

**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2012**

Introduced by Reps. O'Brien, Opsommer, Zorn and Kowall

# **ENROLLED HOUSE BILL No. 4263**

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of the courts, and of the judges and other officers of the courts; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in the courts; pleading, evidence, practice, and procedure in civil and criminal actions and proceedings in the courts; to provide for the powers and duties of certain state governmental officers and entities; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 2918 (MCL 600.2918).

*The People of the State of Michigan enact:*

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 believes in good faith that the tenant has been deceased for at least 30 days and that there is not a surviving tenant.

(ii) 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.

(iii) If the tenant provided contact information as provided in subparagraph (ii), at least 7 days before the owner reenters to take possession of the premises and dispose of its contents, the owner made 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 or to serve as personal representative if the owner opens a probate estate. The owner is not responsible for incorrect contact information or for the authorized person's failure to respond to the notification before the owner's reentry into the premises.

(iv) At least 7 days before the owner reenters, the owner placed a notice on the door of the premises indicating his or her intent to reenter, take possession of the premises, and dispose of its contents.

(v) A probate estate has not been opened for the deceased tenant 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.

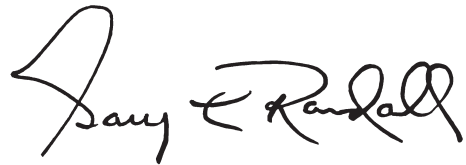
(vi) Current rent has not been paid.

(4) 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.

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

(6) 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.

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



Clerk of the House of Representatives



Secretary of the Senate

Approved .....

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Governor