

# HOUSE BILL No. 4493

March 6, 1991, Introduced by Rep. Gubow and referred to the Committee on Housing and 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:

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

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

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

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

9 (c) That the alleged termination was intended primarily as  
10 retribution for a lawful act arising out of the tenancy, includ-  
11 ing membership in a tenant organization and a lawful activity of  
12 a tenant organization arising out of the tenancy.

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

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

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

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

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

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

16 (2) If a defendant who alleges a retaliatory termination of  
17 the tenancy shows that within 90 days before the commencement of  
18 summary proceedings the defendant attempted to secure or enforce  
19 rights against the plaintiff or to complain against the plain-  
20 tiff, as provided in subsection (1)(a), (b), (c), or (e), by  
21 means of official action to or through a court or other govern-  
22 mental agency and the official action has not resulted in dis-  
23 missal or denial of the attempt or complaint, a presumption in  
24 favor of the defense of retaliatory termination arises, unless  
25 the plaintiff establishes by a preponderance of the evidence that  
26 the termination of tenancy was not in retaliation for the acts.  
27 If the defendant's alleged attempt to secure or enforce rights or

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

7       Section 2. This amendatory act shall not take effect unless  
8 Senate Bill No. \_\_\_\_ or House Bill No. 4492 (request  
9 no. 01365'91) of the 86th Legislature is enacted into law.