

LAWFUL RE-ENTRY BY LANDLORD IN CASES WHERE A TENANT DIES

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House Bill 4263

Sponsor: Rep. Margaret E. O'Brien

Committee: Judiciary

Complete to 10-2-12

A REVISED SUMMARY OF HOUSE BILL 4263 AS INTRODUCED 2-16-11

The bill amend the Revised Judicature Act (MCL 600.2918) to add to the circumstances when a landlord could lawfully re-enter and take possession of rental property to include when a tenant dies, provided certain conditions are met.

Under current law, a tenant whose possession of a rental unit has been unlawfully interfered with by the owner, lessor, licensor, or their agents (landlord) is entitled to recover the amount of his or her actual damages or \$200, whichever is greater, in addition to regaining possession of the premises. Actions by the landlord that constitute "unlawful interference" are contained in statute and include such things as removing or destroying the tenant's personal property; changing the locks on the doors; using force or threats of force; and introducing noise, odors, or other nuisances to drive out the tenant.

The above provision does not apply if the landlord regained entry under a court order; interfered temporarily with possession in order to make needed repairs or inspections, which are lawfully conducted; or believed in good faith that the tenant had abandoned the premises, and after diligent inquiry, had reason to believe the tenant did not intend to return and the current rent had not been paid.

House Bill 4263 would add another exception to those discussed above. The bill would specify that the provision described above would not apply where the owner, lessor, licensor, or their agents (landlord) can establish all of the following:

- The landlord knew or believed in good faith that the last surviving tenant had been deceased for at least 30 days.
- The landlord had not been notified in writing that the tenant's estate was being probated or provided with the name and address of a personal representative appointed by a probate court.
- Current rent on the premises has not been paid.
- At least seven days before reentry, the landlord placed a notice on the door of the premises indicating intent to reenter and take possession of the premises.

FISCAL IMPACT:

The bill would have an indeterminate fiscal impact on the judiciary. The bill reduces the number of potential actions that may be taken by tenants, and thus the courts may see some savings due to a reduction in their total civil caseload. The amount of actions previously taken that would now be exempted is not known.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.