

SUBSTITUTE FOR
HOUSE BILL NO. 4263

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2918 (MCL 600.2918).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2918. (1) Any person who is ejected or put out of any
2 lands or tenements in a forcible and unlawful manner, or being out
3 is afterwards held and kept out, by force, ~~if he prevails,~~ is
4 entitled to recover 3 times the amount of his **OR HER** actual damages
5 or \$200.00, whichever is greater, in addition to recovering
6 possession.
7 (2) Any tenant in possession of premises whose possessory
8 interest has been unlawfully interfered with by the owner ~~, lesser,~~
9 ~~licensor, or their agents shall be~~ **IS** entitled to recover the
10 amount of his **OR HER** actual damages or \$200.00, whichever is

greater, for each occurrence and, ~~where~~ **IF** possession has been lost, to recover possession. ~~Unlawful~~ **SUBJECT TO SUBSECTION (3), UNLAWFUL** interference with a possessory interest ~~shall include~~ **INCLUDES 1 OR MORE OF THE FOLLOWING:**

(a) ~~The use~~ **USE** of force or threat of force.

(b) ~~The removal,~~ **REMOVAL**, retention, or destruction of personal property of the possessor.

(c) ~~A change, alteration, or addition~~ **CHANGING, ALTERING, OR ADDING** to the locks or other security devices on the property without ~~forthwith~~ **IMMEDIATELY** providing keys or other unlocking devices to the person in possession.

(d) ~~The boarding~~ **BOARDING** of the premises ~~which~~ **THAT** prevents or deters entry.

(e) ~~The removal~~ **REMOVAL** of doors, windows, or locks.

(f) Causing, by action or omission, the termination or interruption of a service procured by the tenant or ~~which~~ **THAT** the landlord is under an existing duty to furnish, which service is so essential that its termination or interruption would constitute constructive eviction, including heat, running water, hot water, electric, or gas service.

(g) Introduction of noise, odor, or other nuisance.

(3) ~~The provisions of subsection (2) shall not apply where the owner, lessor, licensor, or their agents can establish that he~~ **AN OWNER'S ACTIONS DO NOT UNLAWFULLY INTERFERE WITH A POSSESSORY INTEREST IF ANY OF THE FOLLOWING APPLY:**

(a) ~~Acted~~ **THE OWNER ACTS** pursuant to court order. ~~or~~

(b) ~~Interfered~~ **THE OWNER INTERFERES** temporarily with

1 possession only as necessary to make needed repairs or inspection
2 and only as provided by law. ~~or~~

3 (c) ~~Believed~~ **THE OWNER BELIEVES** in good faith **THAT** the tenant
4 ~~had~~ **HAS** abandoned the premises, and after diligent inquiry ~~had~~ **HAS**
5 reason to believe the tenant does not intend to return, and current
6 rent is not paid.

7 (D) **ALL OF THE FOLLOWING REQUIREMENTS ARE MET:**

8 (i) **THE OWNER BELIEVES IN GOOD FAITH THAT THE TENANT HAS BEEN**
9 **DECEASED FOR AT LEAST 30 DAYS AND THAT THERE IS NOT A SURVIVING**
10 **TENANT.**

11 (ii) **THE OWNER INFORMED THE TENANT IN WRITING OF THE TENANT'S**
12 **OPTION TO PROVIDE CONTACT INFORMATION FOR AN AUTHORIZED PERSON THE**
13 **OWNER COULD CONTACT IN THE EVENT OF THE TENANT'S DEATH.**

14 (iii) **IF THE TENANT PROVIDED CONTACT INFORMATION AS PROVIDED IN**
15 **SUBPARAGRAPH (ii), AT LEAST 7 DAYS BEFORE THE OWNER REENTERS TO TAKE**
16 **POSSESSION OF THE PREMISES AND DISPOSE OF ITS CONTENTS, THE OWNER**
17 **MADE A REASONABLE ATTEMPT TO CONTACT THE AUTHORIZED PERSON USING**
18 **THE CONTACT INFORMATION PROVIDED AND TO REQUEST HIM OR HER TO OPEN**
19 **A PROBATE ESTATE FOR THE TENANT OR TO SERVE AS PERSONAL**
20 **REPRESENTATIVE IF THE OWNER OPENS A PROBATE ESTATE. THE OWNER IS**
21 **NOT RESPONSIBLE FOR INCORRECT CONTACT INFORMATION OR FOR THE**
22 **AUTHORIZED PERSON'S FAILURE TO RESPOND TO THE NOTIFICATION BEFORE**
23 **THE OWNER'S REENTRY INTO THE PREMISES.**

24 (iv) **AT LEAST 7 DAYS BEFORE THE OWNER REENTERS, THE OWNER**
25 **PLACED A NOTICE ON THE DOOR OF THE PREMISES INDICATING HIS OR HER**
26 **INTENT TO REENTER, TAKE POSSESSION OF THE PREMISES, AND DISPOSE OF**
27 **ITS CONTENTS.**

House Bill No. 4263 as amended December 13, 2012

1 (v) A PROBATE ESTATE HAS NOT BEEN OPENED FOR THE DECEASED
2 TENANT IN THE COUNTY IN WHICH THE PREMISES ARE LOCATED AND THE
3 OWNER HAS NOT BEEN NOTIFIED IN WRITING OF THE EXISTENCE OF A
4 PROBATE ESTATE OPENED IN ANOTHER COUNTY AND OF THE NAME AND ADDRESS
5 OF THE PERSONAL REPRESENTATIVE.

6 (vi) CURRENT RENT HAS NOT BEEN PAID.

7 (4) A person who has lost possession or whose possessory
8 interest has been unlawfully interfered with may, if that person
9 does not peacefully regain possession, bring an action for
10 possession pursuant to section ~~<<5714(1)(d)>>~~ **<<5714(1)(F)>>** ~~of this act~~
or bring a
11 claim for injunctive relief in the appropriate circuit court. A
12 claim for damages pursuant to this section may be joined with the
13 claims for possession and for injunctive relief or may be brought
14 in a separate action.

15 (5) The provisions of this section may not be waived.

16 (6) An action to regain possession of the premises under this
17 section shall be commenced within 90 days from the time the cause
18 of action arises or becomes known to the plaintiff. An action for
19 damages under this section shall be commenced within 1 year from
20 the time the cause of action arises. ~~or becomes known to the~~
21 ~~plaintiff.~~

22 (7) AS USED IN THIS SECTION, "OWNER" MEANS THE OWNER, LESSOR,
23 OR LICENSOR OR AN AGENT THEREOF.