

HOUSE BILL No. 5388

January 10, 2018, Introduced by Reps. Gay-Dagnogo, Sabo, Wittenberg, Chang, Elder, Chirkun, Yancey, Green, Neeley, Peterson, Garrett and Robinson and referred to the Committee on Judiciary.

A bill to amend 1917 PA 167, entitled "Housing law of Michigan," by amending sections 126, 130, and 134 (MCL 125.526, 125.530, and 125.534), section 126 as amended by 2016 PA 14 and section 134 as amended by 2003 PA 80.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 126. (1) A local governmental unit is not required to
2 inspect a multiple dwelling or rooming house unless the local
3 governmental unit receives a complaint from a lessee of a violation
4 of this act.

5 (2) Subject to subsection (1), the enforcing agency shall
6 inspect multiple dwellings and rooming houses regulated by this act
7 in accordance with this act.

1 (3) Subject to subsection (1) and except as provided in
2 subsection (4), the period between inspections of a multiple
3 dwelling or rooming house shall not be longer than 4 years. All
4 other dwellings regulated by this act may be inspected at
5 reasonable intervals. Inspections of multiple dwellings or rooming
6 houses conducted by the United States Department of Housing and
7 Urban Development under the real estate assessment center
8 inspection process or by other government agencies may be accepted
9 by a local governmental unit and an enforcing agency as a
10 substitute for inspections required by a local enforcing agency. To
11 the extent permitted under applicable law, a local enforcing agency
12 or its designee may exercise inspection authority delegated by law
13 or agreement from other agencies or authorities that perform
14 inspections required under other state law or federal law.

15 (4) Subject to subsection (1), a local governmental unit may
16 provide by ordinance for a maximum period between inspections of a
17 multiple dwelling or rooming house that is not longer than 6 years
18 if the most recent inspection of the premises found no violations
19 of this act and the multiple dwelling or rooming house has not
20 changed ownership during the 6-year period.

21 (5) An inspection shall be conducted in the manner best
22 calculated to secure compliance with this act and appropriate to
23 the needs of the community, including, but not limited to, on 1 or
24 more of the following bases:

25 (a) An area basis, under which all the regulated premises in a
26 predetermined geographical area are inspected simultaneously, or
27 within a short period of time.

1 (b) A complaint basis, under which premises that are the
2 subject of complaints of violations are inspected within a
3 reasonable time.

4 (c) A recurrent violation basis, under which premises that
5 have a high incidence of recurrent or uncorrected violations are
6 inspected more frequently.

7 (d) A compliance basis, under which a premises brought into
8 compliance before the expiration of a certificate of compliance or
9 any requested repair order may be issued a certificate of
10 compliance for the maximum renewal certification period authorized
11 by the local governmental unit.

12 (e) A percentage basis, under which a local governmental unit
13 establishes a percentage of units in a multiple dwelling to be
14 inspected in order to issue a certificate of compliance for the
15 multiple dwelling.

16 (6) An inspection shall be carried out by the enforcing
17 agency, or by the enforcing agency and representatives of other
18 agencies that form a team to undertake an inspection under this and
19 other applicable acts.

20 (7) Except as provided in subsection (9) and this subsection,
21 an inspector, or team of inspectors, shall request and receive
22 permission to enter before entering a leasehold regulated by this
23 act to undertake an inspection and shall enter at a reasonable
24 hour. In the case of an emergency, including, but not limited to,
25 fire, flood, or other threat of serious injury or death, or upon
26 presentment of a warrant, the inspector or team of inspectors may
27 enter at any time.

1 (8) Before entering a leasehold regulated by this act, the
2 owner of the leasehold shall request and obtain permission to enter
3 the leasehold. However, in an emergency, including, but not limited
4 to, fire, flood, or other threat of serious injury or death, the
5 owner may enter at any time.

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

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

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

12 (c) Notify the lessee of the enforcing agency's request to
13 inspect a leasehold, make a good-faith effort to obtain permission
14 for an inspection, and arrange for the inspection. If a lessee
15 vacates a leasehold after the enforcing agency has requested to
16 inspect that leasehold, the owner of the leasehold shall notify the
17 enforcing agency of that fact within 10 days after the leasehold is
18 vacated.

19 (d) Provide access to the leasehold if a lessee of that
20 leasehold has made a complaint to the enforcing agency.

21 (10) A local governmental unit may adopt an ordinance to
22 implement subsection (9).

23 (11) For multiple lessees in a leasehold, notifying at least 1
24 lessee and requesting and obtaining the permission of at least 1
25 lessee satisfies the notice and permission requirements of
26 subsections (7) to (9).

27 (12) The enforcing agency or the owner shall not discriminate

1 against an occupant on the basis of whether the occupant requests,
2 permits, or refuses entry to the leasehold.

3 (13) The enforcing agency shall not discriminate against an
4 owner who has met the requirements of subsection ~~(9)~~ **(9) (C)** but has
5 been unable to obtain the permission of the ~~occupant~~, **LESSEE**, based
6 on the owner's inability to obtain that permission.

7 (14) The enforcing agency may establish and charge a
8 reasonable fee for inspections conducted under this act. The fee
9 shall not exceed the actual, reasonable cost of providing the
10 inspection for which the fee is charged, **INCLUDING, BUT NOT LIMITED**
11 **TO, THE COST OF AN INSPECTION AS DEFINED IN SECTION 5457 OF THE**
12 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.5457, IF REQUIRED UNDER**
13 **SECTION 129.** An inspection fee is not required to be paid more than
14 6 months before the inspection is to take place. An owner or
15 property manager is not liable for an inspection fee if the
16 inspection is not performed and the enforcing agency is the direct
17 cause of the failure to perform the inspection.

18 (15) If requested, an enforcing agency or a local governmental
19 unit shall produce a report on the income and expenses of the
20 inspection program for the preceding fiscal year. The report shall
21 state the amount of the fees assessed by the enforcing agency, the
22 costs incurred in performing inspections, and the number of units
23 inspected. The report shall be provided to the requesting party
24 within 90 days after the request is made. The enforcing agency or
25 local governmental unit may produce the report electronically. If
26 the enforcing agency does not have readily available access to the
27 information required for the report, the enforcing agency may

1 charge the requesting party a fee not greater than the actual
2 reasonable cost of providing the information. If an enforcing
3 agency charges a fee under this subsection, the enforcing agency
4 shall include in the report the costs of providing and compiling
5 the information.

6 (16) If a complaint identifies a dwelling or rooming house
7 regulated under this act in which a child is residing, the dwelling
8 or rooming house shall be inspected prior to inspection of any
9 nonemergency complaint.

10 (17) As used in this section:

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

12 (b) "Leasehold" means a private dwelling or separately
13 occupied apartment, suite, or group of rooms in a 2-family dwelling
14 or in a multiple dwelling if the private dwelling or separately
15 occupied apartment, suite, or group of rooms is leased to the
16 occupant under an oral or written lease.

17 Sec. 130. (1) ~~When~~ **IF** a certificate is withheld pending
18 compliance, ~~no~~ premises ~~which~~ **THAT** have not been occupied for
19 dwelling or rooming purposes shall **NOT** be so occupied, and ~~those~~
20 premises ~~which~~ **THAT** have been or are occupied for dwelling or
21 rooming purposes may be ordered vacated until reinspection and
22 proof of compliance in the discretion of the enforcing agency.

23 (2) A certificate of compliance shall be issued on condition
24 that the premises remain in safe, healthful, and fit condition for
25 occupancy. If upon reinspection the enforcing agency determines
26 that conditions exist which constitute a hazard to health or
27 safety, the certificate shall be immediately suspended as to

1 affected areas, and the areas may be vacated as provided in
2 subsection (1).

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

20 (4) Rents due for the period during which rent is suspended
21 shall be paid into an escrow account established by the enforcing
22 officer or agency, to be paid thereafter to the landlord or any
23 other party authorized to make repairs, to defray the cost of
24 correcting the violations, **INCLUDING, BUT NOT LIMITED TO, THE COST**
25 **OF ABATEMENT AS DEFINED IN SECTION 5453 OF THE PUBLIC HEALTH CODE,**
26 **1978 PA 368, MCL 333.5453.** The enforcing agency shall return any
27 unexpended part of sums paid under this section, attributable to

1 the unexpired portion of the rental period, ~~where~~ **IF** the occupant
2 terminates ~~his~~ **THE** tenancy or right to occupy prior to the
3 undertaking to repair.

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

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

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

20 (3) If the violation is uncorrected and creates an imminent
21 danger to the health and safety of the occupants of the premises,
22 or if there are no occupants and the violation creates an imminent
23 danger to the health and safety of the public, the enforcing agency
24 shall file a motion for a preliminary injunction or other temporary
25 relief appropriate to remove the danger during the pendency of the
26 action.

27 (4) Owners and lienholders of record or owners and lienholders

1 ascertained by the complainant with the exercise of reasonable
2 diligence shall be served with a copy of the complaint and a
3 summons. The complainant shall also file a notice of the pendency
4 of the action with the appropriate county register of deeds office
5 where the premises are located.

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

23 (6) A building or structure shall not be removed unless the
24 cost of repair of the building or structure will be greater than
25 the state equalized value of the building or structure except in **AN**
26 urban core ~~cities~~**CITY** or local ~~units~~**UNIT** of government that ~~are~~
27 **IS** adjacent to or contiguous to an urban core city that ~~have~~**HAS**

1 adopted stricter standards to expedite the rehabilitation or
2 removal of a boarded or abandoned building or structure that
3 remains either vacant or boarded, or both, ~~and~~**IF** a significant
4 attempt has not been made to rehabilitate the building or structure
5 for a period of 24 consecutive months.

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

20 (8) This act does not preempt, preclude, or interfere with the
21 authority of a municipality to protect the health, safety, and
22 general welfare of the public through ordinance, charter, or other
23 means.

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