

SENATE BILL NO. 112

February 13, 2019, Introduced by Senator LUCIDO and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2918 (MCL 600.2918), as amended by 2014 PA 223.

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

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

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

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

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

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

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

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

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

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

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

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

28 (c) ~~The owner believes in good faith~~ **A court officer, bailiff,**
29 **or deputy sheriff determines** that the tenant has abandoned the

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

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

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

10 (ii) Current rent has not been paid.

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

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

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

25 (B) The owner places on the door of the premises a notice
26 indicating the owner's intent to reenter, take possession of the
27 premises, and dispose of its contents after 10 days have elapsed.

28 (C) The owner notifies the public administrator for the county
29 where the premises are located or, if none, the state public

1 administrator that the owner believes that the tenant is deceased
2 and intends to reenter to take possession of the premises and
3 dispose of its contents if a probate estate is not opened. ~~Upon~~**On**
4 request by the public administrator before the 10-day period under
5 this subparagraph has elapsed and presentation to the owner of
6 proper credentials and identification, the owner shall give the
7 public administrator access to the premises.

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

14 (4) The opening of a probate estate by a public administrator
15 under subsection (3) is at the sole discretion and ~~shall~~**must** be at
16 the sole expense of the public administrator.

17 (5) An owner's actions do not unlawfully interfere with an
18 occupant's possession of premises if the occupant took possession
19 by means of a forcible entry, holds possession by force, or came
20 into possession by trespass without color of title or other
21 possessory interest.

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

1 (7) The provisions of this section may not be waived.

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

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