

HOUSE BILL No. 4613

April 24, 2013, Introduced by Rep. O'Brien and referred to the Committee on Judiciary.

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

1 amount of his **OR HER** actual damages or \$200.00, whichever is
 2 greater, for each occurrence and, ~~where~~ **IF** possession has been
 3 lost, to recover possession. ~~Unlawful~~ **SUBJECT TO SUBSECTION (3),**
 4 **UNLAWFUL** interference with a possessory interest ~~shall include~~
 5 **INCLUDES 1 OR MORE OF THE FOLLOWING:**

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

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

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

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

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

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

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

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

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

1 (b) ~~Interfered~~ **THE OWNER INTERFERES** temporarily with
2 possession only as necessary to make needed repairs or inspection
3 and only as provided by law. ~~or~~

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

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

9 (i) **THE OWNER INFORMED THE TENANT IN WRITING OF THE TENANT'S**
10 **OPTION TO PROVIDE CONTACT INFORMATION FOR AN AUTHORIZED PERSON THE**
11 **OWNER COULD CONTACT IN THE EVENT OF THE TENANT'S DEATH. THE OWNER**
12 **IS NOT RESPONSIBLE FOR INCORRECT CONTACT INFORMATION PROVIDED BY**
13 **THE TENANT OR FOR THE TENANT'S FAILURE TO PROVIDE CONTACT**
14 **INFORMATION.**

15 (ii) **CURRENT RENT HAS NOT BEEN PAID.**

16 (iii) **THE OWNER BELIEVES IN GOOD FAITH THAT THE TENANT HAS BEEN**
17 **DECEASED FOR AT LEAST 18 DAYS AND THAT THERE IS NOT A SURVIVING**
18 **TENANT.**

19 (iv) **AFTER THE REQUIREMENTS OF SUBPARAGRAPH (iii) ARE MET AND NOT**
20 **LESS THAN 10 DAYS BEFORE THE OWNER REENTERS TO TAKE POSSESSION OF**
21 **THE PREMISES AND DISPOSE OF ITS CONTENTS, EACH OF THE FOLLOWING**
22 **OCCURS:**

23 (A) **IF THE TENANT PROVIDED CONTACT INFORMATION UNDER**
24 **SUBPARAGRAPH (i), THE OWNER MAKES A REASONABLE ATTEMPT TO CONTACT**
25 **THE AUTHORIZED PERSON USING THE CONTACT INFORMATION PROVIDED AND TO**
26 **REQUEST HIM OR HER TO OPEN A PROBATE ESTATE FOR THE TENANT WITHIN**
27 **28 DAYS AFTER THE TENANT'S DEATH. THE OWNER IS NOT RESPONSIBLE FOR**

1 THE AUTHORIZED PERSON'S FAILURE TO RESPOND TO THE NOTIFICATION
2 BEFORE THE OWNER'S REENTRY INTO THE PREMISES.

3 (B) THE OWNER PLACES ON THE DOOR OF THE PREMISES A NOTICE
4 INDICATING THE OWNER'S INTENT TO REENTER, TAKE POSSESSION OF THE
5 PREMISES, AND DISPOSE OF ITS CONTENTS AFTER 10 DAYS HAVE ELAPSED.

6 (C) THE OWNER NOTIFIES THE PUBLIC ADMINISTRATOR FOR THE COUNTY
7 WHERE THE PREMISES ARE LOCATED OR, IF NONE, THE STATE PUBLIC
8 ADMINISTRATOR THAT THE OWNER BELIEVES THAT THE TENANT IS DECEASED
9 AND INTENDS TO REENTER TO TAKE POSSESSION OF THE PREMISES AND
10 DISPOSE OF ITS CONTENTS IF A PROBATE ESTATE IS NOT OPENED. UPON
11 REQUEST BY THE PUBLIC ADMINISTRATOR BEFORE THE 10-DAY PERIOD UNDER
12 THIS SUBPARAGRAPH HAS ELAPSED AND PRESENTATION TO THE OWNER OF
13 PROPER CREDENTIALS AND IDENTIFICATION, THE OWNER SHALL GIVE THE
14 PUBLIC ADMINISTRATOR ACCESS TO THE PREMISES.

15 (v) A PROBATE ESTATE HAS NOT BEEN OPENED FOR THE DECEASED
16 TENANT BY THE PUBLIC ADMINISTRATOR, AUTHORIZED CONTACT PERSON, OR
17 ANY OTHER PERSON IN THE COUNTY IN WHICH THE PREMISES ARE LOCATED
18 AND THE OWNER HAS NOT BEEN NOTIFIED IN WRITING OF THE EXISTENCE OF
19 A PROBATE ESTATE OPENED IN ANOTHER COUNTY AND OF THE NAME AND
20 ADDRESS OF THE PERSONAL REPRESENTATIVE.

21 (4) THE OPENING OF A PROBATE ESTATE BY A PUBLIC ADMINISTRATOR
22 UNDER SUBSECTION (3) IS AT THE SOLE DISCRETION AND SHALL BE AT THE
23 SOLE EXPENSE OF THE PUBLIC ADMINISTRATOR.

24 (5) ~~(4)~~—A person who has lost possession or whose possessory
25 interest has been unlawfully interfered with may, if that person
26 does not peacefully regain possession, bring an action for
27 possession pursuant to section 5714(1)(d) ~~of this act~~ 5714(1)(F) or

1 bring a claim for injunctive relief in the appropriate circuit
2 court. A claim for damages pursuant to this section may be joined
3 with the claims for possession and for injunctive relief or may be
4 brought in a separate action.

5 (6) ~~(5)~~—The provisions of this section may not be waived.

6 (7) ~~(6)~~—An action to regain possession of the premises under
7 this section shall be commenced within 90 days from the time the
8 cause of action arises or becomes known to the plaintiff. An action
9 for damages under this section shall be commenced within 1 year
10 from the time the cause of action arises. ~~or becomes known to the~~
11 ~~plaintiff.~~

12 (8) AS USED IN THIS SECTION, "OWNER" MEANS THE OWNER, LESSOR,
13 OR LICENSOR OR AN AGENT THEREOF.