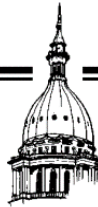




Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5069 (Substitute H-1 as passed by the House)
Sponsor: Representative Kurt Heise
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 12-16-13

CONTENT

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

- **Provide that a property owner's actions would not unlawfully interfere with a tenant's possessory interest if the tenant took possession or held possession of the premises by force or came into possession of the premises by trespass.**
- **Allow a property owner to enter premises by force if the occupant took possession or held possession of the premises by force or came into possession of the premises by trespass.**

Exception to Unlawful Interference

Under the Act, if a property owner had unlawfully interfered with the possessory interest of a tenant in possession of the premises, the tenant is entitled to recover damages 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.

An owner's actions do not lawfully interfere with a tenant's possessory interest under certain circumstances, including situations in which the owner acts pursuant to court order or believes in good faith that the tenant abandoned the premises and, after diligent inquiry, has reason to believe the tenant does not intend to return and current rent is not paid.

Under the bill, an owner's actions also would not lawfully interfere with a tenant's possessory interest if the tenant took possession of the premises by means of a forcible entry, held possession by force after a peaceable entry, or came into possession of the premises by trespass without color of title or other possessory interest.

Exception to Peaceable Entry Requirement

Under the Act, if entry into or upon premises is permitted by law, a person may enter only in a peaceable manner and not with force.

Under the bill, if the occupant took possession of the premises by means of a forcible entry, held possession of the premises by force after a peaceable entry, or came into possession of the premises by trespass without color of title or other possessory interest, the owner,

lessor, or licensor or the owner's, lessor's, or licensor's agent, could enter the premises and the peaceable entry requirement would not apply.

A person who is entitled to possession of premises may recover possession by summary proceedings in certain circumstances, including when a person takes possession of premises by means of a forcible entry, holds possession by force after a peaceable entry, or comes into possession by trespass without color of title or other possessory interest. The bill specifies that this remedy would be in addition to the remedy of entry permitted under the bill (without application of the peaceable entry requirement).

MCL 600.2918 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

There could be a marginal decrease in caseload if an owner, lessor, licensor, or agent could retake possession of premises from an unauthorized occupant, including by force or not in a peaceable manner, and the issue were subsequently resolved without a summary proceeding in the local court system, or if an unauthorized tenant could not recover damages for unlawful interference with a possessory interest. This potential small reduction in caseload would be unlikely to allow for a 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.