

HOUSE BILL No. 5207

October 18, 1989, Introduced by Rep. Perry Bullard and referred to the Committee on Judiciary.

A bill to amend sections 8401, 8408, and 8424 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," as amended by Act No. 278 of the Public Acts of 1984, being sections 600.8401, 600.8408, and 600.8424 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 8401, 8408, and 8424 of Act No. 236 of
2 the Public Acts of 1961, as amended by Act No. 278 of the Public
3 Acts of 1984, being sections 600.8401, 600.8408, and 600.8424 of
4 the Michigan Compiled Laws, are amended to read as follows:

5 Sec. 8401. ~~-(++)~~ A small claims division is created in each
6 district as a division of the district court. A judge of the
7 district court shall sit as judge of the small claims division.

1 The jurisdiction of the small claims division shall be confined
2 to ~~cases~~ THE FOLLOWING ACTIONS:

3 (A) CASES for the recovery of money only when the amount
4 claimed does not exceed ~~\$1,000.00~~ \$1,500.00.

5 (B) ACTIONS TO COMPEL DISCLOSURE OF INFORMATION UNDER
6 SECTION 10 OF THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE
7 PUBLIC ACTS OF 1976, BEING SECTION 15.240 OF THE MICHIGAN
8 COMPILED LAWS.

9 ~~(2) On and after January 1, 1986, the jurisdiction of the~~
10 ~~small claims division shall be confined to cases for the recovery~~
11 ~~of money only when the amount claimed does not exceed \$1,500.00.~~

12 Sec. 8408. (1) An attorney at law, except on the attorney's
13 own behalf, a collection agency or agent or employee of a collec-
14 tion agency, or a person other than the plaintiff and defendant,
15 except as is otherwise provided in this chapter, shall not take
16 part in the filing, prosecution, or defense of litigation in the
17 small claims division.

18 (2) A sole proprietorship, partnership, or corporation as
19 plaintiff or defendant may be represented by an officer or
20 employee who has direct and personal knowledge of facts in
21 dispute. If the officer or employee who has direct and personal
22 knowledge of facts in dispute is no longer employed by the
23 defendant or plaintiff or is medically unavailable, the represen-
24 tation may be made by that person's supervisor, or by the sole
25 proprietor, a partner, or an officer or a member of the board of
26 directors of a corporation.

1 (3) A county, city, village, or township as plaintiff or
2 defendant, OR A GOVERNMENTAL AGENCY THAT IS A DEFENDANT IN A
3 FREEDOM OF INFORMATION ACTION PURSUANT TO SECTION 8401(B), may be
4 represented only by an elected or appointed officer or an
5 employee who has direct and personal knowledge of the facts in
6 dispute. If the officer or employee who has direct and personal
7 knowledge of the facts in dispute is no longer an officer or
8 employee of the plaintiff or defendant, the representation may be
9 made by that officer's successor or that employee's supervisor,
10 or by a member of the governing body of the county, city, vil-
11 lage, or township. In addition, a person may not represent a
12 county, city, village, or township OR OTHER GOVERNMENTAL AGENCY
13 in the small claims division unless authorized to appear in the
14 case by the governing body of the county, city, village, or town-
15 ship OR OTHER GOVERNMENTAL AGENCY.

16 (4) Before commencement of a trial, the plaintiff or
17 defendant may, upon demand, require that the trial be conducted
18 before a district court judge and not a magistrate, or may remove
19 the case from the small claims division to the general civil
20 division of the district court. The affidavit form, in boldface
21 type, shall inform both parties of the right to removal before
22 trial from magistrate jurisdiction, if applicable, and removal
23 before the trial to the general civil division and also inform
24 the parties of the rights waived if they choose to remain in the
25 small claims division. If the parties commence a trial of the
26 case in the small claims division, both parties waive all rights
27 mentioned in section 8412.

1 Sec. 8424. (1) Actions of fraud, except for actions under
2 section 2952, and actions of libel, slander, assault, battery, or
3 other intentional torts shall not be instituted in the small
4 claims division.

5 (2) Except as provided in ~~subsection~~ SUBSECTIONS (3) AND
6 (4), the state, a political subdivision of the state, or any
7 other governmental agency shall not be a party to an action in
8 the small claims division.

9 (3) A county, city, village, or township may file an action
10 in the small claims division. An action may be filed in the
11 small claims division against a county, city, village, or town-
12 ship, but a party may not assert a claim with respect to which
13 the county, city, village, or township has immunity.

14 (4) A STATE OR LOCAL GOVERNMENTAL AGENCY MAY BE A DEFENDANT
15 IN A FREEDOM OF INFORMATION ACTION BROUGHT IN THE SMALL CLAIMS
16 DIVISION PURSUANT TO SECTION 8401(B).