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BILL



ANALYSIS

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House Bill 4263 (Substitute H-2 as passed by the House)
Sponsor: Representative Margaret E. O'Brien
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 12-4-12

CONTENT

The bill would amend the Revised Judicature Act (RJA) to do the following:

- Provide that the actions of an owner of premises would not unlawfully interfere with a tenant's possessory interest if the owner believed that the tenant had been dead for at least 30 days and there was no surviving tenant, and specified conditions were met.**
- Require all actions for damages for unlawful interference with a possessory interest to be brought within one year after the cause of action arose.**

Death of a Tenant

Under the Act, if the owner of premises has unlawfully interfered with the possessory interest of any tenant in possession of the premises, the tenant is entitled to recover the amount of actual damages or \$200, whichever is greater, for each occurrence. If possession has been lost, the tenant is entitled to recover possession. The Act specifies conditions that constitute unlawful interference with a possessory interest, including use or threat of force; removal, retention, or destruction of property; and changing, altering, or adding locks without immediately providing keys.

The entitlement to recover damages and/or recover possession does not apply if an owner can establish that he or she acted pursuant to a court order; interfered temporarily with possession only as necessary to make needed repairs or inspections and only as provided by law; or believed in good faith that the tenant had abandoned the premises and did not intend to return, and the current rent was not paid.

Under the bill, an owner's actions also would not unlawfully interfere with a possessory interest if the owner believed in good faith that the tenant had been deceased for at least 30 days and that there was not a surviving tenant, and all of the following conditions were met:

- The owner informed the tenant in writing of the option to provide contact information for an authorized person the owner could contact in the event of the tenant's death.
- At least seven days before the owner took possession of the premises and disposed of its contents, he or she made a reasonable attempt to contact the authorized person and request him or her to open a probate estate for the tenant or to serve as personal representative if the owner opened a probate estate.

- At least seven days before the owner re-entered the premises, he or she placed a notice on the door indicating his or her intent to re-enter, take possession of the premises, and dispose of its contents.
- A probate estate had not been opened for the deceased tenant in the county in which the premises were located and the owner had 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.
- Current rent had not been paid.

An owner would not be responsible for incorrect contact information or for an authorized person's failure to respond to the notifications before the owner's re-entry into the premises.

Statute of Limitations

Under the Act, an action to regain possession of the premises must be commenced within 90 days from the time the cause of action arises or becomes known to the plaintiff. An action for damages must be commenced within one year from the time the cause of action arises or becomes known to the plaintiff. The bill would delete "or becomes known to the plaintiff" in that provision for the commencement of an action for damages.

MCL 600.2918

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would establish that a rental property owner had not unlawfully interfered with a tenant's possessory interest if he or she met certain requirements. Also, in some cases, the bill would shorten the time period within which a tenant may bring an action for damages against his or her rental property owner. Both of these changes would likely result in a reduction in civil caseload for local courts.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.