

# HOUSE BILL No. 5181

October 16, 1989, Introduced by Reps. Joe Young, Jr. and DeMars and referred to the Committee on Urban Affairs.

A bill to provide remedies for certain violations relating to the health, safety, and welfare of occupants of rental residential property; to establish procedures to assist and protect persons prosecuting and defending actions under this act; to license owners of rental residential property; to require fees; to prescribe the powers and duties of certain state departments and local units of government; and to impose civil and criminal penalties.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the  
2 "rental housing quality enforcement act".

3       Sec. 2. (1) This act applies to all rental residential  
4 property in this state. It does not apply to a single family  
5 dwelling that is occupied by the owner or a member of the owner's  
6 immediate family.

1           (2) The purposes of this act are to promote the public  
2 health, safety, and welfare; to preserve and improve the rental  
3 residential property of this state; to protect the right of the  
4 people to safe, hazard-free rental residential property suffi-  
5 cient to meet the basic needs of its occupants; and to assure  
6 diligent supervision, ongoing repairs, and maintenance of rental  
7 residential property. This act contemplates more than mere basic  
8 repairs and maintenance to keep out the elements. Its purpose is  
9 to include continuing repairs and maintenance designed to make a  
10 premises or a neighborhood healthy and safe.

11           Sec. 3. For the purposes of this act:

12           (a) "Administrative procedures act of 1969" means Act  
13 No. 306 of the Public Acts of 1969, being sections 24.201 to  
14 24.328 of the Michigan Compiled Laws.

15           (b) "Civil penalty" means money assessed against an owner of  
16 rental residential property for a violation of this act, which  
17 money is either a civil fine to be paid to the enforcing agency  
18 under section 13, or exemplary damages to be awarded to a plain-  
19 tiff under section 14.

20           (c) "Department" means the department of public health.

21           (d) "Enforcing agency" means the enforcing agency designated  
22 pursuant to section 2a of the housing law, being section 125.402a  
23 of the Michigan Compiled Laws, or, if none exists, a local health  
24 department described in section 1105(2) of the public health  
25 code, being section 333.1105 of the Michigan Compiled Laws.

1 (e) "Housing law" means the housing law of Michigan, Act  
2 No. 167 of the Public Acts of 1917, being sections 125.401 to  
3 125.543 of the Michigan Compiled Laws.

4 (f) "Imminent danger" means 1 or more of the following:

5 (i) A condition or practice that could reasonably be  
6 expected to cause death, disease, or serious physical harm imme-  
7 diately or before the condition or practice can be eliminated  
8 through enforcement procedures otherwise provided.

9 (ii) A hazardous failure or defect in the gas, electrical,  
10 or plumbing system of a rental residential property.

11 (iii) An accumulation of, or defect threatening to allow the  
12 accumulation of, toxic gases or substances in a rental residen-  
13 tial property.

14 (iv) The lack of essential utilities in a rental residential  
15 property.

16 (v) The lack of security in a rental residential property.

17 (g) "Local governing entity" means the legislative body of a  
18 city, village, or township that has adopted the housing law by  
19 resolution or ordinance or to which the housing law is applicable  
20 by its terms.

21 (h) "Local maintenance standards" means an ordinance, reso-  
22 lution, or rule adopted by a local governing entity or an enforc-  
23 ing agency that establishes standards for the maintenance of  
24 rental residential property.

25 (i) "Owner" means a person who holds legal or equitable  
26 title to rental residential property regulated under this act.

1 (j) "Person" means an individual, partnership, corporation,  
2 association, cooperative, or any other legal entity.

3 (k) "Public health code" means Act No. 368 of the Public  
4 Acts of 1978, being sections 333.1101 to 333.25211 of the  
5 Michigan Compiled Laws.

6 (l) "Rental residential property" means a unit or units of  
7 housing occupied or intended to be occupied by a person who is  
8 not a member of the owner's immediate family, for which money or  
9 other compensation is paid.

10 (m) "Violation" means an act, omission, or condition, occur-  
11 ring at any time, that contravenes this act, rules promulgated  
12 under this act, the housing law, or local maintenance standards.

13 Sec. 4. (1) An owner shall not rent or offer for rent a  
14 rental residential property unless its furnishings and the  
15 premises meet all of the following requirements:

16 (a) Are in compliance with this act, rules promulgated under  
17 this act, the housing law, and local maintenance standards.

18 (b) Are in a clean, safe, and sanitary condition.

19 (c) Are in good repair.

20 (d) Are free from vermin.

21 (2) The owner of a rental residential property shall super-  
22 vise and maintain the rental residential property and keep it in  
23 good repair so as to provide decent living accommodations for the  
24 occupants.

25 Sec. 5. (1) An owner shall not rent a rental residential  
26 property unless the owner holds a current, unsuspended rental

1 license issued by an enforcing agency in the name of the owner  
2 for the specific named rental residential property.

3 (2) An application for a rental license shall include all of  
4 the following:

5 (a) The name of the owner.

6 (b) The address and description of the rental residential  
7 property for which the license is to be issued.

8 (c) The home address of the owner.

9 (d) The name of a person responsible for maintaining the  
10 rental residential property for which the license is to be  
11 issued. This person may be the owner.

12 (e) The home address and telephone number, or business  
13 address and business telephone number of the person listed under  
14 subdivision (d).

15 (f) If the owner does not reside within this state, a  
16 responsible agent for receipt of service who resides within this  
17 state and the home and business address of that agent.

18 (g) The addresses of all other rental residential property  
19 in this state owned by or under the control of the owner of the  
20 rental residential property for which the license is to be  
21 issued.

22 (3) An application for a rental license under this section  
23 may be made upon the same forms used for registration under  
24 section 125 of the housing law, being section 125.525 of the  
25 Michigan Compiled Laws. The enforcing agency shall ensure that  
26 the forms meet the requirements of both this section and  
27 section 125 of the housing law.

1 (4) An application shall be made, and a license issued or  
2 renewed, for an entire building. Exclusions for specific vacant  
3 units may be requested by the applicant and may be granted if the  
4 violations in the units covered by the requested exclusion and  
5 the equipment in the units do not affect the other units on the  
6 property or the health and safety of any occupants of the  
7 property. The enforcing agency shall identify on the license all  
8 units that are excluded and that may not be rented. A unit that  
9 has not been inspected shall be excluded from the license.

10 (5) The enforcing agency shall establish a fee for a rental  
11 license issued or renewed under this section. Unless the local  
12 governing entity specifically decides to the contrary, the fee  
13 shall be set at a level that, when combined with civil penalties  
14 recovered under section 13, shall be sufficient to raise the rev-  
15 enue needed for the enforcing agency to conduct activities  
16 required under this act. The enforcing agency shall waive the  
17 fee in the case of indigency, as determined by the local govern-  
18 ing entity. The enforcing agency shall remit all fees collected  
19 under this section to the treasurer of the city, village, or  
20 township for deposit in the rental housing quality enforcement  
21 fund created pursuant to section 13.

22 (6) An enforcing agency may establish additional require-  
23 ments for the issuance of rental licenses that are not inconsis-  
24 tent with this act.

25 Sec. 6. (1) Except as provided in subsection (2), before a  
26 new rental license is issued and before a current rental license  
27 is renewed, the enforcing agency shall inspect the property for

1 which an application for a rental license has been made. A  
2 rental license shall not be issued or renewed if the property is  
3 not in substantial compliance with this act, rules promulgated  
4 under this act, the housing law, or local maintenance standards.  
5 Enforcing agencies shall attempt to gain access to and inspect  
6 all units in the building and shall inspect all vacant areas and  
7 all other parts of the property including all common areas.

8 (2) A new inspection shall not be required for the issuance  
9 or renewal of a rental license if the enforcing agency has con-  
10 ducted an inspection complying with subsection (1) within 90 days  
11 before the date of the issuance or renewal of the rental license  
12 and that inspection revealed the property to be in substantial  
13 compliance with this act, rules promulgated under this act, the  
14 housing law, and local maintenance standards.

15 (3) A rental license shall not be issued or renewed if there  
16 is an outstanding notice of violation and order to correct or a  
17 civil citation for the property.

18 (4) Upon inspecting a rental residential property, if an  
19 enforcing agency finds a violation, the enforcing agency shall  
20 serve the owner with a notice of violation and order to correct  
21 in the manner provided in section 10 and may suspend or deny a  
22 rental license. If the enforcing agency does not suspend or deny  
23 a rental license upon finding a violation, the notice and order  
24 shall state that, unless each violation cited is corrected within  
25 the time specified in accordance with section 10(3), a current  
26 rental license shall be suspended automatically.

1 (5) If the enforcing agency finds a violation on the rental  
2 residential property and does not suspend or deny a rental  
3 license, the enforcing agency shall reinspect the property within  
4 14 days after the end of the time specified for compliance. If  
5 the violation has not been corrected within the time specified  
6 for compliance, a current rental license shall be suspended  
7 automatically. A suspension shall continue until each violation  
8 is corrected.

9 (6) If the enforcing agency suspends or denies a license, it  
10 may reinspect the property after the expiration of the period for  
11 correction specified in the order to correct. Upon reinspection,  
12 if the enforcing agency finds that the rental residential prop-  
13 erty for which the notice and order were issued are in compliance  
14 with this act, rules promulgated under this act, the housing law,  
15 and local maintenance standards, the enforcing agency shall  
16 issue, renew, or reinstate the owner's rental license.

17 (7) A rental license shall be issued for a period of not  
18 more than 2 years from the date of issuance. A rental license  
19 may be renewed for successive periods of not more than 2 years.

20 (8) The rental license or an accurate copy of the rental  
21 license shall be displayed in a conspicuous place within a public  
22 or common area of the rental residential property except in a  
23 single family or duplex rental building. Accurate copies of the  
24 license shall be given to occupants and prospective occupants of  
25 single family and duplex rental buildings. Accurate copies of a  
26 renewed license shall be given to occupants of single family and



1 duplex rental buildings within 14 days after the date of  
2 renewal.

3       Sec. 7. (1) A rental license is not transferable to a new  
4 owner or to another rental residential property. The rental  
5 license, in the event of a change of ownership, becomes invalid  
6 10 days after the change in ownership, and the new owner shall  
7 apply for a new rental license within that time.

8       (2) An owner of a rental residential property shall notify  
9 the enforcing agency of an ownership change within 10 days after  
10 transferring ownership of a rental residential property. The  
11 notice shall include the name and address of the person or per-  
12 sons succeeding to the ownership of the property.

13       (3) If an owner of a rental residential property who has  
14 received a notice of violation and order to correct transfers  
15 ownership of the property to another before the violations  
16 described in the notice and order have been corrected, the owner  
17 shall furnish the new owner with an accurate copy of the notice  
18 and order. The owner also shall furnish to the enforcing agency  
19 a notarized statement from the new owner acknowledging the  
20 receipt of the notice and order and any civil citation that the  
21 owner has received. The notice and order and civil citation con-  
22 tinue to apply to the original owner until the notarized state-  
23 ment required by this subsection is furnished to the enforcing  
24 agency, and all civil penalties outstanding as of that date may  
25 be recovered from the original owner. Upon the enforcing  
26 agency's receipt of the notarized statement, the notice and order

1 and civil citation apply to the new owner as if that person were  
2 the original owner.

3       (4) Each enforcing agency shall maintain a record of all  
4 current licenses, copies of inspection reports, notices, orders,  
5 and civil citations issued with respect to rental residential  
6 property, and information concerning court actions involving vio-  
7 lations of which the enforcing agency is aware. These records  
8 are public records subject to the freedom of information act, Act  
9 No. 442 of the Public Acts of 1976, being sections 15.231 to  
10 15.246 of the Michigan Compiled Laws. Within 1 business day  
11 after receiving a request from a court, from a party to an action  
12 involving rental residential property within the territorial  
13 jurisdiction of the enforcing agency, or from the representative  
14 of such a party, the enforcing agency shall provide a certified  
15 copy of its records for the designated property to the court,  
16 party, or representative without charge. A formal demand or sub-  
17 poena is not required. Copying charges for members of the gen-  
18 eral public not otherwise entitled under this section to copies  
19 of the documents requested shall not exceed 10 cents per copy and  
20 shall be waived in the case of indigency, as determined by the  
21 local governing entity.

22       Sec. 8. (1) A local governing entity shall not reduce the  
23 level of its enforcement of local maintenance standards and of  
24 the housing law as the enforcement relates to rental residential  
25 property below that which exists in the state fiscal year in  
26 which this act becomes effective.

1 (2) The department shall supervise the implementation of  
2 this section pursuant to the procedures of part 24 of the public  
3 health code, being sections 333.2401 to 333.2498 of the Michigan  
4 Compiled Laws.

5 Sec. 9. (1) This act does not prohibit a local governing  
6 entity or enforcing agency from enacting or applying more strin-  
7 gent local maintenance standards or more stringent enforcement  
8 procedures than those in this act, the rules promulgated under  
9 this act, and the housing law.

10 (2) An enforcing agency shall not enforce local maintenance  
11 standards under any procedures less stringent than those required  
12 in this act and in the housing law. An enforcing agency shall  
13 not enforce criminal penalties except as provided in  
14 section 11(5).

15 (3) Before applying local maintenance standards or enforce-  
16 ment procedures different from the standards and procedures in  
17 this act, rules promulgated under this act, and the housing law,  
18 a local governing entity and an enforcing agency shall submit  
19 those proposed standards or procedures to the department not less  
20 than 90 days before the effective date of the proposed standards  
21 and procedures. Not less than 30 days before the effective date  
22 of the proposed standards or procedures, the department shall  
23 inform the local governing entity or enforcing agency of what  
24 parts of the proposed standards or procedures, if any, it consid-  
25 ers less stringent than those in the housing law, this act, and  
26 the rules promulgated under this act. The department shall not  
27 find local maintenance standards or procedures for enforcing

1 those standards to be less stringent than those in this act,  
2 rules promulgated under this act, and the housing law except  
3 after notice and hearing held in the same manner as required  
4 before the adoption of a rule under section 41 of the administra-  
5 tive procedures act of 1969, being section 24.241 of the Michigan  
6 Compiled Laws. The hearing shall be held within the territorial  
7 jurisdiction of the local governing entity or enforcing agency.  
8 Local maintenance standards that became effective before the  
9 effective date of this act may be applied without prior submis-  
10 sion to the department. The department shall review, under the  
11 procedures of this subsection, any local maintenance standards  
12 upon the request of a local governing entity, enforcing agency,  
13 or other interested party.

14 (4) An enforcing agency or court shall not fail to recognize  
15 a violation or fail to take any other action authorized or  
16 required by this act, rules promulgated under this act, the hous-  
17 ing law, or local maintenance standards on the grounds that a  
18 condition or practice that constitutes a violation of this act,  
19 the rules promulgated under this act, or the housing law is  
20 allowable under local maintenance standards.

21 (5) A change in local maintenance standards or the enforce-  
22 ment of those standards requires the prior approval of the  
23 department under the procedures of subsection (3), but in no  
24 event shall local maintenance standards or the enforcement of  
25 those standards be less stringent than is required in subsection  
26 (2) and section 8.

1 (6) The department, with the technical advice of local  
2 governing entities and enforcing agencies, and in consultation  
3 with representatives of owners and occupants of rental residen-  
4 tial property, and with representatives of the general public,  
5 shall promulgate rules pursuant to the administrative procedures  
6 act of 1969 to implement this act. The rules shall be submitted  
7 by the department for public hearing within 180 days after the  
8 effective date of this act. The rules shall do all of the  
9 following:

10 (a) Prescribe maintenance standards that are no less strin-  
11 gent than those in the housing law and that do not otherwise con-  
12 flict with responsibilities and duties existing at law.

13 (b) Apply equally to all rental residential property in this  
14 state unless they specifically provide to the contrary for good  
15 reasons stated in the rules.

16 (c) Address changing technologies and potential environmen-  
17 tal hazards.

18 Sec. 10. (1) The enforcing agency shall inspect a rental  
19 residential property within 7 days after receiving a complaint  
20 that an alleged violation exists, except that the enforcing  
21 agency shall inspect the property within 24 hours after receiving  
22 a complaint concerning an alleged imminent danger.

23 (2) If the inspection reveals the existence of an imminent  
24 danger, the enforcing agency shall serve a notice of violation  
25 and order to correct upon the owner or agent immediately, and not  
26 later than 24 hours after the inspection. If the inspection  
27 reveals any other violations on the property, the enforcing

1 agency shall serve a notice of violation and order to correct  
2 upon the owner or agent not later than 7 days after the  
3 inspection. A copy of the notice and order served on the owner  
4 or agent shall be sent to the occupant of each residential unit  
5 in which violations are found. If violations are found in common  
6 areas of the property, copies of the notice and order served upon  
7 the owner or agent shall be posted in a conspicuous place on the  
8 property by the owner until the enforcing agency determines that  
9 all violations are corrected. Copies of the notice and order  
10 shall be available from the enforcing agency without charge to  
11 any occupant of the property affected.

12 (3) The notice of violation and order to correct shall state  
13 the date of inspection, the name of the inspector, and the nature  
14 of the violation, and shall order that the violations be cor-  
15 rected within a specified time after service of the notice not  
16 later than the following:

17 (a) Twenty-four hours, if an imminent danger exists.

18 (b) Thirty days in all other cases.

19 (4) Papers to be served under this act shall be served per-  
20 sonally upon the owner or agent or sent by certified mail to the  
21 owner or agent at that person's address listed upon the applica-  
22 tion filed under section 5. If the owner or agent has not filed  
23 an application as required by section 5, service may be made upon  
24 the owner by posting the notice and order at the rental residen-  
25 tial property described in the notice and order, or by causing  
26 the notice and order to be published in a newspaper of general  
27 local circulation for 5 consecutive publication days.

1 (5) In proceedings under this act, a violation shall be  
2 considered to exist from the date the act, omission, or condition  
3 constituting the violation occurred, began, or came into  
4 existence. Penalties shall be assessed for each day a violation  
5 exists. Each day a violation exists constitutes a separate  
6 violation. However, a penalty shall not be imposed for a viola-  
7 tion corrected within the time specified under subsection (3).

8 (6) In a civil action or administrative proceeding based  
9 upon a violation, an owner is not entitled to a defense that he  
10 or she resided or worked too far from the property to perform the  
11 obligations imposed by this act or was otherwise unaware of the  
12 violation. The rules promulgated under this act and local main-  
13 tenance standards enacted after the effective date of this act  
14 shall not require owners of rental residential property to employ  
15 or designate resident managers for their properties.

16 Sec. 11. (1) The enforcing agency may reinspect the rental  
17 residential property after the expiration of the period for cor-  
18 rection of the violation specified in the order to correct.

19 (2) Upon reinspection, if it is determined that a violation  
20 has not been corrected, the enforcing agency may serve the owner  
21 or agent with a civil citation. The civil citation shall conform  
22 with section 2461(2) of the public health code, being section  
23 333.2461.

24 (3) Each occupant shall be notified under the procedures  
25 described in section 10(2) of the results of reinspections and of  
26 the issuance of civil citations. Reports of reinspections of

1 common areas of the property shall be posted for not less than  
2 10 days.

3       (4) Upon correction of violations listed in the citation,  
4 the owner may request a compliance inspection. The enforcing  
5 agency shall reinspect the premises within 2 business days after  
6 receiving such a request. After a compliance inspection, if the  
7 violations are determined to have been corrected, the enforcing  
8 agency shall so notify the violator immediately, and additional  
9 civil penalties shall not be assessed against the owner from the  
10 date of the request for the compliance inspection. In the dis-  
11 cretion of the enforcing agency, the civil penalties accrued  
12 under a citation for up to 14 days may be waived after it is  
13 determined that all violations on the property have been  
14 corrected.

15       (5) If the violations are not corrected within 30 days after  
16 the institution of a civil action under section 13(2), the  
17 enforcing agency may commence criminal prosecution. A person who  
18 violates this act is guilty of a misdemeanor punishable by  
19 imprisonment for not more than 6 months, or a fine of not more  
20 than \$200.00, or both. The procedures described in section 2463  
21 of the public health code, being section 333.2463 of the Michigan  
22 Compiled Laws, may be followed.

23       Sec. 12. (1) An owner served with a notice of violation and  
24 order to correct under section 10 may petition the enforcing  
25 agency for an administrative hearing. The petition shall be  
26 filed:



1 (a) For a violation involving an imminent danger, within  
2 7 days after service of the notice of violation and order to  
3 correct under section 10.

4 (b) For other violations, within 30 days after service of  
5 the notice of violation and order to correct under section 10.

6 (c) Within 30 days after service of a civil citation under  
7 section 11.

8 (2) A hearing officer appointed by the department shall hear  
9 a petition and render a decision within 3 days after the petition  
10 is filed if an imminent danger is alleged, and within 10 days  
11 after the petition is filed in any other case.

12 (3) After the hearing, the hearing officer may affirm, dis-  
13 miss, or modify the notice and order to correct or civil  
14 citation. The hearing officer may grant an extension of time to  
15 correct the violations as follows:

16 (a) For a period of time not to exceed 60 days, if the work  
17 necessary to correct the violation requires a building permit and  
18 the owner demonstrates that substantial progress has been made in  
19 correcting the violations.

20 (b) For such time as may be necessary, in the discretion of  
21 the hearing officer, for the completion of exterior painting,  
22 exterior concrete work, or other exterior work adversely affected  
23 by cold and snow, when the notice of violation and order to cor-  
24 rect was issued between October 31 and the following April 1. An  
25 extension shall not be granted for exterior work under this sub-  
26 division beyond the following June 30.

1 (4) A hearing officer or enforcing agency shall not grant an  
2 extension of time for correction of violations except as  
3 permitted by subsection (3), and the officer or agency shall not  
4 renew an extension of time for correction. After an extension of  
5 time has been granted for the correction of violations cited in a  
6 notice and order to correct, the hearing officer or enforcing  
7 agency shall not grant a further extension in response to subse-  
8 quent petitions concerning the same notice and order to correct.  
9 The imposition of civil penalties upon expiration of the exten-  
10 sion may be avoided only if a local governing entity grants a  
11 variance for the violation.

12 (5) The decision of the hearing officer on a petition filed  
13 for review of a notice of violation and order to correct shall  
14 not be reviewed if a civil citation has not been issued, but the  
15 decision and the notice and order subsequently may be challenged  
16 upon a petition filed under subsection (1)(c) for review of a  
17 civil citation served under section 11 or in summary proceedings  
18 to recover civil penalties under section 14.

19 (6) The decision of the hearing officer upon review of a  
20 civil citation is final unless within 30 days after the decision  
21 is issued the appropriate local governing entity or a committee  
22 of the local governing entity grants review of the citation.  
23 After the review, the local governing entity or committee thereof  
24 may affirm, dismiss, or modify the citation. The local governing  
25 entity or committee thereof shall render a decision within  
26 30 days after granting review.

1 (7) A person aggrieved by a decision of a hearing officer,  
2 local governing entity, or committee of a local governing entity  
3 under this act may petition the circuit court for the county in  
4 which the principal office of the enforcing agency is located for  
5 review of the decision. The petition shall be filed not later  
6 than 30 days after receipt of the final decision.

7 (8) A civil penalty becomes final if a petition for an  
8 administrative hearing or judicial review is not received within  
9 the time specified in this section.

10 Sec. 13. (1) A civil penalty imposed under section 11 is  
11 payable to the appropriate enforcing agency. The enforcing  
12 agency shall remit all civil penalties collected under this sec-  
13 tion to the treasurer of the local governing entity for deposit  
14 in the rental housing quality enforcement fund created in subsec-  
15 tion (3).

16 (2) The enforcing agency may recover a civil penalty in a  
17 civil action brought in the county in which the violation  
18 occurred or the defendant resides.

19 (3) The local governing entity shall create a fund to be  
20 known as the rental housing quality enforcement fund. All civil  
21 penalties and license fees collected under this act shall be  
22 deposited in the fund. The fund shall be used by the local gov-  
23 erning entity for the purpose of implementing this act.

24 Sec. 14. (1) An occupant of a rental residential property  
25 may commence summary proceedings under this section for recovery  
26 of civil penalties under any of the following circumstances:

1 (a) If an enforcing agency fails to inspect a rental  
2 residential property pursuant to section 6 within the 180-day  
3 period consisting of 90 days before and 90 days after the expira-  
4 tion of the license for that property.

5 (b) If an enforcing agency fails to respond to a complaint  
6 of an alleged violation within 3 days after receipt of a com-  
7 plaint concerning an imminent danger, or within 14 days after  
8 receipt of any other complaint.

9 (c) If an enforcing agency fails to serve a notice of viola-  
10 tion and order to correct for violations on the property within  
11 3 days after inspecting in response to a complaint concerning an  
12 imminent danger or within 14 days after inspecting in response to  
13 any other complaint.

14 (d) If all of the following occur:

15 (i) An enforcing agency has served a notice of violation and  
16 order to correct upon an owner or agent pursuant to section 10.

17 (ii) Not less than 24 hours have elapsed after the time for  
18 correction allowed under section 10(3) and section 12(3), if  
19 applicable, where an imminent danger was found to exist, or not  
20 less than 7 days have elapsed after the time for correction  
21 allowed under section 10(3) and section 12(3), if applicable, in  
22 all other cases.

23 (iii) The enforcing agency has not issued a civil citation  
24 under section 11(2).

25 (e) If an enforcing agency fails to seek a judgment to  
26 recover civil penalties under section 13(2) within 45 days after

1 serving a civil citation or fails to enforce a judgment issued  
2 under section 13(2) within 30 days after its receipt.

3       (2) Occupants entitled to proceed under this section may  
4 bring an action in the county in which the property is located or  
5 in which the owner resides to recover the civil penalties autho-  
6 rized by section 19 and the rules promulgated under that section  
7 for all violations not corrected by the time specified for cor-  
8 rection under section 10(3) and section 12(3), as applicable.  
9 The receipt of a judgment for civil penalties under this section  
10 does not prevent an occupant from recovering a further civil pen-  
11 alty in a subsequent action for the number of days each violation  
12 remains uncorrected after the date of judgment in the prior  
13 action.

14       (3) An occupant may recover civil penalties under this sec-  
15 tion for a violation within the occupant's unit or in common  
16 areas of the property, except that an owner shall pay civil pen-  
17 alties for violations in common areas only once for each day each  
18 violation exists.

19       (4) After an occupant has commenced summary proceedings in  
20 compliance with this section, the subsequent reinspection of the  
21 property or service of a civil citation by the enforcing agency  
22 does not defeat the occupant's action, but the occupant shall be  
23 limited to recovering civil penalties up to the date of service  
24 of a civil citation if that occurs before judgment. An occupant  
25 commencing summary proceedings under subsection (1)(e) may  
26 recover civil penalties from the date of the judgment in the  
27 prior action or, if a judgment was not issued, 45 days after

1 service of the civil citation. The commencement of summary  
2 proceedings under subsection (1)(e) does not invalidate a civil  
3 citation issued or a judgment obtained by an enforcing agency,  
4 but an enforcing agency shall not collect duplicate civil penal-  
5 ties for a day for which an occupant has collected or properly  
6 claimed a civil penalty.

7 (5) A civil penalty recovered under this section is in the  
8 nature of exemplary damages and does not limit, derogate, or  
9 foreclose any other remedies for damages or other relief which  
10 the parties may have at common law, in equity, or under statute.

11 (6) Occupants may join summary proceedings to recover civil  
12 penalties under this section with possession actions filed under  
13 chapter 57 of the revised judicature act of 1961, Act No. 236 of  
14 the Public Acts of 1961, being sections 600.5701 to 600.5759 of  
15 the Michigan Compiled Laws. If an occupant has joined an action  
16 under this section with a possession action, the action shall not  
17 be severed except by the consent of both parties with the  
18 approval of the court.

19 (7) A court shall not issue a judgment of possession under  
20 this section against an occupant for the reason that the premises  
21 are not habitable unless the enforcing agency previously has  
22 issued the owner of the premises an order to vacate pursuant to  
23 section 85 of the housing law, being section 125.485 of the  
24 Michigan Compiled Laws. An occupant commencing summary proceed-  
25 ings under this section or asserting other rights under this act  
26 shall not be compelled to vacate the premises on the basis of the  
27 conditions that the occupant has alleged or proven unless the

1 enforcing agency issued an order to vacate to the owner before  
2 the commencement of the action and of any other proceeding with  
3 which the action has been joined.

4       Sec. 15. (1) The court of competent jurisdiction to hear  
5 actions under this act shall seek to facilitate the effective  
6 prosecution and defense of these actions by indigents and parties  
7 not represented by counsel and not possessing any legal  
8 experience or knowledge.

9       (2) The court in which the summary proceedings are commenced  
10 shall issue a summons commanding the defendant to appear for  
11 trial on a date set in accordance with court rules designed to  
12 provide for the expeditious resolution of disputes under this  
13 act. Except as otherwise provided by court rule, summary pro-  
14 ceedings shall be heard within 7 days after the defendant's  
15 appearance and shall not be adjourned beyond that time other than  
16 by stipulation of the parties either in writing or on the  
17 record.

18       (3) A party to summary proceedings may demand a trial by  
19 jury within the time and manner provided by supreme court rule.

20       (4) A civil penalty shall not be recovered in summary pro-  
21 ceedings under section 14 for a violation occurring on a day more  
22 than 2 years before the date of commencement of summary  
23 proceedings.

24       (5) An action for an injunction to discontinue, prevent, or  
25 correct a violation or for the appointment of a receiver for the  
26 premises may be joined with summary proceedings under  
27 section 14.

1       Sec. 16. (1) In summary proceedings under section 14  
2 concerning a condition for which a notice of violation has been  
3 issued, there is a presumption that the alleged violation exists,  
4 and the owner has the burden of establishing by a preponderance  
5 of the evidence that a violation does not exist. In summary pro-  
6 ceedings under section 14 concerning a condition for which a  
7 notice of violation has not been issued after an inspection by an  
8 enforcing agency, there is a presumption that the alleged viola-  
9 tion does not exist, and the occupant has the burden of estab-  
10 lishing by a preponderance of the evidence that a violation does  
11 exist.

12       (2) The owner has the burden of establishing by a preponder-  
13 ance of the evidence that a violation has been repaired or  
14 corrected.

15       Sec. 17. (1) The department of attorney general, in cooper-  
16 ation with the department, local enforcing agencies, and the  
17 supreme court administrative office, and in consultation with  
18 attorneys who represent substantial numbers of owners and occu-  
19 pants of rental residential property, shall, not later than  
20 6 months after the effective date of this act, develop and imple-  
21 ment a plan to facilitate the prosecution and defense of actions  
22 under this act. The plan shall seek to eliminate impediments to  
23 the just, efficient, and expeditious disposition of actions under  
24 this act and, in particular, shall seek to enhance the ability of  
25 indigents and parties not represented by counsel and not possess-  
26 ing any legal experience or knowledge to assert effectively their  
27 rights under this act. This plan shall include the development



1 of notices, warnings, and forms to be distributed by enforcing  
2 agencies or courts for the use or information of owners and occu-  
3 pants, proposed rules for consideration by the supreme court,  
4 proposed local court rules, or other programs. A goal of the  
5 plan shall be to inform plaintiffs and potential plaintiffs of  
6 their rights under this act and of how to enforce those rights.  
7 Another goal of the plan shall be to inform defendants and poten-  
8 tial defendants of their rights under this act, of how to enforce  
9 those rights, and of the exclusively civil nature of summary pro-  
10 ceedings under section 14 and of civil citations issued under  
11 section 11.(2). The plan shall be reviewed annually by the same  
12 persons who developed the plan.

13 (2) The department of attorney general, in consultation with  
14 attorneys who represent substantial numbers of owners, shall pre-  
15 pare a leaflet explaining to owners their rights under this act,  
16 the rules promulgated under this act, and the housing law; the  
17 civil and administrative procedures available for protecting and  
18 enforcing those rights; and how to obtain legal assistance. The  
19 leaflet shall be prepared not later than 6 months after the  
20 effective date of this act. Enforcing agencies shall distribute  
21 copies of this leaflet, together with the written telephone num-  
22 bers of any lawyer referral services and legal aid offices serv-  
23 ing the area, to all owners applying for a license under  
24 section 5.

25 (3) The department of attorney general, in consultation with  
26 attorneys who represent substantial numbers of occupants, shall  
27 prepare a leaflet explaining to occupants their rights under this

1 act, rules promulgated under this act, and the housing law; the  
2 civil and administrative procedures available for protecting and  
3 enforcing those rights; and how to obtain legal assistance. The  
4 leaflet shall be prepared not later than 6 months after the  
5 effective date of this act. Owners shall distribute copies of  
6 this leaflet, together with the written telephone numbers of any  
7 lawyer referral services and legal aid offices serving the area,  
8 to all occupants assuming possession of dwellings and dwelling  
9 units owned, managed, or controlled by the owner within 14 days  
10 after the occupant takes possession.

11 (4) All leaflets prepared under this section and all  
12 notices, warnings, and forms used by enforcing agencies or the  
13 courts in discharging responsibilities or resolving disputes  
14 under this act shall be written in nontechnical language using  
15 words and phrases with common and everyday meanings sufficient to  
16 convey the message of the leaflet, notice, warning, or form.

17 Sec. 18. In a successful action under this act, an occupant  
18 may recover reasonable attorneys' fees.

19 Sec. 19. (1) The schedule of civil penalties enforceable  
20 under this act for each violation shall be determined by rules  
21 promulgated by the department under the procedures of  
22 section 9(6), subject to the following minimum amounts:

23 (a) Twenty dollars per day for a condition constituting an  
24 imminent danger, or for violation of section 21(3)(c).

25 (b) Ten dollars per day for allowing the premises to be  
26 infested by vermin, for a violation of a provision of this act,  
27 rule, or local maintenance standards which seek to prevent or

1 eliminate infestation by vermin, or for a violation of a  
2 provision of a statute, rule, or local maintenance standard deal-  
3 ing with fire safety, unless the violation constitutes an immi-  
4 nent danger, in which case it shall be subject to the penalties  
5 of subsection (a).

6 (c) Three dollars per day for any other violation for the  
7 first 2 months the violation exists and \$5.00 per day for the  
8 third and subsequent months.

9 (2) The civil penalty for each incident constituting a vio-  
10 lation of this act not covered in subsection (1) shall be  
11 \$300.00.

12 (3) Per diem penalties may be recovered from the date the  
13 act, omission, or condition constituting the violation occurred,  
14 began, or came into existence, to the date each condition consti-  
15 tuting a violation was corrected or, if the conditions remain  
16 uncorrected at the time judgment is entered, to the date of  
17 judgment.

18 (4) The department shall revise the civil penalty schedule  
19 annually to reflect economic changes and new or increased prob-  
20 lems in environmental health.

21 (5) Local governing entities may supplement the civil pen-  
22 alty schedule with specific per diem civil penalties for viola-  
23 tions of local maintenance standards, but a local schedule shall  
24 not provide for per diem civil penalties less than those deter-  
25 mined by the department. Different civil penalties may be  
26 assigned to similar violations of different specified degrees,

1 but all penalties shall be set at a fixed sum and not described  
2 by a discretionary range.

3       Sec. 20. (1) Notwithstanding the existence or pursuit of  
4 any other remedy, an enforcing agency may seek an injunction  
5 directing an owner to correct, discontinue, or prevent a  
6 violation.

7       (2) An occupant may seek an injunction directing an owner to  
8 correct, discontinue, or prevent a violation and may seek such  
9 other equitable relief as may aid in the expeditious and effi-  
10 cient correction of the violation and return of the dwelling to a  
11 habitable condition if any of the following occur:

12       (a) An imminent danger exists.

13       (b) An enforcing agency fails to inspect within 14 days  
14 after receipt of a complaint.

15       (c) An enforcing agency fails to issue a notice of violation  
16 and order to correct within 14 days after an inspection.

17       (d) An enforcing agency fails to issue a civil citation or  
18 seek injunctive relief under subsection (1) within 14 days after  
19 the expiration of the period for compliance contained within the  
20 notice and order to correct.

21       Sec. 21. (1) The court shall not award a judgment to an  
22 owner in summary proceedings to recover possession of premises  
23 under chapter 57 of the revised judicature act of 1961, Act  
24 No. 236 of the Public Acts of 1961, being sections 600.5701 to  
25 600.5759 of the Michigan Compiled Laws, if those proceedings were  
26 commenced within 1 year after the filing of, or entry of judgment  
27 in, an action under this act unless that owner establishes by a

1 preponderance of the evidence that possession is not being sought  
2 wholly or in part to punish the occupant for bringing an action  
3 or asserting rights under this act.

4       (2) An owner shall not increase the obligations of an occu-  
5 pant wholly or in part to punish the occupant for bringing an  
6 action or asserting rights under this act. The court shall not  
7 award a judgment to an owner in summary proceedings to recover  
8 possession of premises commenced within 1 year after the filing  
9 of, or judgment in, an action under this act unless the owner  
10 establishes by a preponderance of the evidence that possession is  
11 not being sought wholly or in part because of the occupant's  
12 failure to perform obligations increased wholly or in part to  
13 punish the occupant for bringing an action or asserting rights  
14 under this act. The court shall not award a judgment to an owner  
15 in summary proceedings to recover possession of premises com-  
16 menced because of the occupant's failure to perform obligations  
17 increased within 1 year after the filing of, or judgment in, an  
18 action under this act unless the owner establishes by a prepon-  
19 derance of the evidence that those obligations were not increased  
20 wholly or in part to punish the occupant for bringing an action  
21 or asserting rights under this act.

22       (3) An owner shall not do any of the following wholly or in  
23 part to punish an occupant for bringing an action or asserting  
24 rights under this act:

25       (a) Seek possession from an occupant.

26       (b) Seek to increase an occupant's obligations.

1 (c) Engage in conduct prohibited by section 2918 of the  
2 revised judicature act of 1961, Act No. 236 of the Public Acts of  
3 1961, being section 600.2918 of the Michigan Compiled Laws.

4 (d) Threaten to do any of the acts prohibited in subdivi-  
5 sions (a) to (c).

6 (4) An enforcing agency shall keep confidential all informa-  
7 tion, exclusive of that directly involving a violation, that the  
8 enforcing agency may discover or obtain in the course of an  
9 inspection.

10 (5) An agent or employee of an enforcing agency exercising  
11 powers under this act, rules promulgated under this act, the  
12 housing law, or local maintenance standards shall not divulge or  
13 reveal the identity of a person making a complaint concerning a  
14 violation without the written permission of the complainant,  
15 except as may be required by a court of competent jurisdiction.