

Legislative Analysis



LANDLORD-TENANT ACT: BEDBUG INFESTATIONS

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House Bill 5199 (proposed Substitute H-3)

House Bill 5425 (Proposed Substitute H-1)

Sponsor: Rep. Andy Schor

House Bill 5200

Sponsor: Rep. Mike Callton, D.C.

House Bill 5201

Sponsor: Rep. George T. Darany

First Committee: Judiciary

Second Committee: Health Policy

Complete to 5-5-14

A SUMMARY OF HOUSE BILLS 5201-5202 AS INTRODUCED 12-12-13 AND HOUSE BILLS 5199 AND 5425 WITH PROPOSED SUBSTITUTES

As a package, the bills would amend various acts to deal with the issue of bedbug infestations in residential rental units.

- House Bill 5199 would specify the duties and responsibilities of landlords and tenants regarding bedbug infestations and provide for civil remedies.
- House Bill 5200 would add "infestation" to the type of event triggering an "order to correct" by the DCH or local public health department, and would define the term to include a broad range of pests.
- House Bill 5201 would require the DCH to develop a model policy to educate local governments and local health departments about bedbug prevention, management, and control.
- House Bill 5425 would specify that the district court would have jurisdiction over bedbug claims under House Bill 5199, unless the Court of Claims had jurisdiction.

Tie-bars. House Bill 5199 is tie-barred to the other bills in the package. House Bills 5200 and 5201 are tie-barred to each other and to House Bill 5199. House Bill 5425 is tie-barred only to House Bill 5199. A tie-bar means that a bill cannot take effect unless the bill/bills to which it is tie-barred is/are also enacted into law.

House Bill 5199

The bill would amend the Landlord-Tenant Act (MCL 554.601 et al.) to prescribe the duties of a landlord or a tenant when bedbugs may be present in a rental unit. "Bedbug" would mean an insect of the species *Cimex lectularius*. "Bedbug infestation" or

"infestation" would mean the presence of live bedbugs or bed bug eggs, unless the eggs were not viable.

Landlord duties. The definition of "landlord" currently in the act would be revised to mean the owner, lessor, or sublessor of the rental unit or the property of which it is a part, or a person authorized to exercise any aspect of the management of the premises. This would include a person who, directly or indirectly, acts as a rental agent or receives rent, other than as a bona fide purchaser, and who has no obligation to deliver the receipts to another person.

[The act currently defines a "rental unit" to mean a structure or part of a structure used as a home, residence, or sleeping unit by a single person or household unit, or any grounds, or other facilities or area promised for the use of a residential tenant and includes, but without limitation, apartment units, boarding houses, rooming houses, mobile home spaces, and single and 2-family dwellings.]

Duties of a landlord under the bill are described below:

- Conduct, or arrange for a pest management professional to conduct, an inspection of the rental unit for bedbugs within five business days of receiving a notice via certified mail or email from a tenant that a unit may have a bedbug infestation. "Pest management professional" would mean a commercial applicator licensed under the Natural Resources and Environmental Protection Act.
- If the tenant notified the landlord of the infestation by any other means, require the landlord to promptly notify the tenant that only a notification by certified mail or email would trigger an inspection.
- If the inspection reveals a bedbug infestation, require the landlord to, within seven business days, inspect any adjoining rental units for bedbugs and perform necessary control measures (or arrange for a pest management professional to do either or both). The control measures would have to be done by a pest management professional unless the landlord has the equipment, supplies, and expertise necessary to achieve equivalent results.

"Control measures" means scheduling or arranging for treatment and/or performing treatment. "Treatment" means measures to eradicate bedbugs, including but not limited to, chemical, pesticide, temperature, or trapping methods.

- If the inspection or control measures described above are performed by a pest management professional, provide reasonable assistance with the inspection or control measures as directed by the pest management professional.
- Not offer for rent a rental unit that the landlord knows or suspects is infested.

- Disclose to a current or prospective tenant upon request whether the rental unit (and any adjoining units) has been inspected for an infestation within the past 18 months and if so, the date of the latest inspection; and whether an infestation was found during that inspection and if so, if the infestation were treated.
- Offer reasonable assistance to a tenant who is not able to perform preparation measures as directed under the bill. If the landlord proposes to charge for the assistance, the landlord must disclose an estimate of the amount to be charged and disclose that the tenant may instead arrange to obtain the assistance from an unaffiliated third party.

"Preparation measure" means, but is not limited to, (1) providing access to the unit for inspections for bedbugs and treatment; (2) disposing of an item after rendering it unusable if the item is infested and a pest management professional determines it is uncertain whether treatment will be successful; (3) proper disposal of waste; (4) cleaning, vacuuming, moving furniture, and otherwise preparing the interior of the rental unit for an inspection or treatment; and (5) using a clothes dryer to eradicate by heat bedbugs in clothing or other textiles as directed by a pest management professional.

Tenant responsibilities. The landlord would have to be promptly notified of a known or suspected infestation of bedbugs in the rental unit (by certified mail or email). With at least 24 hours' notice and with the reasons for the request included, the tenant would have to grant access to the landlord, landlord's agent, or the landlord's pest management professional (or its employees) to the unit for an inspection or treatment. The landlord or pest management professional/employees would be authorized to have such access to the unit and the tenant's personal property as determined reasonable considering industry standard practices. Upon receiving the notice, the tenant would have to perform preparation measures as directed by the landlord or pest management professional. If the tenant arranges for a third party to assist with the preparation, the tenant must inform the landlord of the date on which that party will provide the assistance.

Landlord penalties. A violation of the bill's provisions would constitute a breach of the lease under Section 39(1)(b) of Chapter 66 of the Revised Statutes of 1846 (to keep the premises in reasonable repair and complying with state and local health and safety laws). A landlord who violates the provisions would be liable to the tenant for \$250 or actual damages, whichever is greater, and actual, reasonable attorney fees.

Tenant penalties. A landlord could bring an action against a tenant who fails to comply with reasonable requests for preparation measures for injunctive relief or damages suffered as a direct result of the tenant's failure. Actions would be filed in district court unless the Court of Claims, which hears actions involving the state, had jurisdiction. A landlord could bring an action on the landlord's own behalf and/or on behalf of an aggrieved tenant.

The court could issue a temporary order for interim relief. If the order grants access to the premises by the landlord, the order must provide that the landlord cannot enter the premises until at least 24 hours after the order is served on the tenant.

House Bills 5200 and 5201

The bills would amend the Public Health Code. House Bill 5200 would amend the code (MCL 333.2455) to add "infestation" to the list of conditions triggering an "order to correct" by the local health department or Department of Community Health, at the owner's expense.

"Infestation" would mean the occurrence of a sustained population of one or more pest species in an area or location in numbers or quantities large enough to be harmful, threatening, or obnoxious. "Pest" would mean a plant or animal detrimental to humans or human concerns.

House Bill 5201 adds a new section to the code (MCL 333.2222, proposed) to require the Department of Community Health to develop a model policy related to bedbug prevention, management, and control for use by local units of government and local health departments in the state, with updates as necessary. A local unit of government or local health department could adopt and implement the model policy for its own use. As used in the new Section 2222, "bedbug" would mean an insect in the genus *Cimex* and its eggs.

The model policy would have to include all of the following:

- Materials and information intended to increase knowledge and awareness of the nuisance of bedbugs and prevention of infestations, and that promote the use of best management practices or options to eradicate bedbug infestations in various facility types.
- Methods to encourage the notification of the proper state or local authorities about a known or possible bedbug infestation so that efforts can begin to determine the infestation's extent and steps to eradicate it, if necessary.
- Methods to properly transport, store, and dispose of bedbug-infested materials.
- Any other information DCH determines appropriate for the purposes of the model policy.

House Bill 5425 would amend the Revised Judicature Act (MCL 600.8302) to specify that unless the Court of Claims has jurisdiction in an action brought under House Bill 5199 against a tenant, the district court would have equitable jurisdiction.

FISCAL IMPACT:

House Bill 5199 would have an indeterminate fiscal impact on state and local government in their capacity as landlords or tenants. Any fiscal impact would be dependent upon the number of actions filed.

House Bill 5200 may have fiscal implications for the Department of Community Health and local health departments. Current law provides authority for state and local public health action to respond to situations that present a public health threat. Clarification provided by HB 5200 on the role of state and local public health related to infestations affecting human health may prompt an increase in complaints received, investigations, and action. The law continues to provide that expenses incurred by the state or local health department shall be reimbursed by the owner of the premises.

House Bill 5201 will have minimal fiscal implications for the Department of Community Health (DCH). The department has substantially accomplished this requirement with the publication in 2010 of a Michigan Manual for the Prevention and Control of Bed Bugs, produced by DCH and a workgroup of state and local agencies. DCH has also produced and makes available online a number of educational and related materials for individuals, groups, and local agencies. Future updates should fall within the current scope of DCH programs.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.