

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5069**

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 2918, 5711, and 5714 (MCL 600.2918, 600.5711,
and 600.5714), section 2918 as amended by 2013 PA 127 and section
5714 as amended by 2012 PA 139.

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

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

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

7 (b) Removal, retention, or destruction of personal property of
8 the possessor.

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

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

13 (e) 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 that 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) An owner's actions do not unlawfully interfere with a
22 possessory interest if any of the following apply:

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

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

27 (c) The owner believes in good faith that the tenant has

1 abandoned the premises, and after diligent inquiry has reason to
2 believe the tenant does not intend to return, and current rent is
3 not paid.

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

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

11 (ii) Current rent has not been paid.

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

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

19 (A) If the tenant provided contact information under
20 subparagraph (i), the owner makes a reasonable attempt to contact
21 the authorized person using the contact information provided and to
22 request him or her to open a probate estate for the tenant within
23 28 days after the tenant's death. The owner is not responsible for
24 the authorized person's failure to respond to the notification
25 before the owner's reentry into the premises.

26 (B) The owner places on the door of the premises a notice
27 indicating the owner's intent to reenter, take possession of the

1 premises, and dispose of its contents after 10 days have elapsed.

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

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

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

20 **(5) AN OWNER'S ACTIONS DO NOT UNLAWFULLY INTERFERE WITH AN**
21 **OCCUPANT'S POSSESSION OF PREMISES IF THE OCCUPANT TOOK POSSESSION**
22 **BY MEANS OF A FORCIBLE ENTRY, HOLDS POSSESSION BY FORCE, OR CAME**
23 **INTO POSSESSION BY TRESPASS WITHOUT COLOR OF TITLE OR OTHER**
24 **POSSESSORY INTEREST.**

25 (6) ~~(5)~~—A person who has lost possession or whose possessory
26 interest has been unlawfully interfered with may, if that person
27 does not peacefully regain possession, bring an action for

1 possession pursuant to section 5714(1)(f) or bring a claim for
 2 injunctive relief in the appropriate circuit court. A claim for
 3 damages pursuant to this section may be joined with the claims for
 4 possession and for injunctive relief or may be brought in a
 5 separate action.

6 (7) ~~(6)~~—The provisions of this section may not be waived.

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

12 (9) ~~(8)~~—As used in this section, "owner" means the owner,
 13 lessor, or licensor or an agent thereof.

14 Sec. 5711. (1) A person ~~may~~**SHALL** not make any entry into or
 15 upon premises unless the entry is permitted by law. ~~¶~~

16 (2) **SUBJECT TO SUBSECTION (3), IF** entry is permitted by law,
 17 ~~he~~**THE PERSON** shall not enter with force but only in a peaceable
 18 manner.

19 (3) **IF THE OCCUPANT TOOK POSSESSION OF THE PREMISES BY MEANS**
 20 **OF A FORCIBLE ENTRY, HOLDS POSSESSION OF THE PREMISES BY FORCE, OR**
 21 **CAME INTO POSSESSION OF THE PREMISES BY TRESPASS WITHOUT COLOR OF**
 22 **TITLE OR OTHER POSSESSORY INTEREST, THE OWNER, LESSOR, OR LICENSOR**
 23 **OR AN AGENT THEREOF MAY ENTER THE PREMISES AND SUBSECTION (2) DOES**
 24 **NOT APPLY TO THE ENTRY. HOWEVER, ANY FORCIBLE ENTRY SHALL NOT**
 25 **INCLUDE CONDUCT PROSCRIBED BY CHAPTER XI OF THE MICHIGAN PENAL**
 26 **CODE, 1931 PA 328, MCL 750.81 TO 750.90H.**

27 Sec. 5714. (1) A person entitled to **POSSESSION OF** premises may

1 recover possession ~~of the premises~~ by summary proceedings in the
2 following circumstances:

3 (a) When a person holds over premises after failing or
4 refusing to pay rent due under the lease or agreement by which the
5 person holds the premises within 7 days from the service of a
6 written demand for possession for nonpayment of the rent due. For
7 the purpose of this subdivision, rent due does not include any
8 accelerated indebtedness ~~by reason~~ **BECAUSE** of a breach of the lease
9 under which the premises are held.

10 (b) When a person holds over premises for 24 hours following
11 service of a written demand for possession for termination of the
12 lease pursuant to a clause in the lease providing for termination
13 because a tenant, a member of the tenant's household, or other
14 person under the tenant's control has unlawfully manufactured,
15 delivered, possessed with intent to deliver, or possessed a
16 controlled substance on the leased premises. This subdivision
17 applies only if a formal police report has been filed alleging that
18 the person has unlawfully manufactured, delivered, possessed with
19 intent to deliver, or possessed a controlled substance on the
20 leased premises. For purposes of this subdivision, "controlled
21 substance" means a substance or a counterfeit substance classified
22 in schedule 1, 2, or 3 pursuant to sections 7211 to 7216 of the
23 public health code, 1978 PA 368, MCL 333.7211 to 333.7216.

24 (c) When a person holds over premises in 1 or more of the
25 following circumstances:

26 (i) After termination of the lease, pursuant to a power to
27 terminate provided in the lease or implied by law.

1 (ii) After the term for which the premises are demised to the
2 person or to the person under whom he or she holds.

3 (iii) After the termination of the person's estate by a notice
4 to quit as provided by section 34 of 1846 RS 66, MCL 554.134.

5 (d) When the person in possession willfully or negligently
6 causes a serious and continuing health hazard to exist on the
7 premises, or causes extensive and continuing physical injury to the
8 premises, which was discovered or should reasonably have been
9 discovered by the party seeking possession not earlier than 90 days
10 before the institution of proceedings under this chapter and when
11 the person in possession neglects or refuses for 7 days after
12 service of a demand for possession of the premises to deliver up
13 possession of the premises or to substantially restore or repair
14 the premises.

15 (e) When a person holds over premises for 7 days following
16 service of a written notice to quit for termination of the lease
17 after the tenant, a member of the tenant's household, or a person
18 under the tenant's control, on real property owned or operated by
19 the tenant's landlord, has caused or threatened physical injury to
20 an individual. This subdivision applies only if the police
21 department with jurisdiction has been notified that the person, on
22 real property owned or operated by the tenant's landlord, caused or
23 threatened physical injury to an individual. This subdivision does
24 not apply in either of the following cases:

25 (i) The individual who was physically injured or threatened is
26 the tenant or a member of the tenant's household.

27 (ii) Application would result in a violation of federal housing

1 regulations.

2 (f) When a person takes possession of premises by means of a
3 forcible entry, holds possession of premises by force after a
4 peaceable entry, or comes into possession of premises by trespass
5 without color of title or other possessory interest. **THIS REMEDY IS**
6 **IN ADDITION TO THE REMEDY OF ENTRY PERMITTED UNDER SECTION 5711(3).**

7 (g) When a person continues in possession of premises sold by
8 virtue of a mortgage or execution, after the time limited by law
9 for redemption of the premises.

10 (h) When a person continues in possession of premises sold and
11 conveyed by a personal representative under license from the
12 probate court or under authority in the will.

13 (2) A tenant or occupant of housing operated by a city,
14 village, township, or other unit of local government, as provided
15 in 1933 (Ex Sess) PA 18, MCL 125.651 to 125.709c, is not considered
16 to be holding over under subsection (1)(b) or (c) unless the
17 tenancy or agreement has been terminated for just cause, as
18 provided by lawful rules of the local housing commission or by law.

19 (3) A tenant of a mobile home park is not considered to be
20 holding over under subsection (1)(b) or (c) unless the tenancy or
21 lease agreement is terminated for just cause pursuant to chapter
22 57a.

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