

HOUSE BILL NO. 5765

May 30, 2024, Introduced by Reps. Hope, Wilson, Weiss, Price, O'Neal, Morgan, Tsernoglou and Brenda Carter and referred to the Committee on Economic Development and Small Business.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 2918 (MCL 600.2918), as amended by 2019 PA 41.

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,~~
5 **\$2,000.00, or \$200.00 per day for ongoing conduct described in this**
6 **subsection, whichever is greater, and may be entitled to recover**

1 **exemplary damages as provided in subsection (7)**, in addition to
2 recovering possession.

3 (2) Any tenant in possession of premises whose possessory
4 interest has been unlawfully interfered with by the owner is
5 entitled to recover the amount of his or her actual damages, ~~or~~
6 **\$200.00, \$2,000.00, or \$200.00 per day for ongoing conduct**
7 **described in this subsection**, whichever is greater, for each
8 occurrence, **may be entitled to recover exemplary damages as**
9 **provided in subsection (7)**, and, if possession has been lost, **is**
10 **entitled** to recover possession. Subject to subsection (3), unlawful
11 interference with a possessory interest includes, **but is not**
12 **limited to**, 1 or more of the following:

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

14 (b) Removal, retention, or destruction of personal property of
15 the possessor.

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

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

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

21 (f) Causing, by action or omission, the termination or
22 interruption of a service procured by the tenant or that the
23 landlord is under an existing duty to furnish, which service is so
24 essential that its termination or interruption would constitute
25 constructive eviction, including heat, running water, hot water,
26 electric, or gas service.

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

28 **(h) A violation of section 5714(1).**

29 (3) An owner's actions do not unlawfully interfere with a

1 possessory interest if any of the following apply:

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

3 (b) The owner interferes temporarily with possession only as
4 necessary to make needed repairs or inspection and only as provided
5 by law.

6 (c) The owner, or a court officer appointed by or a bailiff of
7 the court that issued the court order or the sheriff or a deputy
8 sheriff of the county in which the court is located, believes in
9 good faith that the tenant has abandoned the premises, and after
10 diligent inquiry has reason to believe the tenant does not intend
11 to return, and current rent is not paid.

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

13 (i) The owner informed the tenant in writing of the tenant's
14 option to provide contact information for an authorized person the
15 owner could contact in the event of the tenant's death. The owner
16 is not responsible for incorrect contact information provided by
17 the tenant or for the tenant's failure to provide contact
18 information.

19 (ii) Current rent has not been paid.

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

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

27 (A) If the tenant provided contact information under
28 subparagraph (i), the owner makes a reasonable attempt to contact
29 the authorized person using the contact information provided and to

1 request ~~him or her~~ **the authorized person** to open a probate estate
2 for the tenant within 28 days after the tenant's death. The owner
3 is not responsible for the authorized person's failure to respond
4 to the notification before the owner's reentry into the premises.

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

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

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

23 (4) The opening of a probate estate by a public administrator
24 under subsection (3) is at the sole discretion and must be at the
25 sole expense of the public administrator.

26 (5) An owner's actions do not unlawfully interfere with an
27 occupant's possession of premises if the occupant took possession
28 by means of a forcible entry, holds possession by force, or came
29 into possession by trespass without color of title or other

1 possessory interest.

2 (6) A person who has lost possession or whose possessory
3 interest has been unlawfully interfered with may, if that person
4 does not peacefully regain possession, bring an action for
5 possession under section ~~5714(1)(f)~~**5714(2)(f)** or bring a claim for
6 injunctive relief in the appropriate circuit court. A claim for
7 damages under this section may be joined with the claims for
8 possession and for injunctive relief or may be brought in a
9 separate action.

10 (7) In an action for damages under subsection (1) or (2), the
11 judge or jury may also award the person ejected or put out or whose
12 possessory interest was unlawfully interfered with exemplary
13 damages for any of the following reasons:

14 (a) The conduct of the defendant was in violation of a court
15 order.

16 (b) The defendant caused or allowed the ejection or putting
17 out or the unlawful interference with possessory interest to
18 persist for more than 24 hours.

19 (c) The defendant engaged in a repeated pattern of conduct
20 described in subsection (1) or (2).

21 (d) Any other aggravating factors that the judge or jury
22 determines make the award of exemplary damages appropriate.

23 (8) If a judge or jury awards exemplary damages under
24 subsection (7) and if the judge or jury determines that the conduct
25 of the defendant was egregious, the judge or jury may additionally
26 impose a civil fine equal to 10% of the amount of exemplary damages
27 awarded. A civil fine imposed under this subsection must be
28 deposited in the Michigan housing and community development fund
29 created under section 58a of the state housing development

1 **authority act of 1966, 1966 PA 346, MCL 125.1458a.**

2 (9) ~~(7)~~—The provisions of this section may not be waived.

3 (10) ~~(8)~~—An action to regain possession of the premises under
4 this section must be commenced within 90 days after the time the
5 cause of action arises or becomes known to the plaintiff. An action
6 for damages under this section must be commenced within 1 year
7 after the time the cause of action arises.

8 (11) ~~(9)~~—As used in this section, "owner" means the owner,
9 lessor, or licensor or an agent of the owner, lessor, or licensor.

10 Enacting section 1. This amendatory act does not take effect
11 unless Senate Bill No. _____ or House Bill No. 5756 (request no.
12 04085'23) of the 102nd Legislature is enacted into law.