

# Legislative Analysis



## UNLAWFUL INTERFERENCE BY OWNER

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**Senate Bill 112 (S-3) as reported from House committee**

**Sponsor: Sen. Peter J. Lucido**

**House Committee: Judiciary**

**Senate Committee: Judiciary and Public Safety**

**Complete to 5-21-19**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 41 of 2019)*

### SUMMARY:

Senate Bill 112 would amend the Revised Judicature Act (RJA) to exempt from constituting unlawful interference by an owner under landlord/tenant law certain actions to regain the premises taken by a sheriff, a sheriff's deputy, or certain court officers in circumstances in which rent is due and it appears that a tenant has abandoned the property.

Among other things, the RJA establishes the rights and liabilities of landlords and tenants regarding possession of the leased premises.

Currently, a tenant whose possession of a rental unit has been unlawfully interfered with by the owner, lessor, licensor, or their agent ("landlord") is entitled to recover the greater of the amount of his or her actual damages or \$200, in addition to regaining possession of the premises if he or she had been locked out or evicted. Actions by a landlord that constitute "unlawful interference" are contained in statute and include such things as removing or destroying the tenant's personal property; changing the locks on the doors; using force or threats of force; and introducing noise, odors, or other nuisances to drive the tenant out.

However, it is not unlawful interference if, for example, the landlord regained entry under a court order; interfered with possession temporarily and as provided by law to make needed repairs or inspections; or believed in good faith that the tenant had abandoned the premises and, after diligent inquiry, had reason to believe that the tenant did not intend to return, and the current rent had not been paid.

Under the bill, it also would not be unlawful interference if *a court officer appointed by, or a bailiff of, the court that issued the court order or the sheriff or a deputy sheriff of the county where the court is located* believed in good faith that the tenant had abandoned the premises and, after diligent inquiry, had reason to believe that the tenant did not intend to return, and the current rent had not been paid.

[Note: The bill uses the phrase "the court that issued the court order" in the provision described above without offering a description of or reference to any court order related to this specific provision. (The provisions of subsection (3)(a), which mentions a court order, are independent of those of subsection (3)(c).)]

MCL 600.2918

**BRIEF DISCUSSION:**

Some tenants leave a rented space without warning. If there has been no communication with the landlord, the landlord may not be certain if the rental unit has indeed been abandoned or if the tenant will return. This is especially true if the tenant has left personal property behind. Current law allows a landlord to regain possession of the rental property if the landlord believes the tenant has abandoned the premises, but only if the landlord first makes a diligent inquiry into whether or not the tenant intends to return and if the current rent is unpaid. However, before removing the tenant's personal property, some landlords would like to have an extra verification process that the tenant is likely to have abandoned the property. Senate Bill 112 would create a second layer of verification by enabling a landlord to have a court officer verify that the property was abandoned.

**FISCAL IMPACT:**

Senate Bill 112 would have no fiscal impact on the state or on local units of government.

**POSITIONS:**

The City of Jackson indicated support for the bill. (5-14-19)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.