

Act No. 131
Public Acts of 1991
Approved by the Governor
November 6, 1991
Filed with the Secretary of State
November 6, 1991

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1991**

Introduced by Rep. Profit

ENROLLED HOUSE BILL No. 4051

AN ACT to amend section 3 of Act No. 454 of the Public Acts of 1978, entitled "An act to regulate rental agreements for residential premises; to prohibit the inclusion by lessors of certain clauses or provisions in residential rental agreements; to require the disclosure by lessors of certain information; to require the inclusion of certain provisions in residential rental agreements; to regulate the commercial sale of printed rental agreement forms; and to prescribe penalties," being section 554.633 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 3 of Act No. 454 of the Public Acts of 1978, being section 554.633 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 3. (1) A rental agreement shall not include a provision that does 1 or more of the following:

(a) Waives or alters a remedy available to the parties when the premises are in a condition that violates the covenants of fitness and habitability required pursuant to section 39 of chapter 66 of the Revised Statutes of 1846, being section 554.139 of the Michigan Compiled Laws.

(b) Provides that the parties waive a right established by Act No. 348 of the Public Acts of 1972, being sections 554.601 to 554.616 of the Michigan Compiled Laws, which regulates security deposits.

(c) Excludes or discriminates against a person in violation of the Elliott-Larsen civil rights act, Act No. 453 of the Public Acts of 1976, as amended, being sections 37.2101 to 37.2804 of the Michigan Compiled Laws, or the Michigan handicappers' civil rights act, Act No. 220 of the Public Acts of 1976, being sections 37.1101 to 37.1607 of the Michigan Compiled Laws.

(d) Provides for a confession of judgment by a party.

(e) Exculpates the lessor from liability for the lessor's failure to perform, or negligent performance of, a duty imposed by law. This subdivision does not apply to a provision that releases a party from liability arising from loss, damage, or injury caused by fire or other casualty for which insurance is carried by the other party, under a policy that permits waiver of liability and waives the insurer's rights of subrogation, to the extent of any recovery by the insured party under the policy.

(f) Waives or alters a party's right to demand a trial by jury or any other right of notice or procedure required by law in a judicial proceeding arising under the rental agreement.

(g) Provides that a party is liable for legal costs or attorney's fees incurred by another party, in connection with a dispute arising under the rental agreement, in excess of costs or fees specifically permitted by statute.

(h) Provides for the acquisition by the lessor of a security interest in any personal property of the tenant to assure payment of rent or other charges arising under the rental agreement, except as specifically allowed by law.

(i) Provides that rental payments may be accelerated if the rental agreement is breached by the tenant, unless the provision also includes a statement that the tenant may not be liable for the total accelerated amount because of the landlord's obligation to minimize damages, and that either party may have a court determine the actual amount owed, if any.

(j) Waives or alters a party's rights with respect to possession or eviction proceedings provided in section 2918 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, as amended, being section 600.2918 of the Michigan Compiled Laws, or with respect to summary proceedings to recover possession as provided in chapter 57 of Act No. 236 of the Public Acts of 1961, being sections 600.5701 to 600.5759 of the Michigan Compiled Laws.

(k) Releases a party from a duty to mitigate damages.

(l) Provides that a lessor may alter a provision of the rental agreement after its commencement without the written consent of the tenant, or, in the case of a rental agreement between a consumer cooperative that provides housing and a member of the consumer cooperative, without the approval of the board of directors of the cooperative or other appropriate body elected by members who are also tenants of the cooperative, except that an agreement may provide for the following types of adjustments to be made upon written notice of not less than 30 days:

(i) Changes required by federal, state, or local law or rule or regulation.

(ii) Changes in rules relating to the property that are required to protect the physical health, safety, or peaceful enjoyment of tenants and guests.

(iii) Changes in the amount of rental payments to cover additional costs in operating the rental premises incurred by the lessor because of increases in ad valorem property taxes, charges for the electricity, heating fuel, water, or sanitary sewer services consumed at the property, or increases in premiums paid for liability, fire, or worker compensation insurance.

(m) Violates the Michigan consumer protection act, Act No. 331 of the Public Acts of 1976, being sections 445.901 to 445.922 of the Michigan Compiled Laws.

(n) Requires the tenant to give the lessor a power of attorney.

(2) A rental agreement shall not include a clause or provision that, not less than 90 days before the execution of the rental agreement, has been prohibited by statute or declared unenforceable by a published decision of the supreme court of this state or the United States supreme court relating to the law of this state.

(3) A provision or clause of a rental agreement that violates this section is void.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.