

HOUSE BILL No. 4536

April 5, 1989, Introduced by Reps. Wallace, DeMars, Kilpatrick, Gire, Varga, Kosteva, Sofio, Webb, Perry Bullard, Leland, Palamara, Stupak, Stallworth, Terrell, Hunter, Jondahl, O'Neill, Honigman, Bennane, Johnson, Hollister, Murphy, Hertel, Jonker, Emerson, Stabenow, Ciaramitaro, Brown, Richard A. Young, Munsell and Watkins and referred to the Committee on Judiciary.

A bill to amend section 5720 of Act No. 236 of the Public Acts of 1961, entitled as amended
"Revised judicature act of 1961,"
as amended by Act No. 75 of the Public Acts of 1980, being section 600.5720 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 5720 of Act No. 236 of the Public Acts
2 of 1961, as amended by Act No. 75 of the Public Acts of 1980,
3 being section 600.5720 of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 5720. (1) A judgment for possession of the premises
6 for an alleged termination of tenancy shall not be entered
7 against a defendant if 1 or more of the following is
8 established:

1 (a) ~~That the~~ THE alleged termination was intended
2 primarily as a penalty for the defendant's attempt to secure or
3 enforce rights under the lease or agreement or under the laws of
4 the state, of a governmental subdivision of this state, or of the
5 United States.

6 (b) ~~That the~~ THE alleged termination was intended primar-
7 ily as a penalty for the defendant's complaint to a governmental
8 authority with a report of plaintiff's violation of a health or
9 safety code or ordinance.

10 (c) ~~That the~~ THE alleged termination was intended primar-
11 ily as retribution for a lawful act arising out of the tenancy,
12 including membership in a tenant organization and a lawful activ-
13 ity of a tenant organization arising out of the tenancy.

14 (d) ~~That the~~ THE alleged termination was of a tenancy in
15 housing operated by a city, village, township, or other unit of
16 local government and was terminated without cause.

17 (e) ~~That the~~ THE plaintiff attempted to increase the
18 defendant's obligations under the lease or contract as a penalty
19 for the lawful acts as are described in subdivisions (a) to (c),
20 and ~~that~~ the defendant's failure to perform the additional
21 obligations was the primary reason for the alleged termination of
22 tenancy.

23 (f) ~~That the~~ THE plaintiff committed a breach of the lease
24 ~~which~~ THAT excuses the payment of rent if possession is claimed
25 for nonpayment of rent.

26 (g) ~~That the~~ THE rent allegedly due, in an action where
27 possession is claimed for nonpayment of rent, was paid into an

1 escrow account under section 130 of Act No. 167 of the Public
2 Acts of 1917, being section 125.530 of the Michigan Compiled
3 Laws; was paid pursuant to a court order under section 134(5) of
4 Act No. 167 of the Public Acts of 1917, as amended, being sec-
5 tion 125.534 of the Michigan Compiled Laws; or was paid to a
6 receiver under section 135 of Act No. 167 of the Public Acts of
7 1917, being section 125.535 of the Michigan Compiled Laws.

8 (2) A JUDGMENT FOR POSSESSION OF THE PREMISES FOLLOWING THE
9 EXPIRATION OF A FIXED-TERM LEASE OR AGREEMENT SHALL NOT BE
10 ENTERED AGAINST A DEFENDANT IF 1 OR MORE OF THE FOLLOWING IS
11 ESTABLISHED:

12 (A) THE PLAINTIFF'S REFUSAL TO RENEW THE TENANCY WAS
13 INTENDED PRIMARILY AS A PENALTY FOR THE DEFENDANT'S ATTEMPT TO
14 SECURE OR ENFORCE RIGHTS UNDER THE LEASE OR AGREEMENT OR UNDER
15 THE LAWS OF THE STATE, OF A GOVERNMENTAL SUBDIVISION OF THIS
16 STATE, OR OF THE UNITED STATES.

17 (B) THE PLAINTIFF'S REFUSAL TO RENEW THE TENANCY WAS
18 INTENDED PRIMARILY AS A PENALTY FOR THE DEFENDANT'S COMPLAINT TO
19 A GOVERNMENTAL AUTHORITY WITH A REPORT OF PLAINTIFF'S VIOLATION
20 OF A HEALTH OR SAFETY CODE OR ORDINANCE.

21 (C) THE PLAINTIFF'S REFUSAL TO RENEW THE TENANCY WAS
22 INTENDED PRIMARILY AS RETRIBUTION FOR A LAWFUL ACT ARISING OUT OF
23 THE TENANCY, INCLUDING MEMBERSHIP IN A TENANT ORGANIZATION AND A
24 LAWFUL ACTIVITY OF A TENANT ORGANIZATION ARISING OUT OF THE
25 TENANCY.

1 (D) THE TENANCY WAS IN HOUSING OPERATED BY A CITY, VILLAGE,
2 TOWNSHIP, OR OTHER UNIT OF LOCAL GOVERNMENT AND THE PLAINTIFF'S
3 REFUSAL TO RENEW THE TENANCY WAS WITHOUT CAUSE.

4 (E) THE PLAINTIFF ATTEMPTED TO INCREASE THE DEFENDANT'S
5 OBLIGATIONS UNDER THE LEASE OR AGREEMENT AS A PENALTY FOR THE
6 LAWFUL ACTS AS ARE DESCRIBED IN SUBDIVISIONS (A) TO (C), AND THE
7 DEFENDANT'S FAILURE TO PERFORM THE ADDITIONAL OBLIGATIONS WAS THE
8 PRIMARY REASON FOR THE PLAINTIFF'S REFUSAL TO RENEW THE LEASE OR
9 AGREEMENT.

10 (3) ~~(2)~~ If a defendant who alleges a ~~retaliatory termina-~~
11 ~~tion of the tenancy~~ DEFENSE DESCRIBED IN SUBSECTION (1) OR (2)
12 shows that within 90 days before the commencement of summary pro-
13 ceedings the defendant attempted to secure or enforce rights
14 against the plaintiff or to complain against the plaintiff, as
15 provided in subsection (1)(a), (b), (c), or (e) OR SUBSECTION
16 (2)(A), (B), (C), OR (E), by means of official action to or
17 through a court or other governmental agency and the official
18 action has not resulted in dismissal or denial of the attempt or
19 complaint, a presumption in favor of the defense of retaliatory
20 ~~termination~~ ACTION arises, unless the plaintiff establishes by
21 a preponderance of the evidence that the termination of OR
22 REFUSAL TO RENEW THE tenancy was not in retaliation for the
23 acts. If the defendant's alleged attempt to secure or enforce
24 rights or to complain against the plaintiff occurred more than 90
25 days before the commencement of proceedings or was terminated
26 adversely to the defendant, a presumption adverse to the defense
27 of retaliatory ~~termination~~ ACTION arises, and the defendant has

1 the burden to establish the defense by a preponderance of the
2 evidence.