

HOUSE BILL No. 4063

January 27, 2015, Introduced by Reps. Banks, Gay-Dagnogo, Byrd, Garrett, Dillon, Zemke, Durhal, Neeley, Sarah Roberts, Greig and Talabi and referred to the Committee on Judiciary.

A bill to amend 1917 PA 167, entitled
"Housing law of Michigan,"
by amending sections 126, 129, 130, and 134 (MCL 125.526, 125.529, 125.530, and 125.534), section 126 as amended by 2008 PA 408 and section 134 as amended by 2003 PA 80.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 126. (1) The enforcing agency shall inspect multiple
2 dwellings and rooming houses regulated by this act in accordance
3 with this act. Except as provided in subsection (2), the period
4 between inspections **OF A MULTIPLE DWELLING OR ROOMING HOUSE** shall
5 not be longer than 4 years. All other dwellings regulated by this
6 act may be inspected at reasonable intervals. Inspections of
7 multiple dwellings or rooming houses conducted by the United States
8 department of housing and urban development under the real estate
9 assessment center inspection process or **BY** other government

1 agencies may be accepted by a local governmental unit and an
2 enforcing agency as a substitute for inspections required by a
3 local enforcing agency. To the extent permitted under applicable
4 law, a local enforcing agency or its designee is authorized to
5 exercise inspection authority delegated by law or agreement from
6 other agencies or authorities that perform inspections required
7 under other state law or federal law.

8 (2) A local governmental unit may provide by ordinance for a
9 maximum period between inspections of a multiple dwelling or
10 rooming house that is not longer than 6 years if the most recent
11 inspection of the premises found no violations of ~~the-THIS~~ act and
12 the multiple dwelling or rooming house has not changed ownership
13 during the 6-year period.

14 (3) An inspection shall be conducted in the manner best
15 calculated to secure compliance with ~~the-THIS~~ act and appropriate
16 to the needs of the community, including, but not limited to, on 1
17 or more of the following bases:

18 (a) An area basis, ~~such that-UNDER WHICH~~ all the regulated
19 premises in a predetermined geographical area ~~will be-ARE~~ inspected
20 simultaneously, or within a short period of time.

21 (b) A complaint basis, ~~such that-UNDER WHICH PREMISES THAT ARE~~
22 **THE SUBJECT OF** complaints of violations ~~will be-ARE~~ inspected
23 within a reasonable time.

24 (c) A recurrent violation basis, ~~such that-UNDER WHICH~~
25 premises that are found to have a high incidence of recurrent or
26 uncorrected violations ~~will be-ARE~~ inspected more frequently.

27 (d) A compliance basis, ~~such that-UNDER WHICH~~ a premises

1 brought into compliance before the expiration of a certificate of
2 compliance or any requested repair order may be issued a
3 certificate of compliance for the maximum renewal certification
4 period authorized by the local governmental unit.

5 (e) A percentage basis, ~~such that~~ **UNDER WHICH** a local
6 governmental unit ~~may establish~~ **ESTABLISHES** a percentage of units
7 in a multiple dwelling to be inspected in order to issue a
8 certificate of compliance for the multiple dwelling.

9 (4) An inspection shall be carried out by the enforcing
10 agency, or by the enforcing agency and representatives of other
11 agencies that form a team to undertake an inspection under this and
12 other applicable acts.

13 (5) Except as provided in **THIS SUBSECTION AND** subsection (7),
14 an inspector, or team of inspectors, shall request and receive
15 permission to enter before entering a leasehold regulated by this
16 act **AND SHALL ENTER** at reasonable hours to undertake an inspection.
17 In the case of an emergency, as defined under rules promulgated by
18 the enforcing agency, or upon presentment of a warrant, the
19 inspector or team of inspectors may enter at any time.

20 (6) ~~Except in an emergency, before~~ **BEFORE** entering a leasehold
21 regulated by this act, the owner of the leasehold shall request and
22 obtain permission **FROM THE LESSEE** to enter the leasehold. ~~In the~~
23 ~~case of~~ **HOWEVER, IN** an emergency, including, but not limited to,
24 fire, flood, or other threat of serious injury or death, the owner
25 may enter at any time **WITHOUT OBTAINING PERMISSION FROM THE LESSEE.**

26 (7) The enforcing agency may require the owner of a leasehold
27 to do 1 or more of the following:

1 (a) Provide the enforcing agency access to the leasehold if
2 the lease provides the owner a right of entry.

3 (b) Provide access to areas other than a leasehold or areas
4 open to public view, or both.

5 (c) Notify a tenant of the enforcing agency's request to
6 inspect a leasehold, make a good faith effort to obtain permission
7 for an inspection, and arrange for the inspection. If a ~~tenant~~
8 **LESSEE** vacates a leasehold after the enforcing agency has requested
9 to inspect that leasehold, an owner of the leasehold shall notify
10 the enforcing agency of that fact within 10 days after the
11 leasehold is vacated.

12 (d) Provide access to the leasehold if a ~~tenant~~-**LESSEE** of that
13 leasehold has made a complaint to the enforcing agency.

14 (8) A local governmental unit may adopt an ordinance to
15 implement subsection (7).

16 (9) For multiple lessees in a leasehold, notifying at least 1
17 lessee and requesting and obtaining the permission of at least 1
18 lessee satisfies **THE NOTICE AND PERMISSION REQUIREMENTS OF**
19 subsections (5) ~~and~~-**TO** (7).

20 (10) ~~Neither the~~-**THE** enforcing agency ~~nor~~-**OR** the owner ~~may~~
21 **SHALL NOT** discriminate against an occupant on the basis of whether
22 the occupant requests, permits, or refuses entry to the leasehold.
23 **THIS SUBSECTION DOES NOT APPLY IF THE OCCUPANT REFUSES ENTRY IN THE**
24 **CASE OF AN EMERGENCY OR UPON PRESENTMENT OF A WARRANT, AS PROVIDED**
25 **IN SUBSECTION (5) OR (6).**

26 (11) The enforcing agency shall not discriminate against an
27 owner who has ~~met the requirements of~~-**COMPLIED WITH THE ENFORCING**

1 **AGENCY'S REQUIREMENTS UNDER** subsection (7) but has been unable to
 2 obtain the permission of the occupant, based on the owner's
 3 inability to obtain that permission.

4 (12) The enforcing agency may establish and charge a
 5 reasonable fee for inspections conducted under this act. The fee
 6 shall not exceed the actual, reasonable cost of providing the
 7 inspection for which the fee is charged, **INCLUDING, BUT NOT LIMITED**
 8 **TO, THE COST OF AN INSPECTION AS DEFINED IN SECTION 5457 OF THE**
 9 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5457, IF REQUIRED UNDER**
 10 **SECTION 129(4).** An owner or property manager ~~shall~~ **IS** not be liable
 11 for an inspection fee if the inspection is not performed and the
 12 enforcing agency is the direct cause of the failure to perform.

13 (13) ~~An~~ **IF REQUESTED, AN** enforcing agency or a local
 14 governmental unit shall produce a report ~~to a requesting party on~~
 15 the income and expenses of the inspection program for the preceding
 16 fiscal year. The report shall ~~contain~~ **STATE THE AMOUNT OF** the fees
 17 assessed by the enforcing agency, the costs incurred in performing
 18 inspections, and the number of units inspected. The report shall be
 19 provided to the requesting party within 90 days ~~of~~ **AFTER** the
 20 request. The enforcing agency or local governmental unit may
 21 produce the report electronically. If the enforcing agency does not
 22 have readily available access to the information required for the
 23 report, the enforcing agency may charge the requesting party a fee
 24 ~~no~~ **NOT** greater than the actual reasonable cost of **COMPILING AND**
 25 providing the information. If an enforcing agency charges a fee
 26 under this subsection, the enforcing agency shall include **IN THE**
 27 **REPORT** the costs of providing and compiling the information.

1 ~~contained in the report.~~

2 (14) If a complaint identifies a dwelling or rooming house
3 regulated under this act in which a child is residing, the dwelling
4 or rooming house shall be inspected prior to inspection of any
5 nonemergency complaint.

6 (15) As used in this section:

7 (a) "Child" means an individual under 18 years of age.

8 (b) "Leasehold" means a private dwelling or separately
9 occupied apartment, suite, or group of rooms in a 2-family dwelling
10 or in a multiple dwelling if the private dwelling or separately
11 occupied apartment, suite, or group of rooms is leased to the
12 occupant under the terms of either an oral or written lease.

13 Sec. 129. (1) Units in multiple dwellings or rooming houses,
14 **RENTAL UNITS IN 2-FAMILY DWELLINGS CONSTRUCTED BEFORE 1978, OR**
15 **RENTED SINGLE-FAMILY DWELLINGS CONSTRUCTED BEFORE 1978** shall not be
16 occupied unless a certificate of compliance has been issued by the
17 enforcing agency. The certificates shall be issued only upon an
18 inspection of the premises by the enforcing agency, except as
19 provided in section 131. The certificate shall be issued within 15
20 days after **THE SUBMISSION OF A** written application ~~therefor~~ **FOR THE**
21 **CERTIFICATE** if, **WHEN THE APPLICATION IS SUBMITTED**, the dwelling at
22 ~~the date of the application is entitled thereto.~~ **TO A CERTIFICATE.**

23 (2) A **CERTIFICATE MAY BE ISSUED DESPITE A** violation of this
24 act, ~~shall not prevent the issuance of a certificate, but the~~
25 ~~enforcing agency shall not issue a certificate when~~ **UNLESS** the
26 existing conditions constitute a hazard to the health or safety of
27 those who may occupy the premises.

1 (3) Inspections shall be made prior to first occupancy of
 2 ~~multiple dwellings and rooming houses, if the construction or~~
 3 ~~alteration is completed and first occupancy will occur after the~~
 4 ~~effective date of this article. Where first occupancy will occur~~
 5 ~~before the effective date of this article, inspection shall be made~~
 6 ~~within 1 year after the effective date of this article. Upon~~ **UPON** a
 7 finding that there is no condition that would constitute a hazard
 8 to the health and safety of the occupants, and that the premises
 9 are otherwise fit for occupancy, the certificate shall be issued.
 10 ~~If the finding is of~~ **IF** a condition that would constitute a hazard
 11 to health or safety **EXISTS**, ~~no~~ **A** certificate shall **NOT** be issued,
 12 and an order to comply with the act shall be issued immediately and
 13 served upon the owner in accordance with section 132. On
 14 reinspection and proof of compliance, the order shall be rescinded
 15 and a certificate issued.

16 **(4) AN INSPECTION UNDER THIS ACT OF A DWELLING CONSTRUCTED**
 17 **BEFORE 1978 SHALL INCLUDE AN INSPECTION AS DEFINED IN SECTION 5457**
 18 **OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5457, UNLESS A**
 19 **PREVIOUS INSPECTION AS DEFINED IN THAT SECTION HAS SHOWN THAT THERE**
 20 **IS NOT A LEAD-BASED PAINT HAZARD.**

21 **(5) AS USED IN THIS SECTION, "LEAD-BASED PAINT HAZARD" MEANS**
 22 **THAT TERM AS DEFINED IN SECTION 5458 OF THE PUBLIC HEALTH CODE,**
 23 **1978 PA 368, MCL 333.5458.**

24 Sec. 130. (1) ~~When~~ **IF** a certificate is withheld pending
 25 compliance, ~~no~~ premises which have not been occupied for dwelling
 26 or rooming purposes shall **NOT** be so occupied, and those premises
 27 which have been or are occupied for dwelling or rooming purposes

1 may be ordered vacated until reinspection and proof of compliance
2 in the discretion of the enforcing agency.

3 (2) A certificate of compliance shall be issued on condition
4 that the premises remain in safe, healthful, and fit condition for
5 occupancy. If upon reinspection the enforcing agency determines
6 that conditions exist which constitute a hazard to health or
7 safety, the certificate shall be immediately suspended as to
8 affected areas, and the areas may be vacated as provided in
9 subsection (1).

10 (3) The duty to pay rent in accordance with the terms of any
11 lease or agreement or under the provisions of any statute ~~shall be~~
12 **IS** suspended and the suspended rentals shall be paid into an escrow
13 account as provided in subsection (4), during that period when the
14 premises have not been issued a certificate of compliance, or when
15 ~~such~~ **THE** certificate, once issued, has been suspended. This
16 subsection does not apply until the owner has had a reasonable time
17 ~~after the effective date of this article or after notice of~~
18 violations to ~~make application~~ **APPLY** for a temporary certificate,
19 as provided in section 131. Nor does this subsection apply ~~where~~ **IF**
20 the owner establishes that the conditions which constitute a hazard
21 to health or safety were caused by the occupant or occupants. The
22 rent, once suspended, shall again become due in accordance with the
23 terms of the lease or agreement or statute from and after the time
24 of reinstatement of the certificate, or ~~where~~ **IF** a temporary
25 certificate has been issued, as provided in section 131.

26 (4) Rents due for the period during which rent is suspended
27 shall be paid into an escrow account established by the enforcing

1 officer or agency, to be paid thereafter to the landlord or any
2 other party authorized to make repairs, to defray the cost of
3 correcting the violations, **INCLUDING, BUT NOT LIMITED TO, THE COST**
4 **OF ABATEMENT AS DEFINED IN SECTION 5453 OF THE PUBLIC HEALTH CODE,**
5 **1978 PA 368, MCL 333.5453.** The enforcing agency shall return any
6 unexpended part of sums paid under this section, attributable to
7 the unexpired portion of the rental period, ~~where~~ **IF** the occupant
8 terminates ~~his~~ **THE** tenancy or right to occupy prior to the
9 undertaking to repair.

10 (5) ~~When the~~ **IF A** certificate of compliance has been
11 suspended, or has not been issued, and the rents thereafter
12 withheld are not paid into the escrow account, actions for rent and
13 for possession of the premises for nonpayment of rent may be
14 maintained, subject to ~~such~~ **ANY** defenses ~~as~~ the tenant or occupant
15 may have upon the lease or contract.

16 Sec. 134. (1) If the owner or occupant fails to comply with
17 the order contained in the notice of violation, the enforcing
18 agency may bring an action to enforce this act and to abate or
19 enjoin the violation.

20 (2) An owner or occupant of the premises upon which a
21 violation exists may bring an action to enforce this act in his or
22 her own name. Upon application by the enforcing agency, or upon
23 motion of the party filing the complaint, the ~~local~~ enforcing
24 agency may be substituted for, or joined with, the complainant in
25 the discretion of the court.

26 (3) If the violation is uncorrected and creates an imminent
27 danger to the health and safety of the occupants of the premises,

1 or if there are no occupants and the violation creates an imminent
2 danger to the health and safety of the public, the enforcing agency
3 shall file a motion for a preliminary injunction or other temporary
4 relief appropriate to remove the danger during the pendency of the
5 action.

6 (4) Owners and lienholders of record or owners and lienholders
7 ascertained by the complainant with the exercise of reasonable
8 diligence shall be served with a copy of the complaint and a
9 summons. The complainant shall also file a notice of the pendency
10 of the action with the appropriate county register of deeds office
11 where the premises are located.

12 (5) The court ~~of jurisdiction~~ shall make orders and
13 determinations consistent with the objectives of this act. The
14 court may enjoin the maintenance of unsafe, unhealthy, or
15 unsanitary conditions, or violations of this act, and may order the
16 defendant to make repairs or corrections necessary to abate the
17 conditions, **INCLUDING, BUT NOT LIMITED TO, ABATEMENT AS DEFINED IN**
18 **SECTION 5453 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5453.**
19 The court may authorize the enforcing agency to repair or to remove
20 the building or structure. If an occupant is not the cause of an
21 unsafe, unhealthy, or unsanitary condition, or a violation of this
22 act, and is the complainant, the court may authorize the occupant
23 to correct the violation and deduct the cost from the rent upon
24 terms the court determines just. If the court finds that the
25 occupant is the cause of an unsafe, unhealthy, or unsanitary
26 condition, or a violation of this act, the court may authorize the
27 owner to correct the violation and assess the cost against the

1 occupant or the occupant's security deposit.

2 (6) A building or structure shall not be removed unless the
3 cost of repair of the building or structure will be greater than
4 the state equalized value of the building or structure except in **AN**
5 urban core ~~cities~~**CITY** or local ~~units~~**UNIT** of government that ~~are~~
6 **IS** adjacent to or contiguous to an urban core city that ~~have~~**HAS**
7 adopted stricter standards to expedite the rehabilitation or
8 removal of a boarded or abandoned building or structure that
9 remains either vacant or boarded, or both, ~~and~~**IF** a significant
10 attempt has not been made to rehabilitate the building or structure
11 for a period of 24 consecutive months.

12 (7) If the expense of repair or removal is not provided for,
13 the court may enter an order approving the expense and placing a
14 lien on the real property for the payment of the expense. The order
15 may establish and provide for the priority of the lien as a senior
16 lien, except as to tax and assessment liens, and except as to a
17 recorded mortgage of first priority, recorded prior to all other
18 liens of record if, at the time of recording of that mortgage or at
19 a time subsequent, a certificate of compliance as provided for in
20 this act is in effect on the subject property. The order may also
21 specify the time and manner for foreclosure of the lien if the lien
22 is not satisfied. A true copy of the order shall be filed with the
23 ~~appropriate county~~ register of deeds office **FOR THE COUNTY** where
24 the real property is located within 10 days after entry of the
25 order to perfect the lien granted in the order.

26 (8) This act does not preempt, preclude, or interfere with the
27 authority of a municipality to protect the health, safety, and

1 general welfare of the public through ordinance, charter, or other
2 means.

3 (9) As used in this section, "urban core ~~cities~~**CITY**" means **A**
4 qualified local governmental ~~units~~**UNIT** as that term is defined in
5 section 2 of the obsolete property rehabilitation act, 2000 PA 146,
6 MCL 125.2782.