

# HOUSE BILL No. 5183

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

A bill to amend sections 5720 and 5739 of Act No. 236 of the  
Public Acts of 1961, entitled as amended  
"Revised judicature act of 1961,"  
section 5720 as amended by Act No. 75 of the Public Acts of 1980,  
being sections 600.5720 and 600.5739 of the Michigan Compiled  
Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 5720 and 5739 of Act No. 236 of the  
2 Public Acts of 1961, section 5720 as amended by Act No. 75 of the  
3 Public Acts of 1980, being sections 600.5720 and 600.5739 of the  
4 Michigan Compiled Laws, are amended 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 alleged termination was intended primarily as a  
2 penalty for the defendant's attempt to secure or enforce rights  
3 under the lease or agreement or under the laws of ~~the~~ THIS  
4 state, of a governmental subdivision of this state, or of the  
5 United States.

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

10 (c) That the alleged termination was intended primarily as  
11 retribution for a lawful act arising out of the tenancy, includ-  
12 ing membership in a tenant organization and a lawful activity of  
13 a tenant organization arising out of the tenancy.

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

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

23 (f) That the plaintiff committed a breach of the lease which  
24 excuses the payment of rent if possession is claimed for nonpay-  
25 ment of rent.

26 (g) That 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 THE HOUSING LAW OF MICHIGAN,  
2 Act No. 167 of the Public Acts of 1917, being section 125.530 of  
3 the Michigan Compiled Laws; was paid pursuant to a court order  
4 under section 134(5) of Act No. 167 of the Public Acts of 1917,  
5 as amended, being section 125.534 of the Michigan Compiled Laws;  
6 or was paid to a receiver under section 135 of Act No. 167 of  
7 the Public Acts of 1917, being section 125.535 of the Michigan  
8 Compiled Laws.

9 (2) ~~if~~ EXCEPT AS OTHERWISE PROVIDED IN THE RENTAL HOUSING  
10 QUALITY ENFORCEMENT ACT, IF a defendant who alleges a retaliatory  
11 termination of the tenancy shows that within 90 days before the  
12 commencement of summary proceedings the defendant attempted to  
13 secure or enforce rights against the plaintiff or to complain  
14 against the plaintiff, as provided in subsection (1)(a), (b),  
15 (c), or (e), by means of official action to or through a court or  
16 other governmental agency and the official action has not  
17 resulted in dismissal or denial of the attempt or complaint, a  
18 presumption in favor of the defense of retaliatory termination  
19 arises, unless the plaintiff establishes by a preponderance of  
20 the evidence that the termination of tenancy was not in retali-  
21 ation for the acts. ~~if~~ EXCEPT AS OTHERWISE PROVIDED IN THE  
22 RENTAL HOUSING QUALITY ENFORCEMENT ACT, IF the defendant's  
23 alleged attempt to secure or enforce rights or to complain  
24 against the plaintiff occurred more than 90 days before the com-  
25 mencement of proceedings or was terminated adversely to the  
26 defendant, a presumption adverse to the defense of retaliatory

1 termination arises and the defendant has the burden to establish  
2 the defense by a preponderance of the evidence.

3       Sec. 5739. Except as provided by court rules, a party to  
4 summary proceedings may join claims and counterclaims for money  
5 judgment for damages attributable to wrongful entry, detainer or  
6 possession, for breach of the lease or contract under which the  
7 premises were held, FOR RECOVERY OF CIVIL PENALTIES PURSUANT TO  
8 THE HOUSING QUALITY ENFORCEMENT ACT, or for waste or malicious  
9 destruction to the premises, but the court may order separate  
10 summary disposition of the claim for possession, without preju-  
11 dice to any other claims or counterclaims. A claim or counter-  
12 claim for money judgment shall not exceed the amount in contro-  
13 versy which otherwise limits the jurisdiction of the court.

14       Section 2. This amendatory act shall not take effect unless  
15 Senate Bill No. \_\_\_\_\_ or House Bill No. 5181 (request  
16 no. 03372'89) of the 85th Legislature is enacted into law.