

SENATE BILL No. 1644

November 13, 2008, Introduced by Senator CLARKE and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 3208 and 5714 (MCL 600.3208 and 600.5714),
section 5714 as amended by 2004 PA 105, and by adding section 3108.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 3108. ON COMMENCING AN ACTION UNDER THIS CHAPTER TO
2 FORECLOSE A MORTGAGE OF RESIDENTIAL RENTAL PROPERTY, THE PLAINTIFF
3 SHALL GIVE NOTICE OF THE ACTION TO THE TENANTS OF THE PROPERTY BY
4 ORDINARY MAIL.

5 Sec. 3208. Notice that ~~the~~ **A** mortgage will be foreclosed **UNDER**
6 **THIS CHAPTER** by a sale of the mortgaged premises, or some part of
7 them, shall be given by publishing the ~~same~~ **NOTICE** for 4 successive
8 weeks at least once in each week ~~—~~ in a newspaper published in the

1 county where the premises included in the mortgage and intended to
2 be sold, or some part of them, are situated. If ~~no~~**A** newspaper is
3 **NOT** published in the county, the notice shall be published in a
4 newspaper published in an adjacent county. ~~In every case within~~
5 **WITHIN** 15 days after the first publication of the notice, a true
6 copy shall be posted in a conspicuous place upon any part of the
7 premises described in the notice.

8 **(2) IF THE MORTGAGED PREMISES INCLUDES RESIDENTIAL RENTAL**
9 **PROPERTY, A TRUE COPY OF THE NOTICE PUBLISHED UNDER THIS SECTION**
10 **SHALL BE PROVIDED TO THE TENANTS OF THE PROPERTY BY ORDINARY MAIL**
11 **WITHIN 15 DAYS AFTER THE FIRST PUBLICATION OF THE NOTICE.**

12 Sec. 5714. (1) A person entitled to premises may recover
13 possession of the premises by summary proceedings in the following
14 circumstances:

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

22 (b) When a person holds over premises for 24 hours following
23 service of a written demand for possession for termination of the
24 lease pursuant to a clause in the lease providing for termination
25 because a tenant, a member of the tenant's household, or other
26 person under the tenant's control has unlawfully manufactured,
27 delivered, possessed with intent to deliver, or possessed a

1 controlled substance on the leased premises. This subdivision
2 applies only if a formal police report has been filed by the
3 landlord alleging that the person has unlawfully manufactured,
4 delivered, possessed with intent to deliver, or possessed a
5 controlled substance on the leased premises. For purposes of this
6 subdivision, "controlled substance" means a substance or a
7 counterfeit substance classified in schedule 1, 2, or 3 pursuant to
8 sections 7211 to 7216 of the public health code, 1978 PA 368, MCL
9 333.7211 to 333.7216.

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

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

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

16 (iii) After the termination of the person's estate by a notice
17 to quit as provided by section 34 of 1846 RS 66, MCL 554.134.

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

1 (e) When a person takes possession of premises by means of a
2 forcible entry, holds possession of premises by force after a
3 peaceable entry, or comes into possession of premises by trespass
4 without color of title or other possessory interest.

5 (f) When ~~a person~~ **THE OWNER** continues in possession of
6 premises sold by virtue of a mortgage or execution, after the time
7 limited by law for redemption of the premises.

8 **(G) WHEN A TENANT UNDER A LEASE, WHETHER WRITTEN OR ORAL,**
9 **CONTINUES IN POSSESSION OF PREMISES SOLD BY VIRTUE OF A MORTGAGE**
10 **FORECLOSURE FOR 90 DAYS AFTER SERVICE OF A WRITTEN DEMAND FOR**
11 **POSSESSION BY THE PURCHASER AT THE SALE.**

12 **(H)** ~~(g)~~ When a person continues in possession of premises sold
13 and conveyed by a personal representative under license from the
14 probate court or under authority in the will.

15 (2) A tenant or occupant of housing operated by a city,
16 village, township, or other unit of local government, as provided
17 in 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, is not considered
18 to be holding over under subsection (1)(b) or (c) unless the
19 tenancy or agreement has been terminated for just cause, as
20 provided by lawful rules of the local housing commission or by law.

21 (3) A tenant of a mobile home park is not considered to be
22 holding over under subsection (1)(b) or (c) unless the tenancy or
23 lease agreement is terminated for just cause pursuant to chapter
24 57a.