

HOUSE BILL No. 4113

January 29, 2003, Introduced by Rep. Jamnick 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
3 section 4703, the seizing agency or, if the property is real
4 property, the attorney general, the prosecuting attorney, or the
5 city or township attorney shall give notice of the seizure of the
6 property and the intent to forfeit and dispose of the property

1 according to this chapter to each of the following persons:

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

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

6 (c) Each mortgagee, person holding a security interest, or
7 person having a lien that appears on the certificate of title **or**
8 **certificate of ownership** or **that** is on file with the secretary of
9 state or appropriate register of deeds, if the property is real
10 property, a ~~mobile~~ **manufactured** home, **a** motor vehicle, **a**
11 watercraft, or other personal property.

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

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

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

26 (g) Each victim of the crime.

27 (2) The notice required under subsection (1) shall be a

1 written notice delivered to the person or sent to the person by
2 certified mail. If the name and address of the person are not
3 reasonably ascertainable or delivery of the notice cannot
4 reasonably be accomplished, the notice shall be published in a
5 newspaper of general circulation in the county in which the
6 personal property was seized or the real property is located for
7 10 successive publishing days. Proof of written notice or
8 publication shall be filed with the court having jurisdiction
9 over the seizure or forfeiture.

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

17 Sec. 5714. (1) A person entitled to premises may recover
18 possession of the premises by summary proceedings in **1 or more of**
19 the following cases:

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

27 (b) ~~When~~ **If** a person holds over premises for 7 days

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

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

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

23 (ii) After the term for which the premises are demised to the
 24 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~~
 27 ~~Revised Statutes of 1846, as amended, being section 554.134 of~~

1 ~~the Michigan Compiled Laws 1846 RS 66, MCL 554.134.~~

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

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

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

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

22 (2) A tenant or occupant of housing operated by a city,
 23 village, township, or other unit of local government, as provided
 24 in ~~Act No. 18 of the Public Acts of the Extra Session of 1933,~~
 25 ~~as amended, being sections 125.651 to 125.709e of the Michigan~~
 26 ~~Compiled Laws 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c,~~ is
 27 not considered to be holding over under subsection (1)(b) or (c)

1 unless the tenancy or agreement has been terminated for just
 2 cause, as provided by lawful rules of the local housing
 3 commission or by law.

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

8 Sec. 5771. As used in this chapter:

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

14 (b) ~~"Mobile~~ **"Manufactured** home ~~park~~ **community**" means a
 15 ~~mobile~~ **manufactured** home ~~park~~ **community** as defined in
 16 section 2 of ~~Act No. 96 of the Public Acts of 1987~~ **the**
 17 **manufactured housing commission act, 1987 PA 96, MCL 125.2302,**
 18 but does not include a seasonal ~~mobile~~ **manufactured** home ~~park~~
 19 **community** as defined in section 2 of ~~Act No. 96 of the Public~~
 20 ~~Acts of 1987~~ **the manufactured housing commission act, 1987 PA**
 21 **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
 26 proceedings under this chapter.

27 Sec. 5775. (1) The tenancy of a tenant in a ~~mobile~~

1 **manufactured** home ~~park~~ **community** shall not be terminated unless
2 there is just cause for the termination.

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

5 (a) Use of a ~~mobile~~ **manufactured** home site by the tenant
6 for an unlawful purpose.

7 (b) Failure by the tenant to comply with a lease or agreement
8 by which the tenant holds the premises or with a rule or
9 regulation of the ~~mobile~~ **manufactured** home ~~park~~ **community**,
10 adopted pursuant to the lease or agreement, ~~which~~ **if the** rule
11 or regulation is reasonably related to ~~any~~ **1 or more** of the
12 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 ~~mobile~~
16 **manufactured** home ~~park~~ **community**.

17 (iii) Maintaining the physical condition or appearance of the
18 ~~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 home~~ **manufactured housing**
26 commission act, ~~Act No. 96 of the Public Acts of 1987, being~~
27 ~~section 125.2306 of the Michigan Compiled Laws~~ **1987 PA 96, MCL**

1 125.2306.

2 (d) Intentional physical injury by the tenant to the
3 personnel or ~~other tenants~~ **another tenant** of the ~~mobile~~
4 **manufactured** home ~~park~~ **community**, or intentional physical
5 damage by the tenant to the property of the ~~mobile~~ **manufactured**
6 home ~~park~~ **community** or of its other tenants.

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

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

25 (g) Conduct by the tenant ~~upon~~ **on** the ~~mobile~~ **manufactured**
26 home ~~park~~ **community** premises ~~which~~ **that** constitutes a
27 substantial annoyance to ~~other tenants~~ **another tenant** or to the

1 ~~mobile~~ **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
 5 reasonable condition consistent with aesthetics appropriate to
 6 the ~~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
 18 possession 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~~ **affects** the
3 owner's or operator's right to commence summary proceedings
4 pursuant to the demand for possession.

5 Sec. 5779. In ~~every~~ **an** 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 home~~ **manufactured**
19 **housing** commission act, ~~Act No. 96 of the Public Acts of 1987,~~
20 ~~being sections 125.2328 and 125.2328a of the Michigan Compiled~~
21 ~~Laws~~ **1987 PA 96, MCL 125.2328 and 125.2328a**, subject to all of
22 the 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
7 entitle 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
16 possession, the tenant shall provide the owner or operator with
17 proof that the ~~mobile~~ **manufactured** home has been properly
18 winterized by a licensed ~~mobile~~ **manufactured** home installer and
19 ~~repairer~~ **servicer**. Failure to timely provide the proof of
20 winterization shall entitle the owner or operator to seek an
21 immediate writ of restitution.

22 (e) The tenant shall continue to maintain the ~~mobile~~
23 **manufactured** home and ~~mobile~~ **manufactured** home site in
24 accordance with the rules and regulations of the ~~mobile~~
25 **manufactured** 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
 9 conditions of that right, and the consequences of a tenant's
 10 failure to meet those conditions, all as prescribed in
 11 section 5781.

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

23 Enacting section 1. This amendatory act does not take
 24 effect unless Senate Bill No. _____ or House Bill No. 4121
 25 (request no. 01095'03) of the 92nd Legislature is enacted into
 26 law.