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House Bill 4038 (Substitute H-2 as passed by the House)  
Sponsor: Representative Anthony G. Forlini  
House Committee: Judiciary  
Senate Committee: Judiciary

Date Completed: 3-23-15

### **CONTENT**

**The bill would amend Chapter 57 (Summary Proceedings to Recover Possession of Premises) of the Revised Judicature Act to do the following:**

- Allow a demand for payment or possession of property to be served electronically, if the person in possession of the property had specifically consented to electronic service.**
- Prohibit a landlord from refusing to lease property because the prospective tenant declined to consent to electronic service.**

The bill would take effect 90 days after its enactment.

Chapter 57 establishes expedited procedures in district or municipal court for the recovery of real property. Section 5716 requires a demand for possession or payment to be in writing, addressed to the person in possession of the property. The reason for the demand and the time to take remedial action must be stated clearly. When nonpayment of rent or other sums due under the lease is claimed, the amount due at the time of the demand must be stated. The demand must be dated and signed by the person entitled to possession or his or her attorney or agent.

The demand provided for in Section 5716 may be served by personal delivery to the person in possession of the property; by personal delivery on the premises to a member of the family or household or an employee of suitable age and discretion, with a request that it be delivered to the person in possession; or by first-class mail addressed to the person in possession.

The bill also would allow the demand to be served by electronic service, if the person in possession had in writing specifically consented to electronic service of the demand and if the consent or confirmation of that consent had been sent by one party and affirmatively replied to, by electronic transmission, by the other party.

The electronic service address used by a party in this process would have to be considered to remain that party's correct, functioning electronic service address unless the process was repeated using a different electronic service address for that party or the party notified the other in writing that the party no longer had an electronic service address.

A landlord could not refuse to enter a lease because the prospective tenant declined to consent to electronic service.

The bill would define "electronic service" as service of a document on a person by either electronic transmission or electronic notification.

"Electronic transmission" would mean the transmission of a document by electronic means to the electronic service address at or through which a person has authorized electronic service. "Electronic notification" would mean the notification to a person that a document is served by sending an electronic message to the electronic service address at or through which the person has authorized electronic service, specifying the exact name of the document served or providing a hyperlink at which the served document can be viewed and downloaded, or both.

"Electronic service address" of a person would mean the electronic address at or through which the person has authorized electronic service.

MCL 600.5718

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: John Maxwell

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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.