

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

***** 600.2918.amended THIS AMENDED SECTION IS EFFECTIVE SEPTEMBER 24, 2014 *****

600.2918.amended Damages for forcible entry and detainer; damages for unlawful interference with possessory interest; exceptions; opening of probate estate; forcible entry or possession by occupant; action for possession; claim for injunctive relief; joinder; waiver; commencement of action; limitations; "owner" defined.

Sec. 2918. (1) Any person who is ejected or put out of any lands or tenements in a forcible and unlawful manner, or being out is afterwards held and kept out, by force, is entitled to recover 3 times the amount of his or her actual damages or \$200.00, whichever is greater, in addition to recovering possession.

(2) Any tenant in possession of premises whose possessory interest has been unlawfully interfered with by the owner is entitled to recover the amount of his or her actual damages or \$200.00, whichever is greater, for each occurrence and, if possession has been lost, to recover possession. Subject to subsection (3), unlawful interference with a possessory interest includes 1 or more of the following:

- (a) Use of force or threat of force.
- (b) Removal, retention, or destruction of personal property of the possessor.
- (c) Changing, altering, or adding to the locks or other security devices on the property without immediately providing keys or other unlocking devices to the person in possession.
- (d) Boarding of the premises that prevents or deters entry.
- (e) Removal of doors, windows, or locks.
- (f) Causing, by action or omission, the termination or interruption of a service procured by the tenant or 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) An owner's actions do not unlawfully interfere with a possessory interest if any of the following apply:

- (a) The owner acts pursuant to court order.
- (b) The owner interferes temporarily with possession only as necessary to make needed repairs or inspection and only as provided by law.
- (c) The owner believes in good faith that the tenant has abandoned the premises, and after diligent inquiry has reason to believe the tenant does not intend to return, and current rent is not paid.
- (d) All of the following requirements are met:
 - (i) The owner informed the tenant in writing of the tenant's option to provide contact information for an authorized person the owner could contact in the event of the tenant's death. The owner is not responsible for incorrect contact information provided by the tenant or for the tenant's failure to provide contact information.
 - (ii) Current rent has not been paid.
 - (iii) The owner believes in good faith that the tenant has been deceased for at least 18 days and that there is not a surviving tenant.

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

(A) If the tenant provided contact information under subparagraph (i), the owner makes a reasonable attempt to contact the authorized person using the contact information provided and to request him or her to open a probate estate for the tenant within 28 days after the tenant's death. The owner is not responsible for the authorized person's failure to respond to the notification before the owner's reentry into the premises.

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

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

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

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

(5) An owner's actions do not unlawfully interfere with an occupant's possession of premises if the occupant took possession by means of a forcible entry, holds possession by force, or came into possession by trespass without color of title or other possessory interest.

(6) A person who has lost possession or whose possessory interest has been unlawfully interfered with may, if that person does not peacefully regain possession, bring an action for possession pursuant to section 5714(1)(f) or bring a claim for injunctive relief in the appropriate circuit court. A claim for damages pursuant to this section may be joined with the claims for possession and for injunctive relief or may be brought in a separate action.

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

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

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

History: 1961, Act 236, Eff. Jan. 1, 1963;—Am. 1976, Act 300, Eff. Mar. 1, 1977;—Am. 2013, Act 127, Imd. Eff. Oct. 9, 2013;—Am. 2014, Act 223, Eff. Sept. 24, 2014.