

HOUSE BILL No. 4196

February 15, 1989, Introduced by Reps. Murphy, Harrison, Hood, Bennane, Saunders, Clack, Kilpatrick, Joe Young, Jr., Bankes, Hunter, Stacey, Hertel, Emerson, Jondahl, Joe Young, Sr., Ciaramitaro, Watkins, Wallace, Perry Bullard, Kosteva, Varga, Honigman, DeMars, Barns, Berman, Stabenow, Brown, Scott, Bandstra, Miller and Terrell and referred to the Committee on Urban Affairs.

A bill to amend sections 134 and 135 of Act No. 167 of the Public Acts of 1917, entitled as amended
"Housing law of Michigan,"
being sections 125.534 and 125.535 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 134 and 135 of Act No. 167 of the
2 Public Acts of 1917, being sections 125.534 and 125.535 of the
3 Michigan Compiled Laws, are amended to read as follows:

4 Sec. 134. (1) If the owner or occupant fails to comply with
5 the order contained in the notice of violation, the enforcing
6 agency may bring an action to enforce the provisions of this act
7 and to abate or enjoin the violation.

8 (2) An owner or occupant of the premises upon which any
9 violation exists may bring an action to enforce ~~the provisions~~

1 ~~of~~ this act in his OR HER own name. IN ADDITION, A NONPROFIT
2 CORPORATION OR OTHER NONPROFIT ORGANIZATION THAT HAS AS 1 OF ITS
3 PRIMARY PURPOSES THE IMPROVEMENT OF HOUSING CONDITIONS IN THE
4 COUNTY, CITY, VILLAGE, OR TOWNSHIP WHERE THE PREMISES ARE
5 LOCATED; OR AN OWNER OR LESSOR OF REAL PROPERTY THAT IS LOCATED
6 WITHIN 500 FEET OF THE PREMISES UPON WHICH ANY VIOLATION EXISTS,
7 INCLUDING A PERSON WHO IS PURCHASING THE REAL PROPERTY BY LAND
8 INSTALLMENT CONTRACT OR UNDER A DULY EXECUTED PURCHASE CONTRACT;
9 MAY BRING AN ACTION IN ITS, HIS, OR HER OWN NAME TO ENFORCE THIS
10 ACT. Upon application by the enforcing agency, or upon motion of
11 the party filing the complaint, the local enforcing agency may be
12 substituted for, or joined with, the complainant in the discre-
13 tion of the court.

14 (3) When the violation is uncorrected and creates an immi-
15 nent danger to the health and safety of the occupants of the
16 premises, or if there are not any occupants and the violation
17 creates ~~in~~ AN imminent danger to the health and safety of the
18 public, the enforcing agency shall file a motion for a prelimi-
19 nary injunction or other temporary relief appropriate to remove
20 the danger during the pendency of the action.

21 (4) Owners and lienholders WHO ARE of record or who are
22 found by the complainant upon the exercise of reasonable dili-
23 gence shall be served with ~~a copy~~ A SUMMONS AND COPIES of the
24 complaint ~~and a summons~~ AND ANY RECEIVERSHIP ORDER ISSUED PUR-
25 SUANT TO SECTION 135. SERVICE MAY BE MADE EITHER BY PERSONAL
26 SERVICE OR BY POSTING A COPY OF EACH DOCUMENT AT THE PREMISES ON
27 WHICH THE VIOLATION EXISTS AND MAILING COPIES OF THE DOCUMENTS BY

1 REGISTERED MAIL TO EACH OWNER AND LIENHOLDER AT ITS, HIS, OR HER
2 ADDRESS OF RECORD OR LAST KNOWN ADDRESS. The complainant shall
3 also file a notice of the pendency of the action in the office of
4 the register of deeds for the county in which the premises are
5 located.

6 (5) The court, having obtained jurisdiction, shall make such
7 orders and determinations as are consistent with the objectives
8 of this act. The court may enjoin the maintenance of any unsafe,
9 unhealthy, or unsanitary condition, or any violations of this
10 act, and may order the defendant to make repairs or corrections
11 necessary to abate the conditions. The court may authorize the
12 enforcing agency, OR A FINANCIAL INSTITUTION THAT POSSESSES AN
13 INTEREST OF RECORD IN THE PREMISES, to make repairs or to remove
14 the structure. When an occupant is not the cause of any unsafe,
15 unhealthy, or unsanitary condition, or any violation of this act,
16 and is the complainant, the court may authorize the occupant to
17 correct the violation and deduct the cost ~~thereof~~ OF CORRECTING
18 THE VIOLATION from the rent upon ~~such~~ terms ~~as~~ the court
19 determines to be just. IF THE COURT ENTERS AN INJUNCTIVE ORDER,
20 APPOINTS A RECEIVER UNDER SECTION 135, OR AWARDS DAMAGES UNDER
21 THIS ACT, THE COURT SHALL AWARD REASONABLE ATTORNEY FEES AND
22 COURT COSTS TO THE PARTY FILING THE COMPLAINT. THE ATTORNEY FEES
23 AWARDED MAY BECOME A LIEN ON THE REAL PROPERTY UNDER
24 SUBSECTION (7). ~~Whenever~~ IF the court ~~shall find~~ FINDS that
25 the occupant is the cause of any unsafe, unhealthy, or unsanitary
26 condition, or any violation of this act, ~~then~~ the court may

1 authorize the owner to correct the violation and assess the cost
2 ~~thereof~~ against the occupant or his OR HER security deposit.

3 (6) No building shall be removed unless the cost of repair
4 of the building ~~will be~~ IS greater than the state equalized
5 value of the building.

6 (7) When the expenses of repair or removal are not otherwise
7 provided for, the court ~~may~~ SHALL enter an order approving the
8 expenses and providing that there shall be a lien on the real
9 property for the payment ~~thereof~~ OF THE EXPENSES. The order
10 ~~may establish the priority of the lien and may~~ SHALL provide
11 that ~~it shall be a lien~~ THE LIEN HAS PRIORITY senior to all
12 other PRIOR AND SUBSEQUENT liens, EXCEPT AS PROVIDED IN SUBSEC-
13 TION (8) OR IN SECTION 135(5)(F) AND except FOR taxes and
14 assessments. ~~; except that a mortgage of record having a~~
15 ~~recording date prior to all other liens of record shall retain~~
16 ~~its first priority if, at the time of recording of that mortgage~~
17 ~~or at any time subsequent thereto, a certificate of compliance as~~
18 ~~provided for in this article is in effect on the subject~~
19 ~~property.~~ The order may also specify the time and manner for
20 foreclosure of the lien if not satisfied. A true copy of the
21 order shall be filed in the office of the register of deeds for
22 the county where the real property is located within 10 days
23 after entry ~~thereof~~ in order to perfect the lien granted in the
24 order.

25 (8) A MORTGAGE OF RECORD HAVING A RECORDING DATE PRIOR TO
26 ALL OTHER LIENS OF RECORD SHALL RETAIN ITS FIRST PRIORITY IF THE
27 MORTGAGEE WAS NOT SERVED WITH NOTICE SPECIFYING THAT A RECEIVER

1 MAY BE APPOINTED WITH RIGHTS SUPERIOR TO THAT OF THE OWNER,
2 MORTGAGEE, AND LIENHOLDER. IF THE MORTGAGEE PRESENTS TO THE
3 COURT A PLAN, WHICH IS ACCEPTABLE TO THE COURT, FOR REPAIRING THE
4 PREMISES, AND WITHIN A REASONABLE PERIOD OF TIME DETERMINED BY
5 THE COURT FURNISHES THE MATERIALS AND UNDERTAKES THE REPAIRS NEC-
6 ESSARY TO BRING THE BUILDING INTO COMPLIANCE WITH THIS ACT, THE
7 COSTS INCURRED BY A MORTGAGEE IN PERFORMING THE REPAIRS SHALL BE
8 ADDED TO THE AMOUNT OF THE MORTGAGEE'S LIEN.

9 (9) ~~(8)~~ This act does not preempt, preclude, or interfere
10 with the authority of a municipality to protect the health,
11 safety, and general welfare of the public through ordinance,
12 charter, or other means.

13 Sec. 135. (1) When a suit has been brought to enforce this
14 act against the owner, the court ~~may~~ SHALL DETERMINE WHETHER
15 THERE ARE ADEQUATE GROUNDS TO appoint a receiver of the
16 premises.

17 (2) ~~When~~ IF the court finds that there are adequate
18 grounds, ~~for the appointment of a receiver,~~ it shall appoint A
19 RECEIVER. THE RECEIVER MAY BE the municipality or ~~a proper~~ AN
20 APPROPRIATE local agency or officer; ~~—~~ A NONPROFIT CORPORATION
21 OR OTHER NONPROFIT ORGANIZATION THAT HAS AS 1 OF ITS PRIMARY PUR-
22 POSES THE IMPROVEMENT OF HOUSING CONDITIONS IN THE COUNTY, CITY,
23 VILLAGE, OR TOWNSHIP WHERE THE PREMISES ARE LOCATED; A FOR-PROFIT
24 CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP, OR OTHER ASSOCIA-
25 TION WHOSE GOALS AND PRACTICES ARE CONSISTENT WITH THE PURPOSES
26 OF THIS ACT; or any competent person. ~~—, as receiver.~~ IF MORE
27 THAN 1 PERSON OR ORGANIZATION IS PROPOSED TO THE COURT AS A

1 POTENTIAL RECEIVER, THE COURT SHALL GIVE PREFERENCE TO THE
2 PERSONS AND ORGANIZATIONS IN THE ORDER THEY ARE LISTED IN THIS
3 SUBSECTION, BUT IT MAY DISREGARD THAT ORDER OF PREFERENCE IN
4 ORDER TO APPOINT AS RECEIVER THE PERSON OR ORGANIZATION THAT IS
5 MOST LIKELY TO CREATE OR PRESERVE SAFE AND SANITARY HOUSING FOR
6 LOWER INCOME PERSONS, AND THAT IS COMPETENT TO PERFORM THE DUTIES
7 OF RECEIVER. In the discretion of the court, no bond need be
8 required. ~~The receivership shall terminate at the discretion of~~
9 ~~the court.~~

10 (3) The purpose of a receivership ~~shall be~~ IS to repair,
11 renovate, and rehabilitate the premises as needed to make the
12 building comply with the provisions of this act ~~—~~ and TO RETURN
13 THE PREMISES TO ECONOMIC LIFE AND ACCEPTABLE USEFULNESS, OR,
14 where ordered by the court, to remove a building. The receiver
15 shall promptly comply with the charge upon him OR HER in his OR
16 HER official capacity and restore the premises to a safe, decent,
17 and sanitary condition, or remove the building.

18 (4) TO ACCOMPLISH THE PURPOSES OF THIS SECTION, THE COURT
19 MAY, IN ITS SUPERVISION OF THE RECEIVERSHIP, RESOLVE ANY CON-
20 FFLICTING CLAIMS OF TITLE TO THE REAL PROPERTY SUBJECT TO THE
21 RECEIVERSHIP.

22 (5) ~~(4)~~ Subject to the control of the court, the receiver
23 shall have full and complete powers necessary to make the build-
24 ing comply with the provisions of this act. ~~He~~ THE RECEIVER
25 may ~~collect~~ DO ALL OF THE FOLLOWING:

26 (A) COLLECT rents ~~—~~ and other revenue, hold them against
27 the claim of prior assignees, ~~of such rents, and other revenue,~~

1 and apply them to the expenses of making the building comply with
2 the provisions of this act. ~~He may manage~~

3 (B) COMPENSATE THE TENANTS OCCUPYING THE PREMISES FOR WHAT-
4 EVER DEPRIVATION OF THEIR RENTAL AGREEMENT RIGHTS RESULTED FROM
5 THE CONDITIONS GIVING RISE TO THE RECEIVERSHIP, INCLUDING ANY
6 VIOLATIONS OF SECTION 39 OF CHAPTER 66 OF THE REVISED STATUTES OF
7 1846, BEING SECTION 554.139 OF THE MICHIGAN COMPILED LAWS, AND
8 FOR THE REASONABLE VALUE OF ANY LABOR AND MATERIALS FOR TASKS
9 PERFORMED BY THE TENANTS IN BRINGING THE PREMISES INTO COMPLIANCE
10 WITH THIS ACT. COMPENSATION UNDER THIS SUBDIVISION MAY INCLUDE
11 REIMBURSING TENANTS BY MEANS OF RENT ABATEMENTS, AND THE COMPEN-
12 SATION SHALL BECOME AN EXPENSE OF THE RECEIVERSHIP.

13 (C) MANAGE and let rental units. ~~, issue~~

14 (D) ISSUE receivership certificates. ~~, contract~~

15 (E) CONTRACT for all construction and rehabilitation as
16 needed to make the building comply with the provisions of this
17 act. ~~, and exercise~~

18 (F) ISSUE NOTES SECURED BY A MORTGAGE WITH INTEREST AND
19 TERMS AS APPROVED BY THE COURT. WHEN SOLD OR TRANSFERRED BY THE
20 RECEIVER IN RETURN FOR VALUABLE CONSIDERATION IN MONEY, MATERIAL,
21 LABOR, OR SERVICES, THE NOTES AND CERTIFICATES SHALL BE FREELY
22 TRANSFERABLE. IF, WITHIN 60 DAYS AFTER THE ISSUANCE OF A SECURED
23 NOTE, THE MORTGAGE IS FILED FOR RECORD WITH THE COUNTY REGISTER
24 OF DEEDS IN THE COUNTY IN WHICH THE REAL PROPERTY IS LOCATED, THE
25 MORTGAGE SHALL BE A FIRST LIEN UPON THE PROPERTY AND SHALL BE
26 SUPERIOR TO ANY CLAIMS OF THE RECEIVER AND TO ALL PRIOR AND
27 SUBSEQUENT LIENS AND ENCUMBRANCES EXCEPT TAXES AND ASSESSMENTS.

1 PRIORITY AMONG RECEIVERS' MORTGAGES SHALL BE DETERMINED IN THE
2 ORDER IN WHICH THEY ARE RECORDED.

3 (G) OBTAIN MORTGAGE INSURANCE FROM AN AGENCY OF THE FEDERAL
4 GOVERNMENT ON THE RECEIVER'S MORTGAGE, NOTES, OR CERTIFICATES.

5 (H) EXERCISE other powers the court deems proper to the
6 effective administration of the receivership.

7 (6) ~~(5) When~~ IF expenses of the receivership are not oth-
8 erwise provided for, the court ~~may~~ SHALL enter an order approv-
9 ing the expenses and providing that there ~~shall be~~ IS a lien on
10 the real property for the payment ~~thereof~~ OF THE EXPENSES. The
11 provisions of ~~subsection (7) of~~ section ~~+34~~ 134(7) as to the
12 contents and filing of an order are applicable to the order
13 ~~herein~~ provided for UNDER THIS SUBSECTION.

14 (7) EXCEPT AS PROVIDED IN SUBSECTIONS (8) AND (9), THE COURT
15 SHALL DISCHARGE THE RECEIVER WHEN ALL OF THE FOLLOWING OCCUR:

16 (A) THE BUILDING IS IN COMPLIANCE WITH THIS ACT.

17 (B) ALL EXPENSES OF THE RECEIVERSHIP ARE PAID.

18 (C) EITHER ALL OF THE RECEIVER'S NOTES AND MORTGAGES ISSUED
19 PURSUANT TO THIS SECTION ARE PAID, OR ALL OF THE HOLDERS OF THE
20 NOTES AND MORTGAGES REQUEST THAT THE RECEIVER BE DISCHARGED.

21 (8) THE COURT MAY DISCHARGE THE RECEIVER, EVEN IF THE CONDI-
22 TIONS PRESCRIBED IN SUBSECTION (7) ARE NOT MET, UPON MOTION OF
23 ANY PERSON WHO HAS AN INTEREST OF RECORD IN THE REAL PROPERTY, IF
24 THE PERSON DOES ALL OF THE FOLLOWING:

25 (A) PROVIDES THE JUDGE WITH A VIABLE FINANCIAL AND CONSTRUC-
26 TION PLAN FOR THE REHABILITATION OF THE PREMISES.

1 (B) DEMONSTRATES THE CAPACITY TO PERFORM THE REQUIRED WORK
2 IN A SATISFACTORY MANNER.

3 (C) PAYS THE EXPENSES OF THE RECEIVERSHIP.

4 (9) THE COURT MAY DISCHARGE THE RECEIVER EVEN IF THE CONDI-
5 TIONS PRESCRIBED IN SUBSECTION (7) ARE NOT MET IF CONTINUING THE
6 RECEIVERSHIP WOULD, IN THE COURT'S OPINION, DEFEAT THE PURPOSES
7 OF THIS ACT. HOWEVER, A CONVEYANCE OF THE PREMISES SUBJECT TO
8 THE RECEIVERSHIP SHALL NOT, BY ITSELF, BE GROUNDS FOR DISCHARGING
9 THE RECEIVER.