

# SENATE BILL No. 552

June 4, 2003, Introduced by Senator GARCIA and referred to the Committee on Local, Urban and State Affairs.

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 is on file with the secretary of state or appropriate register of  
9 deeds, if the property is real property, a ~~mobile~~ **manufactured**  
10 home, motor vehicle, watercraft, or other personal property.

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

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

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

25 (g) Each victim of the crime.

26 (2) The notice required under subsection (1) shall be a  
27 written notice delivered to the person or sent to the person by

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

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

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

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

26 (b) When a person holds over premises for 7 days following  
 27 service of a written demand for possession for termination of the

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

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

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

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

24 (iii) After the termination of the person's estate by a  
 25 notice to quit as provided by section 34 of ~~chapter 66 of the~~  
 26 ~~Revised Statutes of 1846, as amended, being section 554.134 of~~  
 27 ~~the Michigan Compiled Laws~~ **1846 RS 84, MCL 554.134.**

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

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

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

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

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

1 cause, as provided by lawful rules of the local housing  
2 commission or by law.

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

7 Sec. 5771. As used in this chapter:

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

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

20 Sec. 5773. (1) The district court has jurisdiction under  
21 this chapter over proceedings for termination of tenancies in  
22 ~~mobile~~ **manufactured** home parks.

23 (2) Section 5706 ~~shall govern~~ **governs** the venue of  
24 proceedings under this chapter.

25 Sec. 5775. (1) The tenancy of a tenant in a ~~mobile~~  
26 **manufactured** home park shall not be terminated unless there is  
27 just cause for the termination.

1       (2) ~~For the purpose of~~ **As used in** this chapter, "just  
2 cause" means 1 or more of the following:

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

5       (b) Failure by the tenant to comply with a lease or agreement  
6 by which the tenant holds the premises or with a rule or  
7 regulation of the ~~mobile~~ **manufactured** home park, adopted  
8 ~~pursuant~~ **according** to the lease or agreement, which rule or  
9 regulation is reasonably related to ~~any~~ **1 or more** of the  
10 following:

11       (i) The health, safety, or welfare of the ~~mobile~~  
12 **manufactured** home park, its employees, or tenants.

13       (ii) The quiet enjoyment of the other tenants of the ~~mobile~~  
14 **manufactured** home park.

15       (iii) Maintaining the physical condition or appearance of the  
16 ~~mobile~~ **manufactured** home park or the ~~mobile~~ **manufactured**  
17 homes located in the ~~mobile~~ **manufactured** home park to protect  
18 the value of the ~~mobile~~ **manufactured** home park or to maintain  
19 its aesthetic quality or appearance.

20       (c) A violation by the tenant of rules promulgated by the  
21 ~~Michigan~~ department of ~~public health~~ **environmental quality**  
22 under section 6 of the ~~mobile home~~ **manufactured housing**  
23 commission act, ~~Act No. 96 of the Public Acts of 1987, being~~  
24 ~~section 125.2306 of the Michigan Compiled Laws~~ **1987 PA 96, MCL**  
25 **125.2306.**

26       (d) Intentional physical injury by the tenant to the  
27 personnel or other tenants of the ~~mobile~~ **manufactured** home

1 park, or intentional physical damage by the tenant to the  
 2 property of the ~~mobile~~ **manufactured** home park or of its other  
 3 tenants.

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

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

22 (g) Conduct by the tenant upon the ~~mobile~~ **manufactured** home  
 23 park premises ~~which~~ **that** constitutes a substantial annoyance to  
 24 other tenants or to the ~~mobile~~ **manufactured** home park, after  
 25 notice and an opportunity to cure **have been given.**

26 (h) Failure of the tenant to maintain the ~~mobile~~  
 27 **manufactured** home or ~~mobile~~ **manufactured** home site in a



1 reasonable condition consistent with aesthetics appropriate to  
2 the park.

3 (i) Condemnation of the ~~mobile~~ **manufactured** home park.

4 (j) Changes in the use or substantive nature of the ~~mobile~~  
5 **manufactured** home park.

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

7 (3) This section does not prohibit a change of the rental  
8 payments or the terms or conditions of tenancy in a ~~mobile~~  
9 **manufactured** home park following the termination or expiration of  
10 a written lease agreement for the ~~mobile~~ **manufactured** home  
11 site.

12 Sec. 5777. Within 10 days ~~of~~ **after** service of a demand  
13 for possession of premises for just cause, a tenant in a ~~mobile~~  
14 **manufactured** home park ~~shall have~~ **has** the right to request, by  
15 certified or registered mail to the owner or operator of the  
16 ~~mobile~~ **manufactured** home park at the address set forth in the  
17 demand, an in-person conference with the owner or operator of the  
18 ~~mobile~~ **manufactured** home park or representative of the owner or  
19 operator. If timely requested, the conference shall be held at  
20 the ~~mobile~~ **manufactured** home park and at a time and date  
21 established by the owner or operator but not later than 20 days  
22 after the tenant's request. The tenant may be accompanied by  
23 counsel at the conference. Nothing in this section ~~shall~~  
24 ~~affect~~ **affects** the owner's or operator's right to commence  
25 summary proceedings ~~pursuant~~ **according** to the demand for  
26 possession.

27 Sec. 5779. In ~~every~~ **an** action to terminate a tenancy in a

1 ~~mobile~~ **manufactured** home park for just cause, the tenant shall  
2 continue to pay all rent and other charges to the owner or  
3 operator when due following the demand for possession of the  
4 premises and during the pendency of the action, and the owner or  
5 operator may accept all ~~such~~ payments of rent and other charges  
6 without prejudice to the action to evict the tenant for just  
7 cause. If ~~such~~ a payment is not timely paid, the owner or  
8 operator may proceed under section 5714(1)(a) without prejudice  
9 to the maintenance of the just cause termination action.

10 Sec. 5781. If a tenancy in a ~~mobile~~ **manufactured** home  
11 park is terminated for just cause, the tenant may sell his or her  
12 ~~mobile~~ **manufactured** home on-site, as provided in sections  
13 28(1)(h) and 28a of the ~~mobile home~~ **manufactured housing**  
14 commission act, ~~Act No. 96 of the Public Acts of 1987, being~~  
15 ~~sections 125.2328 and 125.2328a of the Michigan Compiled Laws~~  
16 **1987 PA 96, MCL 125.2328 and 125.2328a**, subject to all of the  
17 following conditions:

18 (a) The tenant shall sell or move the ~~mobile~~ **manufactured**  
19 home within 90 days after the date of the judgment of possession,  
20 except that the time period shall be extended to 90 days after  
21 the ~~mobile~~ **manufactured** home park owner or operator denies  
22 tenancy to a person making a bona fide offer to purchase the  
23 ~~mobile~~ **manufactured** home within the 90-day period or ~~any~~ **a**  
24 proper extension of the time period under this subdivision.

25 (b) The tenant shall timely pay all rent and other charges  
26 for the ~~mobile~~ **manufactured** home site during the 90-day period  
27 or ~~any~~ **a** proper extension of the time period under subdivision

1 (a). Failure to timely pay all rent or other charges ~~shall~~  
2 ~~entitle~~ **entitles** the owner or operator to seek an immediate writ  
3 of restitution. As used in this subdivision, "rent and other  
4 charges" does not include liquidated damages awarded under  
5 section 5785.

6 (c) Upon the expiration of 10 days after the date of the  
7 judgment of possession, the owner or operator may disconnect all  
8 ~~mobile~~ **manufactured** home park-supplied utility services.

9 (d) Within 10 days after the date of the judgment of  
10 possession, the tenant shall provide the owner or operator with  
11 proof that the ~~mobile~~ **manufactured** home has been properly  
12 winterized by a licensed ~~mobile~~ **manufactured** home installer and  
13 repairer. Failure to timely provide the proof of winterization  
14 ~~shall entitle~~ **entitles** the owner or operator to seek an  
15 immediate writ of restitution.

16 (e) The tenant shall continue to maintain the ~~mobile~~  
17 **manufactured** home and ~~mobile~~ **manufactured** home site in  
18 accordance with the rules and regulations of the ~~mobile~~  
19 **manufactured** home park.

20 (f) The ~~mobile~~ **manufactured** home park shall provide the  
21 tenant with reasonable access to the ~~mobile~~ **manufactured** home  
22 and the ~~mobile~~ **manufactured** home site for the purpose of  
23 maintaining the ~~mobile~~ **manufactured** home and ~~mobile~~  
24 **manufactured** home site and selling the ~~mobile~~ **manufactured**  
25 home.

26 Sec. 5783. ~~Every~~ **A** judgment for possession resulting from  
27 an action to terminate a tenancy in a ~~mobile~~ **manufactured** home

1 park for just cause shall set forth the right of a tenant to sell  
2 a ~~mobile~~ **manufactured** home on site, the conditions of that  
3 right, and the consequences of a tenant's failure to meet those  
4 conditions, all as prescribed in section 5781.

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

16       Enacting section 1. This amendatory act does not take  
17 effect unless Senate Bill No. 544  
18                               of the 92nd Legislature is enacted into  
19 law.