

HOUSE BILL No. 4673

June 2, 2015, Introduced by Reps. Garrett, Plawecki, Geiss, Neeley, Talabi, Chang, Santana, Love, Byrd, Gay-Dagnogo, Townsend, Hoadley, Banks, Liberati, Heise, Moss, Glenn, McBroom, Brunner and Kosowski and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 2918 and 5711 (MCL 600.2918 and 600.5711), as
amended by 2014 PA 223.

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, is entitled to recover 3
4 times the amount of his or her actual damages or \$200.00, whichever
5 is greater, in addition to recovering possession.

6 (2) Any tenant in possession of premises whose possessory
7 interest has been unlawfully interfered with by the owner is
8 entitled to recover the amount of his or her actual damages or
9 \$200.00, whichever is greater, for each occurrence and, if
10 possession has been lost, to recover possession. Subject to

1 subsection (3), unlawful interference with a possessory interest
2 includes 1 or more of the following:

3 (a) Use of force or threat of force.

4 (b) Removal, retention, or destruction of personal property of
5 the possessor.

6 (c) Changing, altering, or adding to the locks or other
7 security devices on the property without immediately providing keys
8 or other unlocking devices to the person in possession.

9 (d) Boarding of the premises that prevents or deters entry.

10 (e) Removal of doors, windows, or locks.

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

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

18 (3) An owner's actions do not unlawfully interfere with a
19 possessory interest if any of the following apply:

20 (a) The owner acts pursuant to court order.

21 (b) The owner interferes temporarily with possession only as
22 necessary to make needed repairs or inspection and only as provided
23 by law.

24 (c) The owner believes in good faith that the tenant has
25 abandoned the premises, and after diligent inquiry has reason to
26 believe the tenant does not intend to return, and current rent is
27 not paid.

1 (d) All of the following requirements are met:

2 (i) The owner informed the tenant in writing of the tenant's
3 option to provide contact information for an authorized person the
4 owner could contact in the event of the tenant's death. The owner
5 is not responsible for incorrect contact information provided by
6 the tenant or for the tenant's failure to provide contact
7 information.

8 (ii) Current rent has not been paid.

9 (iii) The owner believes in good faith that the tenant has been
10 deceased for at least 18 days and that there is not a surviving
11 tenant.

12 (iv) After the requirements of subparagraph (iii) are met and not
13 less than 10 days before the owner reenters to take possession of
14 the premises and dispose of its contents, each of the following
15 occurs:

16 (A) If the tenant provided contact information under
17 subparagraph (i), the owner makes a reasonable attempt to contact
18 the authorized person using the contact information provided and to
19 request him or her to open a probate estate for the tenant ~~within~~
20 **BY THE LATER OF 28 days after the tenant's death OR 10 DAYS AFTER**
21 **THE ATTEMPT TO CONTACT, IF A REASONABLE ATTEMPT RESULTS IN CONTACT**
22 **WITH THE AUTHORIZED PERSON.** The owner is not responsible for the
23 authorized person's failure to respond to the notification before
24 the owner's reentry into the premises.

25 (B) The owner places on the door of the premises a notice
26 indicating the owner's intent to reenter, take possession of the
27 premises, and dispose of its contents after 10 days have elapsed.

1 (C) The owner notifies the public administrator for the county
2 where the premises are located or, if none, the state public
3 administrator that the owner believes that the tenant is deceased
4 and intends to reenter to take possession of the premises and
5 dispose of its contents if a probate estate is not opened. Upon
6 request by the public administrator before the 10-day period under
7 this subparagraph has elapsed and presentation to the owner of
8 proper credentials and identification, the owner shall give the
9 public administrator access to the premises.

10 (v) A probate estate has not been opened for the deceased
11 tenant by the public administrator, authorized contact person, or
12 any other person in the county in which the premises are located
13 and the owner has not been notified in writing of the existence of
14 a probate estate opened in another county and of the name and
15 address of the personal representative.

16 (4) The opening of a probate estate by a public administrator
17 under subsection (3) is at the sole discretion and shall be at the
18 sole expense of the public administrator.

19 (5) An owner's actions do not unlawfully interfere with an
20 occupant's possession of premises if the ~~occupant took possession~~
21 ~~by means of a forcible entry, holds possession by force, or came~~
22 ~~into possession by trespass without color of title or other~~
23 ~~possessory interest.~~ **REQUIREMENTS OF SECTION 5711(3) ARE MET.**

24 (6) 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)(f) or bring a claim for

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

5 (7) The provisions of this section ~~may not~~ **CANNOT** be waived.

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

11 (9) As used in this section, "owner" means the owner, lessor,
12 or licensor or an agent thereof.

13 Sec. 5711. (1) A person shall not make any entry into or upon
14 premises unless the entry is permitted by law.

15 (2) Subject to subsection (3), if entry is permitted by law,
16 the person shall not enter with force but only in a peaceable
17 manner.

18 (3) If the occupant took possession of the premises by means
19 of a forcible entry, holds possession of the premises by force, or
20 came into possession of the premises by trespass without color of
21 title or other possessory interest, the owner, lessor, or licensor
22 or an agent thereof may enter the premises and subsection (2) does
23 not apply to the entry. However, any ~~forcible entry shall not~~ **ENTRY**
24 **UNDER THESE CIRCUMSTANCES, FORCIBLE OR OTHERWISE, SHALL MEET ALL OF**
25 **THE FOLLOWING REQUIREMENTS:**

26 (A) **BE MADE IN THE PRESENCE OF A LAW ENFORCEMENT OFFICER WHO**
27 **HAS BEEN PROVIDED WITH PROOF THAT THE PERSON ENTERING THE PREMISES**

1 IS THE OWNER, LESSOR, OR LICENSOR OR AN AGENT THEREOF.

2 (B) NOT include conduct proscribed by chapter XI of the
3 Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90h.

4 (C) AS USED IN THIS SECTION, "LAW ENFORCEMENT OFFICER" MEANS
5 ANY OF THE FOLLOWING:

6 (i) A SHERIFF OR DEPUTY SHERIFF.

7 (ii) AN OFFICER OF THE POLICE DEPARTMENT OF A CITY, VILLAGE, OR
8 TOWNSHIP, OR THE MARSHAL OF A CITY, VILLAGE, OR TOWNSHIP.

9 (iii) AN OFFICER OF THE MICHIGAN STATE POLICE.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.