HOUSE BILL No. 5936

June 29, 1990, Introduced by Reps. Gubow and DeMars and referred to the Committee on Urban Affairs.

A bill to amend section 5720 of Act No. 236 of the Public Acts of 1961, entitled as amended

"Revised judicature act of 1961,"

as amended by Act No. 75 of the Public Acts of 1980, being section 600.5720 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. Section 5720 of Act No. 236 of the Public Acts of 1961, as amended by Act No. 75 of the Public Acts of 1980, being section 600.5720 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 5720. (1) A judgment for possession of the premises for an alleged termination of tenancy shall not be entered against a defendant if 1 or more of the following is established:

(a) That the alleged termination was intended primarily as a penalty for the defendant's attempt to secure or enforce rights under the lease or agreement or under the laws of the state, of a governmental subdivision of this state, or of the United States.

(b) That the alleged termination was intended primarily as a penalty for the defendant's complaint to a governmental authority with a report of plaintiff's violation of a health or safety code or ordinance.

(c) That the alleged termination was intended primarily as retribution for a lawful act arising out of the tenancy, including membership in a tenant organization and a lawful activity of a tenant organization arising out of the tenancy.

(d) That the alleged termination was of a tenancy in housing operated by a city, village, township, or other unit of local government and was terminated without cause.

(e) That the plaintiff attempted to increase the defendant's obligations under the lease or contract as a penalty for the lawful acts as are described in subdivisions (a) to (c) and that the defendant's failure to perform the additional obligations was the primary reason for the alleged termination of tenancy.

(F) THAT THE ALLEGED TERMINATION WAS OF A TENANCY IN AN UNREGISTERED RENTAL DWELLING REQUIRED TO BE REGISTERED UNDER SECTION 125 OF THE HOUSING LAW OF MICHIGAN, ACT NO. 167 OF THE PUBLIC ACTS OF 1917, BEING SECTION 125.525 OF THE MICHIGAN COMPILED LAWS, OR THAT THE ALLEGED TERMINATION WAS OF A TENANCY IN AN UNLICENSED RENTAL DWELLING REQUIRED TO BE LICENSED BY AN ORDINANCE ADOPTED UNDER THE AUTHORITY OF SECTION 143 OF ACT

NO. 167 OF THE PUBLIC ACTS OF 1917, BEING SECTION 125.543 OF THE MICHIGAN COMPILED LAWS.

(G) ~~(f).~~ That the plaintiff committed a breach of the lease which excuses the payment of rent if possession is claimed for nonpayment of rent.

(H) ~~(g)~~ That the rent allegedly due, in an action where possession is claimed for nonpayment of rent, was paid into an escrow account under section 130 of THE HOUSING LAW OF MICHIGAN, Act No. 167 of the Public Acts of 1917, being section 125.530 of the Michigan Compiled Laws; was paid pursuant to a court order under section 134(5) of Act No. 167 of the Public Acts of 1917, as amended, being section 125.534 of the Michigan Compiled Laws; or was paid to a receiver under section 135 of Act No. 167 of the Public Acts of 1917, being section 125.535 of the Michigan Compiled Laws.

(2) If a defendant who alleges a retaliatory termination of the tenancy shows that within 90 days before the commencement of summary proceedings the defendant attempted to secure or enforce rights against the plaintiff or to complain against the plaintiff, as provided in subsection (1)(a), (b), (c), or (e), by means of official action to or through a court or other governmental agency and the official action has not resulted in dismissal or denial of the attempt or complaint, a presumption in favor of the defense of retaliatory termination arises, unless the plaintiff establishes by a preponderance of the evidence that the termination of tenancy was not in retaliation for the acts. If the defendant's alleged attempt to secure or enforce rights or

to complain against the plaintiff occurred more than 90 days before the commencement of proceedings or was terminated adversely to the defendant, a presumption adverse to the defense of retaliatory termination arises and the defendant has the burden to establish the defense by a preponderance of the evidence.

Section 2. This amendatory act shall not take effect unless Senate Bill No. ____ or House Bill No. 5935 (request no. 05463'90) of the 85th Legislature is enacted into law.