



HOUSE BILL No. 5886

May 15, 1996, Introduced by Rep. Byl and referred to the Committee on Commerce.

A bill to amend sections 4704, 5714, 5771, 5773, 5775, 5777, 5779, 5781, 5783, and 5785 of Act No. 236 of the Public Acts of 1961, entitled as amended

"Revised judicature act of 1961,"

section 4704 as added by Act No. 104 of the Public Acts of 1988, section 5714 as amended by Act No. 310 of the Public Acts of 1990, and sections 5771, 5773, 5775, 5777, 5779, 5781, 5783, and 5785 as added by Act No. 336 of the Public Acts of 1988, being sections 600.4704, 600.5714, 600.5771, 600.5773, 600.5775, 600.5777, 600.5779, 600.5781, 600.5783, and 600.5785 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 4704, 5714, 5771, 5773, 5775, 5777,
2 5779, 5781, 5783, and 5785 of Act No. 236 of the Public Acts of
3 1961, section 4704 as added by Act No. 104 of the Public Acts of

1 1988, section 5714 as amended by Act No. 310 of the Public Acts
2 of 1990, and sections 5771, 5773, 5775, 5777, 5779, 5781, 5783,
3 and 5785 as added by Act No. 336 of the Public Acts of 1988,
4 being sections 600.4704, 600.5714, 600.5771, 600.5773, 600.5775,
5 600.5777, 600.5779, 600.5781, 600.5783, and 600.5785 of the
6 Michigan Compiled Laws, are amended to read as follows:

7 Sec. 4704. (1) Within 7 days after personal property is
8 seized or a lien notice is filed against real property under sec-
9 tion 4703, the seizing agency or, if the property is real proper-
10 ty, the attorney general, the prosecuting attorney, or the city
11 or township attorney shall give notice of the seizure of the
12 property and the intent to forfeit and dispose of the property
13 according to this chapter to each of the following persons:

14 (a) If charges have been filed against a person for a crime,
15 the person charged.

16 (b) Each person with a known ownership interest in the
17 property.

18 (c) Each mortgagee, person holding a security interest, or
19 person having a lien that appears on the certificate of title or
20 is on file with the secretary of state or appropriate register of
21 deeds, if the property is real property, a ~~mobile~~ MANUFACTURED
22 home, motor vehicle, watercraft, or other personal property.

23 (d) Each holder of a preferred ship mortgage of record in
24 the appropriate public office pursuant to the FORMER ship mort-
25 gage act, 1920, chapter 250, 41 Stat. 1000, ~~46 U.S.C. App. 911,~~
26 ~~921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984,~~ if

1 the property is a watercraft more than 28 feet long or a
2 watercraft that has a capacity of 5 net tons or more.

3 (e) Each person whose security interest is recorded with the
4 appropriate public office pursuant to the FORMER federal aviation
5 act of 1958, Public Law 85-726, ~~27 Stat. 731,~~ if the property
6 is an aircraft, aircraft engine, or aircraft propeller, or a part
7 of an aircraft, aircraft engine, or aircraft propeller.

8 (f) Each person with a known security interest in the
9 property.

10 (g) Each victim of the crime.

11 (2) The notice required under subsection (1) shall be a
12 written notice delivered to the person or sent to the person by
13 certified mail. If the name and address of the person are not
14 reasonably ascertainable or delivery of the notice cannot reason-
15 ably be accomplished, the notice shall be published in a newspa-
16 per of general circulation in the county in which the personal
17 property was seized or the real property is located for 10 suc-
18 cessive publishing days. Proof of written notice or publication
19 shall be filed with the court having jurisdiction over the sei-
20 zure or forfeiture.

21 (3) If personal property was seized, the seizing agency
22 shall immediately notify the prosecuting attorney for the county
23 in which the property was seized or, if the attorney general is
24 actively handling a case involving or relating to the property,
25 the attorney general of the seizure of the property and the
26 intent to forfeit and dispose of the property according to this
27 chapter.

1 Sec. 5714. (1) A person entitled to premises may recover
2 possession of the premises by summary proceedings in the follow-
3 ing cases:

4 (a) When a person holds over premises, after failing or
5 refusing to pay rent due under the lease or agreement by which
6 the person holds the premises within 7 days from the service of a
7 written demand for possession for nonpayment of the rent due.
8 For the purpose of this subdivision, rent due does not include
9 any accelerated indebtedness by reason of a breach of the lease
10 under which the premises are held.

11 (b) When a person holds over premises for 7 days following
12 service of a written demand for possession for termination of the
13 lease pursuant to a clause in the lease providing for termination
14 because a tenant, a member of the tenant's household, or other
15 person under the tenant's control has unlawfully manufactured,
16 delivered, possessed with intent to deliver, or possessed a con-
17 trolled substance on the leased premises. This subdivision
18 applies only if a formal police report has been filed by the
19 landlord alleging that the person has unlawfully manufactured,
20 delivered, possessed with intent to deliver, or possessed a con-
21 trolled substance on the leased premises. For purposes of this
22 subdivision, "controlled substance" means a substance or a coun-
23 terfeit substance classified in schedule 1, 2, or 3 pursuant to
24 sections 7211, 7212, 7213, 7214, 7215, and 7216 of Act No. 368 of
25 the Public Acts of 1978, being sections 333.7211, 333.7212,
26 333.7213, 333.7214, 333.7215, and 333.7216 of the Michigan
27 Compiled Laws.

1 (c) When a person holds over premises in 1 or more of the
2 following circumstances:

3 (i) After termination of the lease, pursuant to a power to
4 terminate provided in the lease or implied by law.

5 (ii) After the term for which the premises are demised to
6 the person or to the person under whom he or she holds.

7 (iii) After the termination of the person's estate by a
8 notice to quit as provided by section 34 of chapter 66 of the
9 Revised Statutes of 1846, ~~as amended,~~ being section 554.134 of
10 the Michigan Compiled Laws.

11 (d) When the person in possession willfully or negligently
12 causes a serious and continuing health hazard to exist on the
13 premises, or causes extensive and continuing physical injury to
14 the premises, which was discovered or should reasonably have been
15 discovered by the party seeking possession not earlier than 90
16 days before the institution of proceedings under this chapter and
17 when the person in possession neglects or refuses for 7 days
18 after service of a demand for possession of the premises to
19 deliver up possession of the premises or to substantially restore
20 or repair the premises.

21 (e) When a person takes possession of premises by means of a
22 forcible entry, holds possession of premises by force after a
23 peaceable entry, or comes into possession of premises by trespass
24 without color of title or other possessory interest.

25 (f) When a person continues in possession of premises sold
26 by virtue of a mortgage or execution, after the time limited by
27 law for redemption of the premises.

1 (g) When a person continues in possession of premises sold
2 and conveyed by a personal representative under license from the
3 probate court or under authority in the will.

4 (2) A tenant or occupant of housing operated by a city, vil-
5 lage, township, or other unit of local government, as provided in
6 Act No. 18 of the Public Acts of the Extra Session of 1933, ~~as~~
7 ~~amended,~~ being sections 125.651 to 125.709e of the Michigan
8 Compiled Laws, is not considered to be holding over under subsec-
9 tion (1)(b) or (c) unless the tenancy or agreement has been ter-
10 minated for just cause, as provided by lawful rules of the local
11 housing commission or by law.

12 (3) A tenant of a ~~mobile~~ MANUFACTURED home park is not
13 considered to be holding over under subsection (1)(b) or (c)
14 unless the tenancy or lease agreement is terminated for just
15 cause ~~pursuant to~~ UNDER chapter 57a.

16 Sec. 5771. As used in this chapter:

17 (a) ~~"Mobile"~~ "MANUFACTURED home" means a ~~mobile~~
18 MANUFACTURED home as defined in section 2 of the ~~mobile~~
19 MANUFACTURED home commission act, Act No. 96 of the Public Acts
20 of 1987, being section 125.2302 of the Michigan Compiled Laws.

21 (b) ~~"Mobile"~~ "MANUFACTURED home park" means a ~~mobile~~
22 MANUFACTURED home park as defined in section 2 of Act No. 96 of
23 the Public Acts of 1987, but does not include a seasonal ~~mobile~~
24 MANUFACTURED home park as defined in section 2 of Act No. 96 of
25 the Public Acts of 1987.

1 Sec. 5773. (1) The district court has jurisdiction under
2 this chapter over proceedings for termination of tenancies in
3 ~~mobile~~ MANUFACTURED home parks.

4 (2) Section 5706 ~~shall govern~~ GOVERNS the venue of pro-
5 ceedings under this chapter.

6 Sec. 5775. (1) The tenancy of a tenant in a ~~mobile~~
7 MANUFACTURED home park shall not be terminated unless there is
8 just cause for the termination.

9 (2) For the purpose of this chapter, "just cause" means 1 or
10 more of the following:

11 (a) Use of a ~~mobile~~ MANUFACTURED home site by the tenant
12 for an unlawful purpose.

13 (b) Failure by the tenant to comply with a lease or agree-
14 ment by which the tenant holds the premises or with a rule or
15 regulation of the ~~mobile~~ MANUFACTURED home park, adopted pursu-
16 ant to the lease or agreement, which rule or regulation is rea-
17 sonably related to any of the following:

18 (i) The health, safety, or welfare of the ~~mobile~~
19 MANUFACTURED home park, its employees, or tenants.

20 (ii) The quiet enjoyment of the other tenants of the
21 ~~mobile~~ MANUFACTURED home park.

22 (iii) Maintaining the physical condition or appearance of
23 the ~~mobile~~ MANUFACTURED home park or the ~~mobile~~ MANUFACTURED
24 homes located in the ~~mobile~~ MANUFACTURED home park to protect
25 the value of the ~~mobile~~ MANUFACTURED home park or to maintain
26 its aesthetic quality or appearance.

1 (c) A violation by the tenant of rules promulgated by the
2 Michigan department of public health under section 6 of the
3 ~~mobile~~ MANUFACTURED home commission act, Act No. 96 of the
4 Public Acts of 1987, being section 125.2306 of the Michigan
5 Compiled Laws.

6 (d) Intentional physical injury by the tenant to the person-
7 nel or other tenants of the ~~mobile~~ MANUFACTURED home park, or
8 intentional physical damage by the tenant to the property of the
9 ~~mobile~~ MANUFACTURED home park or of its other tenants.

10 (e) Failure of the tenant to comply with a local ordinance,
11 state law, or governmental rule or regulation relating to
12 ~~mobile~~ MANUFACTURED homes.

13 (f) Failure of the tenant to make timely payment of rent or
14 other charges under the lease or rental agreement by which the
15 tenant holds the premises on 3 or more occasions during any
16 12-month period, for which failure the owner or operator has
17 served a written demand for possession for nonpayment of rent
18 ~~pursuant to~~ UNDER section 5714(1)(a) and the tenant has failed
19 or refused to pay the rent or other charges within the time
20 period stated in the written demand for possession. The written
21 demand for possession shall provide a notice to the tenant in
22 substantially the following form: "Notice: Three or more late
23 payments of rent during any 12-month period is just cause to
24 evict you." Nothing in this subdivision shall prohibit a tenant
25 from asserting, and the court from considering, any meritorious
26 defenses to late payment of rent or other charges.

1 (g) Conduct by the tenant upon the ~~mobile~~ MANUFACTURED
2 home park premises ~~which~~ THAT constitutes a substantial
3 annoyance to other tenants or to the ~~mobile~~ MANUFACTURED home
4 park, after notice and an opportunity to cure.

5 (h) Failure of the tenant to maintain the ~~mobile~~
6 MANUFACTURED home or ~~mobile~~ MANUFACTURED home site in a reason-
7 able condition consistent with aesthetics appropriate to the
8 park.

9 (i) Condemnation of the ~~mobile~~ MANUFACTURED home park.

10 (j) Changes in the use or substantive nature of the ~~mobile~~
11 MANUFACTURED home park.

12 (k) Public health and safety violations by the tenant.

13 (3) This section does not prohibit a change of the rental
14 payments or the terms or conditions of tenancy in a ~~mobile~~
15 MANUFACTURED home park following the termination or expiration of
16 a written lease agreement for the ~~mobile~~ MANUFACTURED home
17 site.

18 Sec. 5777. Within 10 days of service of a demand for pos-
19 session of premises for just cause, a tenant in a ~~mobile~~
20 MANUFACTURED home park shall have the right to request, by certi-
21 fied or registered mail to the owner or operator of the ~~mobile~~
22 MANUFACTURED home park at the address set forth in the demand, an
23 in-person conference with the owner or operator of the ~~mobile~~
24 MANUFACTURED home park or representative of the owner or
25 operator. If timely requested, the conference shall be held at
26 the ~~mobile~~ MANUFACTURED home park and at a time and date
27 established by the owner or operator but not later than 20 days

1 after the tenant's request. The tenant may be accompanied by
2 counsel at the conference. Nothing in this section shall affect
3 the owner's or operator's right to commence summary proceedings
4 pursuant to the demand for possession.

5 Sec. 5779. In every action to terminate a tenancy in a
6 ~~mobile~~ MANUFACTURED home park for just cause, the tenant shall
7 continue to pay all rent and other charges to the owner or opera-
8 tor when due following the demand for possession of the premises
9 and during the pendency of the action, and the owner or operator
10 may accept all such payments of rent and other charges without
11 prejudice to the action to evict the tenant for just cause. If
12 such a payment is not timely paid, the owner or operator may pro-
13 ceed under section 5714(1)(a) without prejudice to the mainte-
14 nance of the just cause termination action.

15 Sec. 5781. If a tenancy in a ~~mobile~~ MANUFACTURED home
16 park is terminated for just cause, the tenant may sell his or her
17 ~~mobile~~ MANUFACTURED home on-site, as provided in sections
18 28(1)(h) and 28a of the ~~mobile~~ MANUFACTURED home commission
19 act, Act No. 96 of the Public Acts of 1987, being sections
20 125.2328 and 125.2328a of the Michigan Compiled Laws, subject to
21 all of the following conditions:

22 (a) The tenant shall sell or move the ~~mobile~~ MANUFACTURED
23 home within 90 days after the date of the judgment of possession,
24 except that the time period shall be extended to 90 days after
25 the ~~mobile~~ MANUFACTURED home park owner or operator denies ten-
26 ancy to a person making a bona fide offer to purchase the

1 ~~mobile~~ MANUFACTURED home within the 90-day period or any proper
2 extension of the time period under this subdivision.

3 (b) The tenant shall timely pay all rent and other charges
4 for the ~~mobile~~ MANUFACTURED home site during the 90-day period
5 or any proper extension of the time period under subdivision
6 (a). Failure to timely pay all rent or other charges shall enti-
7 tle the owner or operator to seek an immediate writ of
8 restitution. As used in this subdivision, "rent and other
9 charges" does not include liquidated damages awarded under
10 section 5785.

11 (c) Upon the expiration of 10 days after the date of the
12 judgment of possession, the owner or operator may disconnect all
13 ~~mobile~~ MANUFACTURED home park-supplied utility services.

14 (d) Within 10 days after the date of the judgment of posses-
15 sion, the tenant shall provide the owner or operator with proof
16 that the ~~mobile~~ MANUFACTURED home has been properly winterized
17 by a licensed ~~mobile~~ MANUFACTURED home installer and repairer.
18 Failure to timely provide the proof of winterization shall enti-
19 tle the owner or operator to seek an immediate writ of
20 restitution.

21 (e) The tenant shall continue to maintain the ~~mobile~~
22 MANUFACTURED home and ~~mobile~~ MANUFACTURED home site in accord-
23 ance with the rules and regulations of the ~~mobile~~ MANUFACTURED
24 home park.

25 (f) The ~~mobile~~ MANUFACTURED home park shall provide the
26 tenant with reasonable access to the ~~mobile~~ MANUFACTURED home
27 and the ~~mobile~~ MANUFACTURED home site for the purpose of

1 maintaining the ~~mobile~~ MANUFACTURED home and ~~mobile~~
2 MANUFACTURED home site and selling the ~~mobile~~ MANUFACTURED
3 home.

4 Sec. 5783. Every judgment for possession resulting from an
5 action to terminate a tenancy in a ~~mobile~~ MANUFACTURED home
6 park for just cause shall set forth the right of a tenant to sell
7 a ~~mobile~~ MANUFACTURED home on site, the conditions of that
8 right, and the consequences of a tenant's failure to meet those
9 conditions, all as prescribed in section 5781.

10 Sec. 5785. In every contested action to terminate a tenancy
11 in a ~~mobile~~ MANUFACTURED home park for just cause, the court
12 shall award liquidated damages to the prevailing party if a pro-
13 vision requiring liquidated damages is included in the lease or
14 rental agreement governing the tenancy or rules or regulations
15 adopted ~~pursuant to~~ UNDER the lease or rental agreement, as
16 prescribed in section 28c of the ~~mobile~~ MANUFACTURED home com-
17 mission act, Act No. 96 of the Public Acts of 1987, being section
18 125.2328c of the Michigan Compiled Laws. The liquidated damages
19 shall not be construed to be a penalty.