

HOUSE BILL No. 4051

February 5, 1991, Introduced by Rep. Profit and referred to the Committee on Housing and Urban Affairs.

A bill to amend section 3 of Act No. 454 of the Public Acts of 1978, entitled
"Truth in renting act,"
being section 554.633 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 3 of Act No. 454 of the Public Acts of
2 1978, being section 554.633 of the Michigan Compiled Laws, is
3 amended to read as follows:

4 Sec. 3. (1) A rental agreement shall not include a provi-
5 sion ~~which~~ THAT DOES 1 OR MORE OF THE FOLLOWING:

6 (a) Waives or alters a remedy available to the parties when
7 the premises are in a condition ~~which~~ THAT violates the cove-
8 nants of fitness and habitability required pursuant to section 39
9 of chapter 66 of the Revised Statutes of 1846, being section
10 554.139 of the Michigan Compiled Laws.

1 (b) Provides that the parties waive a right established by
2 Act No. 348 of the Public Acts of 1972, being sections 554.601 to
3 554.616 of the Michigan Compiled Laws, which regulates security
4 deposits.

5 (c) Excludes or discriminates against a person in violation
6 of THE ELLIOTT-LARSEN CIVIL RIGHTS ACT, Act No. 453 of the
7 Public Acts of 1976, as amended, being sections 37.2101 to
8 37.2804 of the Michigan Compiled Laws, ~~relating to civil~~
9 ~~rights,~~ or THE MICHIGAN HANDICAPPERS' CIVIL RIGHTS ACT, Act
10 No. 220 of the Public Acts of 1976, being sections 37.1101 to
11 ~~37.1605~~ 37.1607 of the Michigan Compiled Laws. ~~, relating to~~
12 ~~civil rights of handicapped persons.~~

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

14 (e) Exculpates the lessor from liability for the lessor's
15 failure to perform, or negligent performance of, a duty imposed
16 by law. This subdivision ~~shall~~ DOES not apply to a provision
17 ~~which~~ THAT releases a party from liability arising from loss,
18 damage, or injury caused by fire or other casualty for which
19 insurance is carried by the other party, under a policy ~~which~~
20 THAT permits waiver of liability and waives the insurer's rights
21 of subrogation, to the extent of any recovery by the insured
22 party under the policy.

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

26 (g) Provides that a party is liable for legal costs or
27 attorney's fees incurred by another party, in connection with a

1 dispute arising under the rental agreement, in excess of costs or
2 fees specifically permitted by statute.

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

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

13 (j) Waives or alters a party's rights with respect to pos-
14 session or eviction proceedings provided in section 2918 of THE
15 REVISED JUDICATURE ACT OF 1961, Act No. 236 of the Public Acts of
16 1961, as amended, being section 600.2918 of the Michigan Compiled
17 Laws, or with respect to summary proceedings to recover posses-
18 sion as provided in chapter 57 of Act No. 236 of the Public Acts
19 of 1961, being sections 600.5701 to 600.5759 of the Michigan
20 Compiled Laws.

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

22 (l) Provides that a lessor may alter a provision of the
23 rental agreement after its commencement without the written con-
24 sent of the tenant, or, in the case of a rental agreement between
25 a consumer cooperative ~~which~~ THAT provides housing and a member
26 of the consumer cooperative, without the approval of the board of
27 directors of the cooperative or other appropriate body elected by

1 members who are also tenants of the cooperative, except that an
2 agreement may provide for the following types of adjustments to
3 be made upon written notice of not less than 30 days:

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

6 (ii) Changes in rules relating to the property ~~which~~ THAT
7 are required to protect the physical health, safety, or peaceful
8 enjoyment of tenants and guests.

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

15 (m) Violates THE MICHIGAN CONSUMER PROTECTION ACT, Act
16 No. 331 of the Public Acts of 1976, being sections 445.901 to
17 445.922 of the Michigan Compiled Laws. ~~which relates to con-~~
18 ~~sumer protection.~~

19 (N) REQUIRES THE TENANT TO GIVE THE LESSOR A POWER OF
20 ATTORNEY.

21 (2) A rental agreement shall not include a clause or provi-
22 sion ~~which~~ THAT, not less than 90 days before the execution of
23 the rental agreement, has been prohibited by statute or declared
24 unenforceable by a published decision of the supreme court of
25 this state or the United States supreme court relating to the law
26 of this state.

1 (3) A provision or clause of a rental agreement ~~which~~ THAT
2 violates this section is void.