

HOUSE BILL No. 4263

February 16, 2011, Introduced by Reps. O'Brien, Opsommer, Zorn and Kowall 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 **OR SHE** prevails,
4 is entitled to recover 3 times the amount of his **OR HER** actual
5 damages 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, lessor,
9 licensor, or their agents shall be entitled to recover the amount
10 of his **OR HER** actual damages or \$200.00, whichever is greater, for

1 each occurrence and, where possession has been lost, to recover
2 possession. Unlawful interference with a possessory interest shall
3 include **1 OR MORE OF THE FOLLOWING:**

4 (a) The use of force or threat of force.

5 (b) The removal, retention, or destruction of personal
6 property of the possessor.

7 (c) A change, alteration, or addition to the locks or other
8 security devices on the property without ~~forthwith~~ **IMMEDIATELY**
9 providing keys or other unlocking devices to the person in
10 possession.

11 (d) The boarding of the premises which prevents or deters
12 entry.

13 (e) The removal of doors, windows, or locks.

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

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

21 ~~(3) The provisions of subsection~~ **SUBSECTION (2)** ~~shall~~ **DOES** not
22 apply where the owner, lessor, licensor, or their agents can
23 establish that he **OR SHE DID 1 OR MORE OF THE FOLLOWING:**

24 (a) Acted pursuant to court order. ~~or~~

25 (b) Interfered temporarily with possession only as necessary
26 to make needed repairs or inspection and only as provided by law.

27 ~~or~~

1 (c) Believed in good faith **THAT** the tenant had abandoned the
2 premises, and after diligent inquiry had reason to believe the
3 tenant does not intend to return, and current rent is not paid.

4 (4) SUBSECTION (2) DOES NOT APPLY WHERE THE OWNER, LESSOR,
5 LICENSOR, OR THEIR AGENTS CAN ESTABLISH ALL OF THE FOLLOWING:

6 (A) HE OR SHE KNEW OR BELIEVED IN GOOD FAITH THAT THE LAST
7 SURVIVING TENANT HAD BEEN DECEASED FOR AT LEAST 30 DAYS.

8 (B) HE OR SHE HAD NOT BEEN NOTIFIED IN WRITING OF THE
9 EXISTENCE OF A PROBATE ESTATE OR THE NAME AND ADDRESS OF A PERSONAL
10 REPRESENTATIVE APPOINTED BY A PROBATE COURT.

11 (C) CURRENT RENT ON THE PREMISES HAS NOT BEEN PAID.

12 (D) AT LEAST 7 DAYS BEFORE REENTRY, HE OR SHE HAS PLACED A
13 NOTICE ON THE DOOR OF THE PREMISES INDICATING HIS OR HER INTENT TO
14 REENTER AND TAKE POSSESSION OF THE PREMISES.

15 (5) ~~(4)~~—A person who has lost possession or whose possessory
16 interest has been unlawfully interfered with may, if that person
17 does not peacefully regain possession, bring an action for
18 possession pursuant to section 5714(1)(d) of this act or bring a
19 claim for injunctive relief in the appropriate circuit court. A
20 claim for damages pursuant to this section may be joined with the
21 claims for possession and for injunctive relief or may be brought
22 in a separate action.

23 (6) ~~(5)~~—The provisions of this section may not be waived.

24 (7) ~~(6)~~—An action to regain possession of the premises under
25 this section shall be commenced within 90 days from the time the
26 cause of action arises or becomes known to the plaintiff. An action
27 for damages under this section shall be commenced within 1 year

1 from the time the cause of action arises. ~~or becomes known to the~~
2 ~~plaintiff.~~