

A bill to amend 1978 PA 454, entitled
"Truth in renting act,"
by amending section 3 (MCL 554.633), as amended by 1991 PA 131.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) Waives or alters a remedy available to the parties when
4 the premises are in a condition that violates the covenants of
5 fitness and habitability required pursuant to section 39 of
6 ~~chapter 66 of the Revised Statutes of 1846, being section~~
7 ~~554.139 of the Michigan Compiled Laws~~ 1846 RS 84, MCL 554.139.

8 (b) Provides that the parties waive a right established by
9 ~~Act No. 348 of the Public Acts of 1972, being sections 554.601~~
10 ~~to 554.616 of the Michigan Compiled Laws~~ 1972 PA 348, MCL
11 554.601 TO 554.616, which regulates security deposits.

1 (c) Excludes or discriminates against a person in violation
2 of the Elliott-Larsen civil rights act, ~~Act No. 453 of the~~
3 ~~Public Acts of 1976, as amended, being sections 37.2101 to~~
4 ~~37.2804 of the Michigan Compiled Laws~~ 1976 PA 453, MCL 37.2101
5 TO 37.2804, or the ~~Michigan handicappers'~~ PERSONS WITH
6 DISABILITIES civil rights act, ~~Act No. 220 of the Public Acts of~~
7 ~~1976, being sections 37.1101 to 37.1607 of the Michigan Compiled~~
8 ~~Laws~~ 1976 PA 220, MCL 37.1101 TO 37.1607.

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

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

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

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

25 (h) Provides for the acquisition by the lessor of a security
26 interest in any personal property of the tenant to assure payment

1 of rent or other charges arising under the rental agreement,
2 except as specifically allowed by law.

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

9 (j) Waives or alters a party's rights with respect to pos-
10 session or eviction proceedings provided in section 2918 of the
11 revised judicature act of 1961, ~~Act No. 236 of the Public Acts~~
12 ~~of 1961, as amended, being section 600.2918 of the Michigan~~
13 ~~Compiled Laws~~ 1961 PA 236, MCL 600.2918, or with respect to sum-
14 mary proceedings to recover possession as provided in chapter 57
15 of ~~Act No. 236 of the Public Acts of 1961, being sections~~
16 ~~600.5701 to 600.5759 of the Michigan Compiled Laws~~ THE REVISED
17 JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.5701 TO 600.5759.

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

19 (l) Provides that a lessor may alter a provision of the
20 rental agreement after its commencement without the written con-
21 sent of the tenant, or, in the case of a rental agreement between
22 a consumer cooperative that provides housing and a member of the
23 consumer cooperative, without the approval of the board of direc-
24 tors of the cooperative or other appropriate body elected by mem-
25 bers who are also tenants of the cooperative, except that an
26 agreement may provide for the following types of adjustments to
27 be made upon written notice of not less than 30 days:

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

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

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

12 (m) Violates the Michigan consumer protection act, ~~Act~~
13 ~~No. 331 of the Public Acts of 1976, being sections 445.901 to~~
14 ~~445.922 of the Michigan Compiled Laws~~ 1976 PA 331, MCL 445.901
15 TO 445.922.

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

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

24 (3) A provision or clause of a rental agreement that vio-
25 lates this section is void.

26 Enacting section 1. This amendatory act does not take
27 effect unless Senate Bill No. _____ or House Bill No. _____

SB0392, As Passed House, February 25, 1998

5

1 (request no. 01838'97) of the 89th Legislature is enacted into
2 law.