

Resources

Proposed Changes to Michigan Landlord-Tenant Law Would Allow Landlords to Serve Eviction Notices Via E-Mail

May 14, 2015

On May 12, 2015, the Michigan Senate passed House Bill 4038 (“HB 4038”). If enacted, HB 4038 will significantly broaden a landlord’s ability to serve a delinquent tenant with a Demand for Possession (“Demand”). Under Michigan law, service of the Demand on the tenant is the first step in commencing eviction proceedings. A defective Demand can (and often does) result in an eviction lawsuit being rejected or dismissed by the court.

In its current form, HB 4038 adds language to Section 5718 of Michigan’s Summary Proceedings Act (MCL 600.5701 et. seq.), which will allow landlords to serve a tenant with a Demand via “electronic service.” In order to employ this new method of service, landlords will first have to obtain the tenant’s consent, in writing, to electronic service. This procedural prerequisite to utilizing electronic service can and should be addressed with potential tenants by landlords in their lease negotiation at the outset of a new tenancy, when possible. However, HB 4038 also provides that a landlord “shall not refuse to enter into a lease because the prospective tenant declines to consent to electronic service...”. Thus, a landlord can (and should) request, but cannot require, that a potential tenant agree to accept electronic service of Demands.

As stated above, this proposed change to Michigan’s landlord-tenant law would provide landlords with an additional (and more efficient) means of serving a Demand; however, this new method of service also would add another wrinkle to what is already a very nuanced and sometimes complicated procedural process. Confirming that the Demand is correct in form, content and method of service is critical to the success of a landlord’s eviction lawsuit.

Dykema will continue to monitor these issues and provide further updates if and when HB 4038 is signed into law. If you have questions about the matters raised in this alert, you may contact Michael Vogt at 248- 203-0739 or your regular Dykema contact.

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Real Estate

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