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House Bill 5069 (Substitute S-1 as reported)
Sponsor: Representative Kurt Heise
House Committee: Criminal Justice
Senate Committee: Judiciary

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.
- Specify that forcible entry allowed under the bill could not include assault.

Under the Act, if a property owner has 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. Under the bill, an owner's actions 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.

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 that person's agent could enter the premises and the peaceable entry requirement would not apply. Any forcible entry, however, could not include conduct proscribed by Chapter 11 (Assaults) of the Michigan Penal Code.

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.

Date Completed: 1-15-14

Fiscal Analyst: Steve Angelotti

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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.