

# HOUSE BILL NO. 5362

January 21, 2020, Introduced by Reps. Gay-Dagnogo, Garza, Coleman, Whitsett, Hood, Pohutsky, Kennedy, Stone, Rabhi, Ellison, Yancey, Sneller, Tate, Bolden, Anthony, Manoogian, Cherry, Hope, Kuppa, Brixie, Sowerby, Clemente, Sabo, Brenda Carter, Hammoud, Peterson, Lasinski, Wittenberg, Warren, Jones and Love and referred to the Committee on Regulatory Reform.

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 2017 PA 169 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 other dwelling unless the local



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1 governmental unit receives a complaint from a lessee of a violation  
2 of this act.

3 (2) Subject to subsection (1), the enforcing agency shall  
4 inspect multiple dwellings and other dwellings regulated by this  
5 act in accordance with this act. If a local governmental unit  
6 adopts an ordinance providing for inspections of multiple dwellings  
7 or other dwellings on a basis described in subsection (4)(a), (c),  
8 (d), or (e), both of the following apply:

9 (a) The period between inspections of a multiple dwelling or  
10 rooming house shall not be longer than 4 years, or 6 years if the  
11 most recent inspection of the premises found no violations of this  
12 act and the multiple dwelling or rooming house has not changed  
13 ownership during the 6-year period.

14 (b) All other dwellings regulated by this act may be inspected  
15 at reasonable intervals.

16 (3) Inspections of multiple dwellings or other dwellings  
17 conducted by the United States Department of Housing and Urban  
18 Development under the real estate assessment center inspection  
19 process or by other government agencies may be accepted by a local  
20 governmental unit and an enforcing agency as a substitute for  
21 inspections required by a local enforcing agency. To the extent  
22 permitted under applicable law, a local enforcing agency or its  
23 designee may exercise inspection authority delegated by law or  
24 agreement from other agencies or authorities that perform  
25 inspections required under other state law or federal law.

26 (4) An inspection shall be conducted in the manner best  
27 calculated to secure compliance with this act and appropriate to  
28 the needs of the community, including, but not limited to, on 1 or  
29 more of the following bases:



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

4 (b) A complaint basis, under which premises that are the  
5 subject of complaints of violations are inspected within a  
6 reasonable time.

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

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

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

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

23 (6) Except as provided in subsections (7) to (9) and (11), an  
24 inspector or team of inspectors must request and receive consent  
25 from the lessee to enter before entering a leasehold regulated by  
26 this act to undertake an inspection.

27 (7) The owner of a leasehold shall notify the lessee of the  
28 enforcing agency's request to inspect a leasehold, shall make a  
29 good-faith effort to obtain the lessee's consent for an inspection,



1 and, if the owner obtains the lessee's consent for an inspection,  
2 shall arrange for the inspection by the enforcing agency.

3 (8) The owner of a leasehold shall provide the enforcing  
4 agency access to the leasehold for an inspection during reasonable  
5 hours if any of the following apply:

6 (a) The lease authorizes an enforcing agency inspector to  
7 enter the leasehold for an inspection.

8 (b) The lessee has made a complaint to the enforcing agency.

9 (c) The leasehold is vacant.

10 (d) The enforcing agency serves an administrative warrant  
11 ordering the owner to provide access.

12 (e) The lessee has consented to an inspection under subsection  
13 (7). If a lessee is not present during the inspection, the  
14 enforcing agency may rely on the owner's representation to the  
15 enforcing agency that the lessee has consented to the enforcing  
16 agency's inspection.

17 (9) The lessee shall provide the enforcing agency access to  
18 the leasehold for an inspection during reasonable hours if any of  
19 the following apply:

20 (a) The lease authorizes an enforcing agency inspector to  
21 enter the leasehold for an inspection.

22 (b) The lessee has made a complaint to the enforcing agency.

23 (c) The enforcing agency serves an administrative warrant  
24 ordering the lessee to provide access.

25 (d) The lessee has given consent.

26 (10) If a lessee who refused an inspection by the enforcing  
27 agency vacates a leasehold before an inspection by the enforcing  
28 agency, the owner of the leasehold shall notify the enforcing  
29 agency within 10 days after the leasehold is vacated.



1 (11) 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~~ In the case of an emergency, including,  
4 but not limited to, fire, flood, or other threat of serious injury  
5 or death, the owner may enter at any time.

6 (12) The owner of a leasehold shall provide access to the  
7 enforcing agency to areas of the multiple dwelling or other  
8 dwelling that are not part of the leasehold or that are open to  
9 public view.

10 (13) For multiple lessees in a leasehold, notifying at least 1  
11 lessee and requesting and obtaining the consent of at least 1  
12 lessee satisfies the notice and consent requirements of subsections  
13 (6) and (7).

14 (14) The enforcing agency or the owner shall not discriminate  
15 against a lessee on the basis of whether the lessee consents to or  
16 refuses entry to the leasehold for an inspection by the enforcing  
17 agency.

18 (15) The enforcing agency shall not discriminate against an  
19 owner who has met the requirements of subsection (7) because a  
20 lessee refuses the enforcing agency entry to a leasehold for an  
21 inspection under this act.

22 (16) The enforcing agency may establish and charge a  
23 reasonable fee for inspections conducted under this act. The fee  
24 shall not exceed the actual, reasonable cost of providing the  
25 inspection for which the fee is charged, **including, but not limited**  
26 **to, the cost of an inspection as that term is defined in section**  
27 **5457 of the public health code, 1978 PA 368, MCL 333.5457, if**  
28 **required under section 129.** An inspection fee is not required to be  
29 paid more than 6 months before the inspection is to take place. An



1 owner or property manager is not liable for an inspection fee if  
2 the inspection is not performed and the enforcing agency is the  
3 direct cause of the failure to perform the inspection.

4 (17) If requested, an enforcing agency or a local governmental  
5 unit shall produce a report on the income and expenses of the  
6 inspection program for the preceding fiscal year. The report shall  
7 state the amount of the fees assessed by the enforcing agency, the  
8 costs incurred in performing inspections, and the number of units  
9 inspected. The report shall be provided to the requesting party  
10 within 90 days after the request is made. The enforcing agency or  
11 local governmental unit may produce the report electronically. If  
12 the enforcing agency does not have readily available access to the  
13 information required for the report, the enforcing agency may  
14 charge the requesting party a fee not greater than the actual  
15 reasonable cost of compiling and providing the information. If an  
16 enforcing agency charges a fee under this subsection, the enforcing  
17 agency shall include in the report the costs of compiling and  
18 providing the information.

19 (18) If a complaint identifies a multiple dwelling or other  
20 dwelling regulated under this act in which an individual under 18  
21 years of age is residing, the dwelling shall be inspected before  
22 any **other** inspection **is conducted that is** in response to a  
23 nonemergency complaint.

24 (19) Subject to section 8, a local governmental unit may adopt  
25 an ordinance to implement this section.

26 (20) When used in this act as a noun, "lease" means a written  
27 or unwritten agreement or contract that sets forth the terms and  
28 conditions, **and the** rights and obligations of each party with  
29 respect to a residential dwelling, dwelling unit, rooming unit,



1 building, premises, or structure that is not occupied by the owner  
2 of record.

3 Sec. 130. (1) ~~When~~**If** a certificate is withheld pending  
4 compliance, ~~no~~~~premises which~~~~that~~ have not been occupied for  
5 dwelling or rooming purposes shall **not** be so occupied, and ~~those~~  
6 premises ~~which~~~~that~~ have been or are occupied for dwelling or  
7 rooming purposes may be ordered vacated until reinspection and  
8 proof of compliance in the discretion of the enforcing agency.

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

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

1 statute from and after the time of reinstatement of the  
 2 certificate, or ~~where~~ **if** a temporary certificate has been issued,  
 3 as provided in section 131.

4 (4) Rents due for the period during which rent is suspended  
 5 shall be paid into an escrow account established by the enforcing  
 6 officer or agency, to be paid thereafter to the landlord or any  
 7 other party authorized to make repairs, to defray the cost of  
 8 correcting the violations, **including, but not limited to, the cost**  
 9 **of abatement as that term is defined in section 5453 of the public**  
 10 **health code, 1978 PA 368, MCL 333.5453.** The enforcing agency shall  
 11 return any unexpended part of sums paid under this section,  
 12 attributable to the unexpired portion of the rental period, ~~where~~  
 13 **if** the occupant terminates ~~his~~ **the** tenancy or right to occupy prior  
 14 to the undertaking to repair.

15 (5) ~~When the~~ **If a** certificate of compliance has been  
 16 suspended, or has not been issued, and the rents thereafter  
 17 withheld are not paid into the escrow account, actions for rent and  
 18 for possession of the premises for nonpayment of rent may be  
 19 maintained, subject to ~~such~~ **any** defenses ~~as~~ the tenant or occupant  
 20 may have upon the lease or contract.

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

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





1 the discretion of the court.

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

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

15 (5) The court ~~of jurisdiction~~ shall make orders and  
16 determinations consistent with the objectives of this act. The  
17 court may enjoin the maintenance of unsafe, unhealthy, or  
18 unsanitary conditions, or violations of this act, and may order the  
19 defendant to make repairs or corrections necessary to abate the  
20 conditions, **including, but not limited to, abatement as that term**  
21 **is defined in section 5453 of the public health code, 1978 PA 368,**  
22 **MCL 333.5453.** The court may authorize the enforcing agency to  
23 repair or to remove the building or structure. If an occupant is  
24 not the cause of an unsafe, unhealthy, or unsanitary condition, or  
25 a violation of this act, and is the complainant, the court may  
26 authorize the occupant to correct the violation and deduct the cost  
27 from the rent upon terms the court determines just. If the court  
28 finds that the occupant is the cause of an unsafe, unhealthy, or  
29 unsanitary condition, or a violation of this act, the court may



1 authorize the owner to correct the violation and assess the cost  
2 against the occupant or the occupant's security deposit.

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

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

27 (8) This act does not preempt, preclude, or interfere with the  
28 authority of a municipality to protect the health, safety, and  
29 general welfare of the public through ordinance, charter, or other



1 means.

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

