

HOUSE BILL No. 4035

January 21, 2015, Introduced by Rep. Forlini and referred to the Committee on Judiciary.

A bill to amend 1978 PA 454, entitled
"Truth in renting act,"
by amending section 3 (MCL 554.633), as amended by 1998 PA 72.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) A rental agreement shall not include a provision
2 that does 1 or more of the following:

3 (a) Waives or alters a remedy available to the parties ~~when~~ **IF**
4 the premises are in a condition that violates the covenants of
5 fitness and habitability required ~~pursuant to~~ **UNDER** section 39 of
6 1846 RS ~~84, 66~~, MCL 554.139.

7 (b) Provides that the parties waive a right established by
8 1972 PA 348, MCL 554.601 to 554.616, which regulates security
9 deposits.

10 (c) Excludes or discriminates against a person in violation of

1 the Elliott-Larsen civil rights act, 1976 PA 453, MCL 37.2101 to
2 37.2804, or the persons with disabilities civil rights act, 1976 PA
3 220, MCL 37.1101 to 37.1607.

4 (d) Provides for a confession of judgment by a party.

5 (e) Exculpates the lessor from liability for the lessor's
6 failure to perform, or negligent performance of, a duty imposed by
7 law. This subdivision does not apply to a provision that releases a
8 party from liability arising from loss, damage, or injury caused by
9 fire or other casualty for which insurance is carried by the other
10 party, under a policy that permits waiver of liability and waives
11 the insurer's rights of subrogation, to the extent of any recovery
12 by the insured party under the policy.

13 (f) Waives or alters a party's ~~right to demand a trial by jury~~
14 ~~or any other right of~~ **TO A** notice or procedure required by law in a
15 judicial proceeding arising under the rental agreement. **THIS**
16 **SUBDIVISION DOES NOT PROHIBIT A WAIVER OF THE RIGHT TO TRIAL BY**
17 **JURY.**

18 (g) Provides that a party is liable for legal costs or
19 attorney's fees incurred by another party, in connection with a
20 dispute arising under the rental agreement, in excess of costs or
21 fees specifically permitted by statute.

22 (h) Provides for the acquisition by the lessor of a security
23 interest in any personal property of the tenant to ~~assure~~ **ENSURE**
24 payment of rent or other charges arising under the rental
25 agreement, except as specifically allowed by law.

26 (i) Provides that rental payments may be accelerated if the
27 rental agreement is breached by the tenant, unless the provision

1 also includes a statement that the tenant may not be liable for the
2 total accelerated amount because of the landlord's obligation to
3 minimize damages, and that either party may have a court determine
4 the actual amount owed, if any.

5 (j) Waives or alters a party's rights with respect to
6 possession or eviction proceedings provided in section 2918 of the
7 revised judicature act of 1961, 1961 PA 236, MCL 600.2918, or with
8 respect to summary proceedings to recover possession as provided in
9 chapter 57 of the revised judicature act of 1961, 1961 PA 236, MCL
10 600.5701 to 600.5759.

11 (k) Releases a party from a duty to mitigate damages.

12 (l) Provides that a lessor may alter a provision of the rental
13 agreement after its commencement without the written consent of the
14 tenant, or, in the case of a rental agreement between a consumer
15 cooperative that provides housing and a member of the consumer
16 cooperative, without the approval of the board of directors of the
17 cooperative or other appropriate body elected by members who are
18 also tenants of the cooperative, except that an agreement may
19 provide for the following types of adjustments to be made ~~upon~~ **ON**
20 written notice of not less than 30 days:

21 (i) Changes required by federal, state, or local law or rule or
22 regulation.

23 (ii) Changes in rules relating to the property that are
24 required to protect the physical health, safety, or peaceful
25 enjoyment of tenants and guests.

26 (iii) Changes in the amount of rental payments to cover
27 additional costs in operating the rental premises incurred by the

1 lessor because of increases in ad valorem property taxes, charges
2 for the electricity, heating fuel, water, or sanitary sewer
3 services consumed at the property, or increases in premiums paid
4 for liability, fire, or worker compensation insurance.

5 (m) Violates the Michigan consumer protection act, 1976 PA
6 331, MCL 445.901 to 445.922.

7 (n) Requires the tenant to give the lessor a power of
8 attorney.

9 (2) A rental agreement shall not include a clause or provision
10 that, not less than 90 days before the execution of the rental
11 agreement, has been prohibited by statute or declared unenforceable
12 by a published decision of the supreme court of this state or the
13 United States supreme court relating to the law of this state.

14 (3) A provision or clause of a rental agreement that violates
15 this section is void.