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BILL ANALYSIS

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House Bill 5182 (Substitute H-2 as reported with amendment)
Sponsor: Representative Jerry O. Kooiman
House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act (RJA) to shorten from seven days to 24 hours the minimum time before a property owner may recover possession of premises by summary proceedings after service of a written demand for termination of a lease due to a controlled substance violation on the premises. The bill would take effect on September 1, 2004.

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. These include situations in which a person "holds over" the premises for seven days after written demand for possession has been served due to termination of the lease because a tenant, a member of the tenant's household, or another person under the tenant's control unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance on the leased premises. The bill would allow recovery of the premises when a person held over the premises for 24 hours, rather than seven days, after a written demand was served.

Except as otherwise provided by court rule, a summary proceeding must be heard within seven days after the defendant's appearance or trial and may not be adjourned beyond that time except by stipulation of the parties. Under the bill, in a summary proceeding to recover possession of premises because of a controlled substance violation, the action would have to be heard at the time of the defendant's appearance or trial date and could not be adjourned beyond that time except for extraordinary reasons.

The RJA allows the court to issue a writ of restitution upon the entry of a judgment for possession when certain conditions are pleaded and proved. Under the bill, the court also could order restitution when it was proven that the action was one seeking restoration of premises due to termination of a lease because of a controlled substance violation.

The bill is tie-barred to House Bill 5197, which would similarly amend another statute.

MCL 600.5714

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Date Completed: 4-26-04

Fiscal Analyst: Bethany Wicksall

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Analysis available @ <http://www.michiganlegislature.org>

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.