

# HOUSE BILL No. 4870

April 30, 2009, Introduced by Reps. Tlaib, Roberts, Switalski, Clemente, Geiss, Nathan, Barnett, Slezak, Bettie Scott, Durhal, Gregory, Lisa Brown, Johnson, Young, Liss, Smith, Lipton, Polidori, Meadows, LeBlanc, Espinoza, Rick Jones, Lori, Rogers, Proos and Kandrevas and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
(MCL 600.101 to 600.9947) by adding chapter 39.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER 39. DRUG NUISANCE ABATEMENT.

#### SEC. 3901. AS USED IN THIS CHAPTER:

(A) "COMMUNITY ASSOCIATION" MEANS AN ENTITY THAT IS 1 OR BOTH  
OF THE FOLLOWING:

(i) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION  
THAT IS ALL OF THE FOLLOWING:

(A) COMPOSED OF RESIDENTS OF A LOCAL UNIT OF GOVERNMENT.

(B) OPERATED EXCLUSIVELY FOR THE PROMOTION OF SOCIAL WELFARE  
AND GENERAL NEIGHBORHOOD IMPROVEMENT AND ENHANCEMENT.

(C) EXEMPT FROM TAXATION UNDER SECTION 501(C)(3) OR (4) OF THE  
INTERNAL REVENUE CODE, 26 USC 501.

(ii) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER ORGANIZATION THAT IS ALL OF THE FOLLOWING:

(A) COMPOSED OF RESIDENTS OF A COMMUNITY THAT IS CONTAINED IN SPECIFIC CONTIGUOUS GEOGRAPHIC BOUNDARIES.

(B) OPERATED FOR THE PROMOTION OF THE WELFARE, IMPROVEMENT, AND ENHANCEMENT OF THE COMMUNITY.

(B) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

(C) "DRUG PARAPHERNALIA" MEANS THAT TERM AS DEFINED IN SECTION 7451 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7451.

(D) "LOCAL UNIT OF GOVERNMENT" MEANS A COUNTY, TOWNSHIP, CITY, OR VILLAGE.

(E) "NUISANCE" MEANS REAL PROPERTY THAT IS USED IN 1 OR MORE OF THE FOLLOWING WAYS:

(i) BY INDIVIDUALS WHO ASSEMBLE FOR THE SPECIFIC PURPOSE OF ILLEGALLY POSSESSING A CONTROLLED SUBSTANCE.

(ii) FOR THE ILLEGAL MANUFACTURE OR DISTRIBUTION OF 1 OR BOTH OF THE FOLLOWING:

(A) A CONTROLLED SUBSTANCE.

(B) DRUG PARAPHERNALIA.

(iii) FOR THE ILLEGAL STORAGE OR CONCEALMENT OF A CONTROLLED SUBSTANCE OR DRUG PARAPHERNALIA IN SUFFICIENT QUANTITY TO REASONABLY INDICATE UNDER ALL THE CIRCUMSTANCES AN INTENT TO MANUFACTURE, DISTRIBUTE, OR DISPENSE THE CONTROLLED SUBSTANCE OR DRUG PARAPHERNALIA.

(F) "TENANT" MEANS THE LESSEE OR A PERSON OCCUPYING PROPERTY, WHETHER OR NOT A PARTY TO A LEASE OF THE PROPERTY. TENANT DOES NOT

1 INCLUDE EITHER OF THE FOLLOWING:

2 (i) THE OWNER OF THE PROPERTY.

3 (ii) A MOBILE HOME OWNER, EVEN IF THE MOBILE HOME IS LOCATED ON  
4 A LEASED OR RENTED SITE IN A MOBILE HOME PARK.

5 SEC. 3903. (1) ONE OR MORE OF THE FOLLOWING MAY BRING AN  
6 ACTION UNDER THIS CHAPTER TO ABATE A NUISANCE:

7 (A) THE PROSECUTING ATTORNEY FOR THE COUNTY IN WHICH THE  
8 NUISANCE IS LOCATED.

9 (B) THE CORPORATION COUNSEL OR ANOTHER ATTORNEY REPRESENTING  
10 THE COUNTY IN WHICH THE NUISANCE IS LOCATED.

11 (C) A COMMUNITY ASSOCIATION COMPOSED OF RESIDENTS OF A LOCAL  
12 UNIT OF GOVERNMENT OR OF A COMMUNITY IN WHICH THE NUISANCE IS  
13 LOCATED.

14 (D) A LOCAL UNIT OF GOVERNMENT IN WHICH THE NUISANCE IS  
15 LOCATED.

16 (2) AN ACTION SHALL NOT BE BROUGHT UNDER THIS CHAPTER  
17 CONCERNING COMMERCIAL PROPERTY UNTIL 45 DAYS AFTER A PERSON  
18 ENTITLED TO BRING THE ACTION GIVES NOTICE BY PERSONAL DELIVERY OR  
19 CERTIFIED MAIL TO THE TENANT, IF ANY, AND OWNER OF RECORD THAT A  
20 NUISANCE EXISTS. THE NOTICE SHALL SPECIFY BOTH OF THE FOLLOWING:

21 (A) THE DATE AND TIME THE NUISANCE WAS FIRST DISCOVERED.

22 (B) THE LOCATION ON THE PROPERTY WHERE THE NUISANCE IS  
23 ALLEGEDLY OCCURRING.

24 SEC. 3905. (1) AN ACTION UNDER THIS CHAPTER SHALL BE HEARD  
25 WITHIN 14 DAYS AFTER THE SUMMONS AND COMPLAINT ARE SERVED ON THE  
26 DEFENDANTS.

27 (2) IN ADDITION TO SERVICE REQUIRED BY COURT RULE, THE

1 PLAINTIFF SHALL POST NOTICE OF A HEARING IN AN ACTION BROUGHT UNDER  
2 THIS CHAPTER IN A CONSPICUOUS PLACE ON THE SUBJECT PROPERTY AT  
3 LEAST 48 HOURS BEFORE THE HEARING. THE NOTICE SHALL INDICATE ALL OF  
4 THE FOLLOWING:

5 (A) THE NATURE OF THE HEARING.

6 (B) THE TIME AND PLACE OF THE HEARING.

7 (C) THE NAME AND TELEPHONE NUMBER OF A PERSON TO CONTACT FOR  
8 ADDITIONAL INFORMATION.

9 SEC. 3907. (1) EVIDENCE OF THE GENERAL REPUTATION OF THE  
10 PROPERTY IS ADMISSIBLE IN AN ACTION UNDER THIS CHAPTER TO  
11 CORROBORATE TESTIMONY BASED ON PERSONAL KNOWLEDGE OR OBSERVATION OR  
12 EVIDENCE SEIZED DURING THE EXECUTION OF A SEARCH WARRANT, BUT IS  
13 NOT SUFFICIENT ALONE TO ESTABLISH THE EXISTENCE OF A NUISANCE.

14 (2) A COURT MAY GRANT APPROPRIATE RELIEF UNDER THIS CHAPTER  
15 EVEN IF A NUISANCE HAS BEEN DISCONTINUED AT THE TIME THE COMPLAINT  
16 IS FILED OR AT THE TIME OF THE HEARING.

17 SEC. 3909. (1) UNLESS SUBSECTION (2) PROVIDES OTHERWISE, A  
18 COURT MAY ORDER RELIEF IN AN ACTION UNDER THIS CHAPTER WITHOUT  
19 PROOF THAT A DEFENDANT KNEW OF THE EXISTENCE OF THE NUISANCE.

20 (2) THE COURT IN AN ACTION UNDER THIS CHAPTER MAY, AFTER A  
21 HEARING, DO 1 OR MORE OF THE FOLLOWING:

22 (A) REGARDLESS OF WHETHER AN ADEQUATE REMEDY EXISTS AT LAW,  
23 ISSUE AN INJUNCTION OR ORDER OTHER EQUITABLE RELIEF.

24 (B) ORDER A TENANT WHO KNEW OR SHOULD HAVE KNOWN OF THE  
25 EXISTENCE OF THE NUISANCE TO VACATE THE PROPERTY WITHIN 72 HOURS.

26 (C) IF THE OWNER AND A TENANT ARE PARTIES TO THE ACTION AND  
27 THE TENANT HAS FAILED TO OBEY AN ORDER UNDER SUBDIVISION (A) OR

1 (B), GRANT A JUDGMENT RETURNING POSSESSION OF THE PROPERTY TO THE  
2 OWNER. IF A JUDGMENT IS ENTERED UNDER THIS SUBDIVISION, THE COURT  
3 SHALL IMMEDIATELY ISSUE A WRIT OF RESTITUTION OR ORDER OF EVICTION  
4 AND ORDER THAT IT BE EXECUTED WITHIN 5 DAYS.

5 (D) IF THE OWNER IS A PARTY TO THE ACTION AND THE OWNER KNEW  
6 OR SHOULD HAVE KNOWN OF THE EXISTENCE OF THE NUISANCE, ORDER THE  
7 OWNER OF THE PROPERTY TO SUBMIT FOR COURT APPROVAL A PLAN OF  
8 CORRECTION TO ENSURE, TO THE EXTENT REASONABLY POSSIBLE, THAT THE  
9 PROPERTY WILL NOT AGAIN BE USED FOR A NUISANCE.

10 (E) IF AN OWNER FAILS TO COMPLY WITH AN ORDER TO ABATE A  
11 NUISANCE, ORDER THAT THE PROPERTY BE DEMOLISHED IF THE PROPERTY IS  
12 UNFIT FOR HABITATION AND THE ESTIMATED COST OF REHABILITATION  
13 SIGNIFICANTLY EXCEEDS THE ESTIMATED MARKET VALUE OF THE PROPERTY  
14 AFTER REHABILITATION.

15 (F) IF A COMMUNITY ASSOCIATION IS THE PREVAILING PLAINTIFF IN  
16 THE ACTION, AWARD COURT COSTS AND REASONABLE ATTORNEY FEES TO THE  
17 ASSOCIATION.

18 (G) GRANT ANY OTHER RELIEF THAT IS AVAILABLE UNDER LAW.

19 SEC. 3911. (1) AN APPEAL FROM A JUDGMENT OR ORDER UNDER THIS  
20 CHAPTER SHALL BE FILED WITHIN 10 DAYS AFTER THE DATE OF THE ORDER  
21 OR JUDGMENT.

22 (2) IF AN APPELLANT WISHES ORAL ARGUMENT ON APPEAL, THE  
23 REQUEST SHALL BE FILED AT THE TIME THE APPEAL IS FILED. IF AN  
24 APPELLEE WISHES ORAL ARGUMENT ON APPEAL, THE REQUEST SHALL BE FILED  
25 WITHIN 2 DAYS AFTER THE APPELLEE RECEIVES NOTICE OF THE APPEAL. IF  
26 A TIMELY REQUEST FOR ORAL ARGUMENT IS FILED, THE COURT SHALL HEAR  
27 ORAL ARGUMENTS WITHIN 7 DAYS AFTER THE REQUEST IS FILED.

1        SEC. 3913. (1) THIS CHAPTER DOES NOT ABROGATE, AND THE  
2        REMEDIES PROVIDED BY THIS CHAPTER ARE IN ADDITION TO, ANY RIGHT OR  
3        REMEDY TO ABATE A NUISANCE UNDER OTHER LAW.

4        (2) ANY PROVISIONS OF CHAPTER 57 OR 57A OR OTHER CHAPTERS OF  
5        THIS ACT APPLICABLE TO ACTIONS BETWEEN A LANDLORD AND TENANT THAT  
6        ARE INCONSISTENT WITH THIS CHAPTER DO NOT APPLY TO AN ACTION UNDER  
7        THIS CHAPTER.