

**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
8 entitled to recover the amount of his or her actual damages or
9 \$200.00, whichever is greater, for each occurrence and, if
10 possession has been lost, to recover possession. Subject to

1 subsection (3), unlawful interference with a possessory interest
2 includes 1 or more of the following:

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

4 (b) Removal, retention, or destruction of personal property of
5 the possessor.

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

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

10 (e) Removal of doors, windows, or locks.

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

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

18 (3) An owner's actions do not unlawfully interfere with a ~~THE~~
19 possessory interest **OF A TENANT** if any of the following apply:

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

21 (b) The owner interferes temporarily with possession only as
22 necessary to make needed repairs or inspection and only as provided
23 by law.

24 (c) The owner believes in good faith that the tenant has
25 abandoned the premises, and after diligent inquiry has reason to
26 believe the tenant does not intend to return, and current rent is
27 not paid.

1 (D) THE TENANT TOOK POSSESSION OF THE PREMISES BY MEANS OF A
2 FORCIBLE ENTRY, HOLDS POSSESSION OF THE PREMISES BY FORCE AFTER A
3 PEACEABLE ENTRY, OR CAME INTO POSSESSION OF THE PREMISES BY
4 TRESPASS WITHOUT COLOR OF TITLE OR OTHER POSSESSORY INTEREST.

5 (E) ~~(d)~~—All of the following requirements are met:

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

12 (ii) Current rent has not been paid.

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

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

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

27 (B) The owner places on the door of the premises a notice

1 indicating the owner's intent to reenter, take possession of the
2 premises, and dispose of its contents after 10 days have elapsed.

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

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

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

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

1 separate action.

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

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

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

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

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

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

23 Sec. 5714. (1) A person entitled to **POSSESSION OF** premises may
24 recover possession ~~of the premises~~ by summary proceedings in the
25 following circumstances:

26 (a) When a person holds over premises after failing or
27 refusing to pay rent due under the lease or agreement by which the

1 person holds the premises within 7 days from the service of a
2 written demand for possession for nonpayment of the rent due. For
3 the purpose of this subdivision, rent due does not include any
4 accelerated indebtedness ~~by reason~~ **BECAUSE** of a breach of the lease
5 under which the premises are held.

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

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

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

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

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

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

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

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

23 (ii) Application would result in a violation of federal housing
24 regulations.

25 (f) When a person takes possession of premises by means of a
26 forcible entry, holds possession of premises by force after a
27 peaceable entry, or comes into possession of premises by trespass

1 without color of title or other possessory interest. **THIS REMEDY IS**
2 **IN ADDITION TO THE REMEDY OF ENTRY PERMITTED UNDER SECTION 5711(3).**

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

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

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

15 (3) A tenant of a mobile home park is not considered to be
16 holding over under subsection (1)(b) or (c) unless the tenancy or
17 lease agreement is terminated for just cause pursuant to chapter
18 57a.