) upon motion of any person who had an interest of record in the real property if the person provided the judge with a viable financial and construction plan for rehabilitating the premises, demonstrated the capacity to perform the required work adequately, and paid the receiver's expenses, or b) if continuing the receivership would, in the court's opinion, defeat the purposes of the act. However, a conveyance of premises subject to receivership could not, by itself, be grounds for discharging the receiver.

MCL 125.534 and 125.535