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PROPERTY MANAGEMENT ASSOCIATION OF MICHIGAN:

Legislative Committee Report

February 28, 2006

I. RECENT DEVELOPMENTS & NEW LEGISLATION

- A. PMAM Members Converge on State Capitol.** PMAM members from West Michigan, Metro Detroit, and Washtenaw Area participated in PMAM's 5th Annual State Capitol Day. PMAM members met with numerous legislators, concentrating on House members, in support of the At-Risk Property Protection Act.
- B. LANDLORD SELF REPAIR. Update:** HB 4171 allowing for reimbursement for landlord self-repairs moved to the House floor in February 2006. . The H-3 version of the bill includes property managers thanks in part to our lobbying efforts.
- C. LEASE CANCELLATION - DOMESTIC VIOLENCE.** Sen. Garcia (R-Howell) changed course and introduced a bill (**SB 808**) allowing victims of domestic violence to terminate a lease unilaterally. However, he has committed to addressing the issues and concerns we presented prior to moving the bill. The bill is in the Senate Judiciary Committee. **Update:** Sen. Garcia has agreed to work with PMAM in adopting a Colorado-type approach to this legislation.
- D. NON-ATTORNEY REPRESENTATION.** Rep. Mortimer (R-Horton) introduced **HB 5625** to allow real estate agents to represent landlords in small claims court in security deposit disputes under certain circumstances. Referred to House Judiciary Committee.
- E. TAXATION –ENERGY EFFICIENCY CREDITS.** Rep. Kolb (D-Ann Arbor) introduced **HB 5741** to provide a tax credit for landlords who upgrade energy efficiency of residential rental property; provide for. Amends. Referred to House Tax Policy Committee.

II. 2006 PRIORITY LEGISLATION

- A. AT-RISK PROPERTY PROTECTION ACT.** HB 4473 remains on the second reading calendar in the House of Representatives. Verbal update to be provided at Legislative Committee meeting.
- B. LEASE CANCELLATION – MILITARY DUTY.** Rep. Frank Accavitti (D-Eastpointe) introduced a bill, **HB 5477**, which would allow a person called up to active National Guard or military reserve duty to cancel a lease on 30 days notice. Bill was referred to House Government Operations Committee in December 2005.
- B. LICENSURE OF LEASING PROFESSIONALS.** MHC’s efforts appear to have slowed for the time being. No bill introduction at this time.
- C. NON-ATTORNEY REPRESENTATION.** Rep. Sak (D-Grand Rapids) introduced a bill (**HB 4732**/Judiciary Committee) to allow a non-lawyer with personal knowledge of the facts in dispute to represent another party in certain landlord-tenant cases. Sen. Cropsey (R-DeWitt) has introduced a bill (**SB 815**) to allow property managers with direct knowledge of the facts in dispute to represent themselves in certain landlord-tenant matters when the amount in dispute is \$3000 or less. The bill is in the Senate Judiciary Committee which he chairs.
- D. SOURCE OF INCOME.** Sen. Toy (R-Livonia) introduced a bill (**SB 574**/Judiciary Committee) to include “source of income” in the state’s Elliot Larsen Civil Rights Act. Sen. Toy’s office says she has no intention of running the bill in the near future. However, this presents an opportunity to educate her on the issue and possibly to include language that would clarify that locals cannot require owners/managers to accept Section 8 vouchers. Rep. Chris Kolb (D-Ann Arbor) has re-introduced similar legislation in the House (**HB 4984**/Government Operations Committee). Rep. Kolb (D-Ann Arbor) has re-introduced an identical bill in the House (**HB 4984** referred to Government Operations Committee).

IV. OTHER LEGISLATION OF INTEREST

- A. AFFORDABLE HOUSING/INCLUSIONARY ZONING. HB 4180** (Hunter, D-Detroit). Referred to Commerce Committee. Bill would authorize locals to zone or enter into developer agreements for affordable housing.
- B. BLIGHT/CONDEMNATION.** Rep. Tobocman (D-Detroit) has introduced a bill (**HB 5202**, referred to House Local Government Committee) which would amend Michigan’s existing blight condemnation law.
- C. BUILDING CODES/LOCAL AMENDMENTS.** Sen. Hardiman (R-Kentwood) introduced a bill (**SB 490**/Local Urban and State Affairs) that would allow a local unit of government to adopt local changes to a fire

prevention or property maintenance code under the Single State Construction Code. It appears Senator Hardiman introduced this bill at the behest of the City of Grand Rapids.

- D. **BUILDING OFFICIALS/PENALTIES. SB 150** (Kuipers, R-Holland). Referred to Economic Development, Small Business and Regulatory Reform Committee. Bill would add new penalties and complaint investigation procedures for wrongdoing by building officials. A similar bill, **HB 4507**, sponsored by Rep. Rick Baxter (R-Jackson) introduced and referred to House Commerce Committee.
- E. **HOME INSPECTIONS/LICENSING. HB 4134** (Lemmons, D-Detroit). Referred to Regulatory Reform Committee. A reintroduction of a bill from last term that would include home inspectors in occupational licensure code.
- F. **LANDLORD-TENANT/TECHNICAL CHANGE.** The House passed a bill, HB 5030, sponsored by Rep. Steil (R-Cascade) which makes a purely technical change to a notice provision in the landlord-tenant act. The bill is currently in the Senate Local, Urban and State Affairs Committee.
- G. **LIABILITY/LEAD PAINT/MOLD. HB 4182** (Hunter, D-Detroit). Referred to Judiciary Committee. Would amend RJA to make a person who “knowingly” rents, leases, or sells real property with lead-based paint, toxic mold or asbestos without disclosure is liable for triple damages, costs, and attorneys fees in a civil suit.
- H. **ZONING/NON-CONFORMING USES.** Rep. Steve Tobocman (D-Detroit) has introduced a bill (**HB 5203** referred to House Local Government Committee) which would amend the city zoning act to make clear that a local ordinance can call for the termination of a non-conforming use after a period of amortization.
- I. **ZONING VIOLATION FINES.** Rep. Hune (R-Fowlerville) introduced a series of bills (**HBs 5294-96**) which would amend municipal zoning statutes to create a 30 day grace period to correct a zoning violation prior to liability for a fine. The bill would also limit such fines to the lesser of the following: i) \$500 for a criminal fine only; ii) \$250 for each day of violation; or iii) or 3% of SEV. **The bills passed out of committee and are currently on the House floor.**

HOUSE BILL No. 5625

February 1, 2006, Introduced by Rep. Mortimer and referred
to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled

"Revised judicature act of 1961,"

by amending section 8408 (MCL 600.8408), as amended by 1991
PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

**(2) A sole proprietorship, partnership, or corporation as
plaintiff or defendant may be represented by an officer or
employee
who has direct and personal knowledge of facts in dispute. If the**

officer or employee who has direct and personal knowledge of facts

in dispute is no longer employed by the defendant or plaintiff or is medically unavailable, the representation may be made by that person's supervisor, or by the sole proprietor, a partner, or an officer or a member of the board of directors of a corporation.

(3) A county, city, village, township, or local or intermediate school district as plaintiff or defendant may be represented only by an elected or appointed officer or an employee who has direct and personal knowledge of the facts in dispute. If the officer or employee who has direct and personal knowledge of the facts in dispute is no longer an officer or employee of the plaintiff or defendant, the representation may be made by that officer's successor or that employee's supervisor, or by a member of the governing body of the county, city, village, township, or local or intermediate school district. In addition, a person may not represent a county, city, village, township, or local or intermediate school district in the small claims division unless authorized to appear in the case by the governing body of the county, city, village, township, or local or intermediate school district.

(4) IN AN ACTION BROUGHT BY A LANDLORD TO RECOVER A MONEY

JUDGMENT OR A SECURITY DEPOSIT OR THE BALANCE OF A SECURITY DEPOSIT

UNDER SECTION 13 OF 1972 PA 348, MCL 554.613, THE
LANDLORD MAY BE

REPRESENTED BY A PERSON WHO MEETS ALL OF THE
FOLLOWING

REQUIREMENTS:

(A) IS LICENSED AS A REAL ESTATE BROKER, ASSOCIATE
REAL ESTATE

BROKER, OR REAL ESTATE SALESPERSON UNDER ARTICLE
25 OF THE

OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2501 TO 339.2518.

(B) ACTS AS THE LANDLORD'S AGENT PURSUANT TO A WRITTEN

AGREEMENT, OR IS EMPLOYED BY A CORPORATION, PARTNERSHIP, OR OTHER

LEGAL ENTITY THAT ACTS AS THE LANDLORD'S AGENT PURSUANT TO A

WRITTEN AGREEMENT, IN RENTING OR MANAGING THE RENTAL UNIT FOR WHICH

THE CONTESTED SECURITY DEPOSIT WAS REQUIRED.

(C) HAS DIRECT AND PERSONAL KNOWLEDGE OF THE FACTS IN DISPUTE.

(5) ~~(4)~~ **Before commencement of a trial, the plaintiff or defendant may, upon demand, require that the trial be conducted before a district court judge and not a magistrate, or may remove the case from the small claims division to the general civil division of the district court. If the parties commence a trial of the case in the small claims division, both parties waive all rights mentioned in section 8412.**

HOUSE BILL No. 5741

February 22, 2006, Introduced by Reps. Kolb, Tobocman,
Condino, Zelenko, Accavitti, Lipsey and Plakas and referred
to the Committee on Tax Policy.

A bill to amend 1967 PA 281, entitled

"Income tax act of 1967,"

(MCL 206.1 to 206.532) by adding section 272.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 272. (1) FOR TAX YEARS THAT BEGIN AFTER
DECEMBER 31,

2005, A TAXPAYER WHO OWNS RESIDENTIAL RENTAL
PROPERTY AND CONDUCTS

AN ELIGIBLE PROJECT FOR WHICH THE TAXPAYER HAS A
PREAPPROVAL LETTER

FROM THE DEPARTMENT ON THAT RESIDENTIAL RENTAL
PROPERTY MAY CLAIM A

CREDIT AGAINST THE TAX IMPOSED BY THIS ACT EQUAL
TO 35% OF THE COST

OF MATERIALS AND LABOR FOR THAT ELIGIBLE PROJECT
AS PROVIDED IN

THIS SECTION.

(2) A TAXPAYER SHALL APPLY TO THE DEPARTMENT
FOR APPROVAL OF

AN ELIGIBLE PROJECT UNDER THIS SECTION. IF THE
DEPARTMENT APPROVES

AN ELIGIBLE PROJECT UNDER THIS SECTION, THE
DEPARTMENT SHALL ISSUE

A PREAPPROVAL LETTER THAT STATES ALL OF THE FOLLOWING:

(A) THE ELIGIBLE PROJECT QUALIFIES FOR THE CREDIT UNDER THIS

SECTION.

(B) THE MAXIMUM TOTAL CREDIT THAT MAY BE CLAIMED FOR THE

ELIGIBLE PROJECT WHEN THE ELIGIBLE PROJECT IS COMPLETED.

(3) AN ELIGIBLE PROJECT SHALL BE APPROVED OR DENIED NOT MORE

THAN 45 DAYS AFTER RECEIPT OF THE APPLICATION. IF THE DEPARTMENT

DOES NOT APPROVE OR DENY AN APPLICATION WITHIN 45 DAYS AFTER THE

APPLICATION IS RECEIVED BY THE DEPARTMENT, THE APPLICATION IS

CONSIDERED APPROVED AS WRITTEN.

(4) IF AN ELIGIBLE PROJECT IS DENIED UNDER THIS SECTION, A

TAXPAYER IS NOT PROHIBITED FROM SUBSEQUENTLY APPLYING UNDER THIS

SECTION FOR THE SAME PROJECT OR FOR ANOTHER PROJECT.

(5) THE CREDIT UNDER THIS SECTION SHALL BE NOT CLAIMED UNTIL

THE TAX YEAR IN WHICH THE ELIGIBLE PROJECT IS COMPLETED. THE CREDIT

AMOUNT SHALL BE DIVIDED INTO 5 EQUAL AMOUNTS, AND 1/5 OF THE TOTAL

CREDIT AMOUNT SHALL BE CLAIMED IN EACH OF THE 5 CONSECUTIVE YEARS

BEGINNING WITH THE YEAR IN WHICH THE ELIGIBLE PROJECT IS COMPLETED.

(6) IN THE FIRST YEAR THAT A CREDIT UNDER THIS SECTION IS

CLAIMED, THE TAXPAYER SHALL ATTACH TO THE TAXPAYER'S ANNUAL RETURN

REQUIRED UNDER THIS ACT AN AFFIDAVIT ASSERTING THAT THE ELIGIBLE

PROJECT IS COMPLETE.

(7) AS USED IN THIS SECTION:

(A) "ELIGIBLE PROJECT" MEANS ANY OF THE FOLLOWING RELATED TO

RESIDENTIAL RENTAL PROPERTY OWNED BY THE TAXPAYER:

(i) INSULATION OF CEILINGS, WALLS, FLOORS, OR DUCTS.

(ii) AIR SEALING.

(iii) REPLACEMENT OR IMPROVEMENT OF HEATING EQUIPMENT OR OF THE

EFFICIENCY OF HEATING EQUIPMENT.

(iv) REPLACEMENT OR ADDITION OF STORM WINDOWS OR STORM DOORS.

(B) "RESIDENTIAL RENTAL PROPERTY" MEANS THAT PORTION OF REAL

PROPERTY NOT OCCUPIED BY AN OWNER OF THAT REAL PROPERTY THAT IS

CLASSIFIED AS RESIDENTIAL REAL PROPERTY UNDER SECTION 34C OF THE

GENERAL PROPERTY TAX ACT, 1893 PA 206, MCL 211.34C, IS A MULTIPLE-

UNIT DWELLING, OR IS A DWELLING UNIT IN A MULTIPLE PURPOSE

STRUCTURE, USED FOR RESIDENTIAL PURPOSES.

