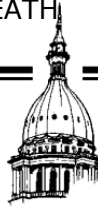




Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4613 (as passed by the House)
Sponsor: Representative Margaret E. O'Brien
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 6-10-13

CONTENT

The bill would amend the Revised Judicature Act (RJA) to do the following:

- **Provide that the actions of an owner of premises would not unlawfully interfere with a tenant's possessory interest if the owner believed that the tenant had been dead for at least 18 days and there was no surviving tenant, and specified conditions were met.**
- **Require all actions for damages for unlawful interference with a possessory interest to be brought within one year after the cause of action arose.**

Death of a Tenant

Under the Act, if the owner of premises has unlawfully interfered with the possessory interest of any tenant in possession of the premises, the tenant is entitled to recover the amount of actual damages or \$200, whichever is greater, for each occurrence. If possession has been lost, the tenant is entitled to recover possession. The Act specifies conditions that constitute unlawful interference with a possessory interest, including use or threat of force; removal, retention, or destruction of property; and changing, altering, or adding locks without immediately providing keys.

The entitlement to recover damages and/or recover possession does not apply if an owner can establish that he or she acted pursuant to a court order; interfered temporarily with possession only as necessary to make needed repairs or inspections and only as provided by law; or believed in good faith that the tenant had abandoned the premises and did not intend to return, and the current rent was not paid.

Under the bill, an owner's actions also would not unlawfully interfere with a possessory interest if the owner believed in good faith that the tenant had been deceased for at least 18 days and that there was not a surviving tenant, and all of the following conditions were met:

- Current rent had not been paid.
- The owner informed the tenant in writing of the option to provide contact information for an authorized person the owner could contact in the event of the tenant's death.
- A probate estate had not been opened, by a public administrator or anyone else, for the deceased tenant in the county in which the premises were located and the owner had

not been notified in writing of the existence of a probate estate opened in another county and of the name and address of the personal representative.

In addition, after the owner believed in good faith that the tenant had been dead for at least 18 days and that there was no surviving tenant, and at least 10 days before the owner re-entered to take possession of the premises and dispose of its contents, the actions described below would have to occur.

If the tenant had provided contact information, the owner would have to make a reasonable attempt to contact the authorized person using that information and to request him or her to open a probate estate for the tenant within 28 days after the tenant's death. The owner would not be responsible for the authorized person's failure to respond to the notification before the owner's re-entry into the premises. The owner also would have to place on the door of the premises a notice indicating his or her intent to re-enter, take possession of the premises, and dispose of its contents after 10 days had elapsed. The owner would have to notify the public administrator for the county where the premises were located or, if none, the State public administrator that the owner believed the tenant to be deceased and that the owner intended to re-enter to take possession of the premises and dispose of its contents if a probate estate were not opened. Upon request by the public administrator before the 10-day period elapsed, and presentation to the owner of proper credentials and identification, the owner would have to give the public administrator access to the premises.

(Public Act 194 of 1947 requires the Governor, upon the recommendation of the Attorney General, to appoint one of the Assistant Attorneys General to act and hold office as the State public administrator. The State public administrator may appoint a county public administrator in any county. Public administrators have all the powers of a fiduciary, and have the same obligations and liabilities, in administering estates.)

An owner would not be responsible for incorrect contact information provided by the tenant or for the tenant's failure to provide contact information.

Statute of Limitations

Under the RJA, an action to regain possession of the premises must be commenced within 90 days from the time the cause of action arises or becomes known to the plaintiff. An action for damages must be commenced within one year from the time the cause of action arises or becomes known to the plaintiff. The bill would delete "or becomes known to the plaintiff" in the provision for an action for damages.

MCL 600.2918

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would likely result in a reduction in civil caseload for local courts. If a caseload reduction were sustained in the long run, then savings could be achieved through a corresponding reduction in judicial resources.

Fiscal Analyst: Dan O'Connor

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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.