



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 64 and 65 (as enacted)
Sponsor: Senator Rick Jones (S.B. 64)
Senator Tonya Schuitmaker (S.B. 65)
Senate Committee: Judiciary
House Committee: Judiciary

PUBLIC ACTS 139 & 140 of 2012

Date Completed: 8-26-13

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. It was suggested that summary proceedings also should be available in situations involving tenants who commit or threaten violence against property managers or other tenants. According to some landlords and property managers, these incidents had increased in recent years.

In addition, the provision allowing summary proceedings in the case of a tenant's illegal drug activity had applied only if the landlord 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. It was suggested that this provision should apply if anyone files a police report.

CONTENT**Senate Bills 64 and 65 amended different statutes to do the following:**

- **Allow a property owner to recover possession of premises by summary proceedings if a person remains on the premises for seven days following service of a notice to quit after the tenant or another specified person has caused or threatened physical injury and police have been notified.**
- **Allow a 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 if anyone, rather than just the landlord, files a police report.**

The bills took effect on May 22, 2012, and were tie-barred.

Senate Bill 64

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 include situations in which a person holds over the premises for seven days following service of a written notice to quit for termination of the lease 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, has

caused or threatened physical injury to an individual.

This provision applies only if the police department with jurisdiction has been notified that the person caused or threatened physical injury to an individual, on real property owned or operated by the landlord. The provision does not apply, however, in either of the following cases:

- The individual who was physically injured or threatened is 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. Previously, that provision applied only if the landlord filed a formal police report alleging the controlled substance activity. Under the bill, it applies if anyone files such a police report.

Senate Bill 65

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. Previously, that provision applied only if the landlord filed a formal police report alleging the controlled substance activity. Under the bill, it applies if anyone files 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 had 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 resulted in damage to his property, and that he was usually stuck with the bill for repairs. A property manager who worked for a national management firm and was 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 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.

By subjecting tenants to summary proceedings because they cause or threaten physical injury, Senate Bill 64 will allow incidents like the ones described above to be dealt with expeditiously for the safety of all involved. The possibility of a quick eviction also may deter tenants from resorting to violence or threats.

Response: 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 bill is overbroad and vague, with no definition or guidelines as to what constitutes causing or threatening physical injury, or even a requirement that the tenant intends to cause injury. Moreover, evidence of threats will likely be subjective. In cases of property damage or nonpayment of rent, documentation can back up a claim.

Under the bill, however, a landlord might 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 bills, therefore, if a formal police report is filed by anyone, rather than only the landlord, in a case involving illegal drug activity on leased premises, the landlord may pursue recovery through summary proceedings. Although the original version of the bills would have eliminated the requirement for a police report, retaining the requirement will ensure that summary proceedings are used only when there are legitimate allegations of drug activity.

Opposing Argument

Senate Bill 64 might 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, may be summarily evicted under both bills because summary proceedings can occur if any member of the tenant's household or a "person under the tenant's control" (an undefined term) engages in the proscribed activity.

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

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

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.