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Comment:
The proposed amendment to MCR 4.201 (B) (3) (c) will have unintended consequences.
Most local governments have enacted ordinances requiring landlords to obtain and maintain rental certificates of compliance. These ordinances are largely ministerial so governments can track rental properties. The proposed language in this subsection mandating that Plaintiff plead that the property is in compliance with the laws will likely be used by courts to bar the entirety of Plaintiff's claims where a Plaintiff cannot so represent its compliance.
Further, this provisions mandates ("must allege") this representation. This leads to the inescapable conclusion that either the court rule is mandating a representation even if untrue, or that absent that representation the Plaintiff lacks standing to proceed on its case.
What happens if a landlord simply omitted the local ordinance obligation? What happens if a landlord's compliance was not renewed due to the fault of the tenant? What happens if a landlord cannot financially comply with the requirements necessary for compliance? Are they barred access to the courts because of the mere lack of a ministerial certificate from a local unit of government? Wouldn't this incentivize unscrupulous tenants into precluding the landlord's compliance?
Further, MCL 600.5741 already accounts for the potential for this lack of compliance without barring a plaintiff from access to the court. That statute directs the trier of fact to take into account any lack of compliance with state and local health and safety laws when it issues a redemptive amount. Including this requirement in the court rule itself is unnecessary and problematic.
I strongly encourage this addition to be deleted.