Testimony of I. Matthew Miller,
Legislative Committee Chair of the Property Management Association of Michigan
House Judiciary Committee
May 2, 2013

RE: HB 4613

I appear before this Committee in support of the passage of HB 4613. The Property Management Association of Michigan (PMAM), for which I serve as chair of the legislative committee, was the driving force behind the introduction of this bill and it is our hope that it will pass this year. A similar version of this bill passed this chamber overwhelmingly last session.

The purpose of HB 4613 is to allow landlords a mechanism to recover possession of their premises within a reasonable time after a tenant dies and to allow the removal and disposal of unclaimed property within the premises. The bill was inspired by a law in Florida enacted in 2007.

Currently, if a tenant dies and there is no co-tenant, only a probate court-appointed personal representative would have the authority to enter the apartment, to collect the personal belongings, and to receive service of a landlord-tenant lawsuit. Very frequently, there is no probate estate opened by the heirs of the deceased tenant, either because there are no heirs or no heirs care enough about the deceased tenant or his property to open the estate. Further, if there is an estate to be opened, the heirs do not share the landlord's urgency in doing so to empty the apartment to ready it for lease to another tenant. In the meanwhile, the estate becomes the obligated party for the rent, and, if there is to be no estate, the landlord is simply without recourse to collect the rent accrued during this time.

If the heirs do not open an estate, the landlord then bears the burden and expense of opening an estate as a creditor and having a public administrator appointed by the probate court to receive service of the landlord-tenant case, which upon its conclusion, would authorize the landlord to remove the premises' contents by the court officer. This is an expensive and time-consuming burden for the landlord. Not only does the landlord incur the costs of opening the estate, paying the public administrator's fee (which is usually a minimum of $500.00), and the fees related to the subsequent landlord-tenant case, but the landlord loses the revenue from the apartment until it can get possession. This Bill requires the State to open an estate at its option and its expense, if it believes there are assets worth protecting. This was a compromise entered into after the Governor pocket-vetoed the predecessor to this bill last December.

If the county public administrator does not open an estate, this Bill allows a landlord to remove the items within the leased premises without having to open an estate when all of the following exist: the landlord must know or believe in good faith that the tenant has been dead for at least 18 days, the landlord must not have been notified of the existence of a probate estate for the deceased tenant or there is no such estate opened in the county where the premises are located, the current rent is not paid, the public administrator did not open an estate, the landlord attempted to contact next of kin of the decedent, and the landlord posted a notice on the door of the premises ten days prior to entry that the landlord intends to repossess the premises. Only if all of these conditions exist may the landlord enter the premises and remove the items within it.

The PMAM considers this an important improvement in the law, which clarifies the obligations of a landlord in dealing with the issues which arise out of the unfortunate passing of a tenant. It is our hope the committee will approve this bill.