

HOUSE BILL No. 5298

October 21, 1997, Introduced by Rep. Byl and referred to the Committee on Commerce.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 4704, 5714, 5771, 5773, 5775, 5777, 5779,
5781, 5783, and 5785 (MCL 600.4704, 600.5714, 600.5771, 600.5773,
600.5775, 600.5777, 600.5779, 600.5781, 600.5783, and 600.5785),
section 4704 as added by 1988 PA 104, section 5714 as amended by
1990 PA 310, and sections 5771, 5773, 5775, 5777, 5779, 5781,
5783, and 5785 as added by 1988 PA 336.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4704. (1) Within 7 days after personal property is
2 seized or a lien notice is filed against real property under sec-
3 tion 4703, the seizing agency or, if the property is real proper-
4 ty, the attorney general, the prosecuting attorney, or the city
5 or township attorney shall give notice of the seizure of the

1 property and the intent to forfeit and dispose of the property
2 according to this chapter to each of the following persons:

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

5 (b) Each person with a known ownership interest in the
6 property.

7 (c) Each mortgagee, person holding a security interest, or
8 person having a lien that appears on the certificate of title OR
9 CERTIFICATE OF OWNERSHIP or is on file with the secretary of
10 state or appropriate register of deeds, if the property is real
11 property, a ~~mobile~~ MANUFACTURED home, motor vehicle, water-
12 craft, or other personal property.

13 (d) Each holder of a preferred ship mortgage of record in
14 the appropriate public office pursuant to the FORMER ship mort-
15 gage act, 1920, chapter 250, 41 Stat. 1000, ~~46 U.S.C. App. 911,~~
16 ~~921 to 927, 941, 951 to 954, 961, 971 to 975, and 981 to 984,~~ if
17 the property is a watercraft more than 28 feet long or a water-
18 craft that has a capacity of 5 net tons or more.

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

24 (f) Each person with a known security interest in the
25 property.

26 (g) Each victim of the crime.

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

11 (3) If personal property was seized, the seizing agency
12 shall immediately notify the prosecuting attorney for the county
13 in which the property was seized or, if the attorney general is
14 actively handling a case involving or relating to the property,
15 the attorney general of the seizure of the property and the
16 intent to forfeit and dispose of the property according to this
17 chapter.

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

21 (a) When a person holds over premises, after failing or
22 refusing to pay rent due under the lease or agreement by which
23 the person holds the premises within 7 days from the service of a
24 written demand for possession for nonpayment of the rent due.
25 For the purpose of this subdivision, rent due does not include
26 any accelerated indebtedness by reason of a breach of the lease
27 under which the premises are held.

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

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

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

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

25 (iii) After the termination of the person's estate by a
26 notice to quit as provided by section 34 of ~~chapter 66 of the~~

~~1 Revised Statutes of 1846, as amended, being section 554.134 of~~
~~2 the Michigan Compiled Laws 1846 RS 66, MCL 554.134.~~

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

13 (e) When a person takes possession of premises by means of a
14 forcible entry, holds possession of premises by force after a
15 peaceable entry, or comes into possession of premises by trespass
16 without color of title or other possessory interest.

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

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

23 (2) A tenant or occupant of housing operated by a city, vil-
24 lage, township, or other unit of local government, as provided in
25 ~~Act No. 18 of the Public Acts of the Extra Session of 1933, as~~
26 ~~amended, being sections 125.651 to 125.709e of the Michigan~~
27 ~~Compiled Laws~~ 1933 (EX SESS) PA 18, MCL 125.651 TO 125.709C, is

1 not considered to be holding over under subsection (1)(b) or (c)
2 unless the tenancy or agreement has been terminated for just
3 cause, as provided by lawful rules of the local housing commis-
4 sion or by law.

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

9 Sec. 5771. As used in this chapter:

10 (a) ~~"Mobile"~~ "MANUFACTURED home" means a ~~mobile~~
11 MANUFACTURED home as defined in section 2 of the ~~mobile~~
12 MANUFACTURED home commission act, ~~Act No. 96 of the Public Acts~~
13 ~~of 1987, being section 125.2302 of the Michigan Compiled Laws~~
14 1987 PA 96, MCL 125.2302.

15 (b) ~~"Mobile"~~ "MANUFACTURED home ~~park~~ COMMUNITY" means a
16 ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY as defined in
17 section 2 of ~~Act No. 96 of the Public Acts of 1987~~ THE MANUFAC-
18 TURED HOME COMMISSION ACT, 1987 PA 96, MCL 125.2302, but does not
19 include a seasonal ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY as
20 defined in section 2 of ~~Act No. 96 of the Public Acts of 1987~~
21 THE MANUFACTURED HOME COMMISSION ACT, 1987 PA 96, MCL 125.2302.

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

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

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

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

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

8 (b) Failure by the tenant to comply with a lease or agree-
9 ment by which the tenant holds the premises or with a rule or
10 regulation of the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY,
11 adopted pursuant to the lease or agreement, which rule or regula-
12 tion is reasonably related to any of the following:

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

15 (ii) The quiet enjoyment of the other tenants of the
16 ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY.

17 (iii) Maintaining the physical condition or appearance of
18 the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY or the ~~mobile~~
19 MANUFACTURED homes located in the ~~mobile~~ MANUFACTURED home
20 ~~park~~ COMMUNITY to protect the value of the ~~mobile~~
21 MANUFACTURED home ~~park~~ COMMUNITY or to maintain its aesthetic
22 quality or appearance.

23 (c) A violation by the tenant of rules promulgated by the
24 Michigan department of ~~public health~~ ENVIRONMENTAL QUALITY
25 under section 6 of the ~~mobile~~ MANUFACTURED home commission act,
26 ~~Act No. 96 of the Public Acts of 1987, being section 125.2306 of~~
27 ~~the Michigan Compiled Laws~~ 1987 PA 96, MCL 125.2306.

1 (d) Intentional physical injury by the tenant to the
2 personnel or other tenants of the ~~mobile~~ MANUFACTURED home
3 ~~park~~ COMMUNITY, or intentional physical damage by the tenant to
4 the property of the ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY
5 or of its other tenants.

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

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

24 (g) Conduct by the tenant upon the ~~mobile~~ MANUFACTURED
25 home ~~park~~ COMMUNITY premises ~~which~~ THAT constitutes a sub-
26 stantial annoyance to other tenants or to the ~~mobile~~

1 MANUFACTURED home ~~park~~ COMMUNITY, after notice and an
2 opportunity to cure.

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

7 (i) Condemnation of the ~~mobile~~ MANUFACTURED home ~~park~~
8 COMMUNITY.

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

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

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

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

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

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

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

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

1 the ~~mobile~~ MANUFACTURED home within the 90-day period or any
2 proper 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~~ COMMUNITY-SUPPLIED
14 utility services.

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

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

26 (f) The ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY shall
27 provide the tenant with reasonable access to the ~~mobile~~

1 MANUFACTURED home and the ~~mobile~~ MANUFACTURED home site for the
2 purpose of maintaining the ~~mobile~~ MANUFACTURED home and
3 ~~mobile~~ MANUFACTURED home site and selling the ~~mobile~~
4 MANUFACTURED home.

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

11 Sec. 5785. In every contested action to terminate a tenancy
12 in a ~~mobile~~ MANUFACTURED home ~~park~~ COMMUNITY for just cause,
13 the court shall award liquidated damages to the prevailing party
14 if a provision requiring liquidated damages is included in the
15 lease or rental agreement governing the tenancy or rules or regu-
16 lations adopted ~~pursuant to~~ UNDER the lease or rental agree-
17 ment, as prescribed in section 28c of the ~~mobile~~ MANUFACTURED
18 home commission act, ~~Act No. 96 of the Public Acts of 1987,~~
19 ~~being section 125.2328c of the Michigan Compiled Laws~~ 1987 PA
20 96, MCL 125.2328C. The liquidated damages shall not be construed
21 to be a penalty.