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BILL ANALYSIS

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Senate Bill 64 (Substitute S-3 as reported)  
Senate Bill 65 (Substitute S-1 as reported)  
Sponsor: Senator Rick Jones (S.B. 64)  
Senator Tonya Schuitmaker (S.B. 65)  
Committee: Judiciary

Date Completed: 8-9-11

### **RATIONALE**

Chapter 57 of the Revised Judicature Act establishes expedited procedures in district or municipal court for the recovery of real property. Also called the summary proceedings act, Chapter 57 applies to landlord-tenant cases and actions for the forfeiture of land contracts. (Summary proceedings also are governed by Michigan Rules of Court 4.201 and 4.202.) Under Chapter 57, a person entitled to premises may recover possession by summary proceedings under various circumstances, including when a person refuses to move out after failing to pay rent, after a lease terminates, or following a written demand for termination because of the unlawful manufacture, delivery, or possession of a controlled substance. Some landlords and rental property managers have reported an increase in recent years of incidents in which tenants commit or threaten violence against property managers or other tenants, and it has been suggested that summary proceedings to recover possession of premises also should be available in these situations.

In addition, the provision allowing summary proceedings in the case of a tenant's illegal drug activity applies only if the landlord has filed a formal police report. Evidently, however, the situation often is brought to a landlord's or property manager's attention by the police, after a different tenant or someone else files a police report. Some people believe that this provision should apply if anyone files a police report.

### **CONTENT**

**Senate Bills 64 (S-3) and 65 (S-1) would amend different statutes to do both of the following:**

- **Allow a property owner to recover possession of premises by summary proceedings if a person held the premises for seven days following service of a notice to quit after the tenant or another specified person caused or threatened physical injury.**
- **Allow anyone, rather than just a landlord, to file a formal police report in order for the landlord to recover possession of premises within 24 hours after service of a notice to quit due to the manufacture, delivery, or possession of a controlled substance on the premises.**

The bills are tie-barred.

### **Senate Bill 64 (S-3)**

Under Chapter 57 of the Revised Judicature Act (RJA), a person entitled to premises may recover possession of the premises by summary proceedings under certain circumstances. Under the bill, these would include situations in which a person held over the premises for seven days following service of a written demand for possession for termination of the lease (commonly called a notice to quit) after the tenant, a member of the tenant's household, or a person under the tenant's control, on real property owned or operated by the tenant's

landlord, caused or threatened physical injury to an individual. This provision would not apply, however, in either of the following cases:

- The individual who was physically injured or threatened was the tenant or a member of the tenant's household.
- Application would result in a violation of Federal housing regulations.

In addition, the RJA allows a person entitled to premises to recover possession by summary proceedings when a person holds over premises for 24 hours following service of a notice to quit pursuant to a clause providing for termination because a tenant, a member of the tenant's household, or another person under the tenant's control has unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. That provision applies only if the landlord files a formal police report alleging the controlled substance activity. Under the bill, it would apply if anyone filed such a police report.

### **Senate Bill 65 (S-1)**

Under Chapter 66 of the Revised Statutes of 1846 (which contains various provisions concerning real estate), if a tenant holds over after a lease is terminated pursuant to a clause in the lease providing for termination because the tenant, a member of the tenant's household, or another person under the tenant's control manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises, the landlord may terminate the tenancy by giving the tenant a written 24-hour notice to quit. That provision applies only if the landlord files a formal police report alleging the controlled substance activity. Under the bill, it would apply if anyone filed such a police report.

MCL 600.5714 (S.B. 64)  
554.134 (S.B. 65)

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

According to a landlord and a rental property manager who testified before the Senate Judiciary Committee, violence and threats of violence against property managers have become increasingly problematic in recent years. An owner of two small rental properties told of experience with violence aimed at him and other tenants, often relating to drug activity or domestic violence. He claimed that these incidents commonly result in damage to his property, and that he is usually stuck with the bill for repairs. A property manager who works for a national management firm and is responsible for more than 3,000 units in the metropolitan Detroit area told of increasing threats of violence against her and her staff. In one instance, reportedly, a tenant upset about a legitimate charge on his account demanded a credit against his rent in the same amount and intimidated staff by revealing a concealed firearm. In another case, according to the testimony, one of the manager's employees was continually harassed by a tenant who repeatedly came to her office, followed her whenever she left the office, and verbally threatened her. The employee eventually resigned her position because of the harassment and the fear it caused. In addition, written testimony offered to the Committee described three other confrontations between tenants, or between managers and tenants, that escalated to violence or threats of violence. These generally involved deteriorating relationships or management's attempt to enforce rules.

If tenants were subject to summary proceedings because they caused or threatened physical injury, incidents like the ones described above could be dealt with expeditiously for the safety of all involved. The possibility of a quick eviction also could deter tenants from resorting to violence or threats.

**Response:** There is no compelling reason to expand the summary proceedings provisions as proposed by Senate Bill 64 (S-3). While anecdotal reports of threats of violence were presented to the Senate committee, no actual data showing evidence of a problem were submitted. Also, the proposal is overbroad and vague, with no definition or guidelines as to what would constitute causing or threatening physical injury, or even a requirement that the tenant intended to cause injury. Moreover,

evidence of threats would likely be subjective. Unlike in cases of property damage or nonpayment of rent, where documentation can back up a claim, under the bill a landlord could seek a summary proceedings judgment merely by suggesting that a tenant caused some injury or leveled a threat, without having objective evidence of the alleged action.

### **Supporting Argument**

Landlords often hear about a tenant's alleged drug activity from the police, rather than the other way around, after a fellow tenant or someone else files a police report. Under the substitute bills, therefore, a formal police report could be filed by anyone, rather than only the landlord, in a case of summary proceedings involving illegal drug activity on the leased premises. Although the original version of the bills would have eliminated the requirement for a police report, some felt that such a change could allow unscrupulous landlords or property managers to force out law-abiding tenants, perhaps to seek higher rent from others or open a residential unit for a friend or relative. Retaining the requirement for a police report, but allowing it to be filed by anyone, would ensure that summary proceedings were used only when there were legitimate allegations of drug activity.

### **Opposing Argument**

Senate Bill 64 (S-3) could deter tenants from raising legitimate concerns and complaints with their landlord or property manager out of a fear that their comments or actions could be misconstrued as threats and lead to their eviction.

Also, innocent occupants of rental property, including children, could be summarily evicted under both bills because summary proceedings could occur if any member of the tenant's household or a "person under the tenant's control" (an undefined term) engaged in the proscribed activity.

**Response:** In regard to illegal drug activity on leased premises, the reference to a person under the tenant's control is in current law.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

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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.