



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5182 (Substitute H-2 as passed by the House)
House Bill 5197 (as passed by the House)
Sponsor: Representative Jerry O. Kooiman
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 4-20-04

CONTENT

House Bills 5182 (H-2) and 5197 would amend different statutes 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 the manufacture, delivery, or possession of a controlled substance on the premises. The bills are tie-barred.

House Bill 5182 (H-2)

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. This provision applies only if the landlord files a formal police report alleging the controlled substance violation. The bill would amend the RJA to 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.

The RJA requires the court in which a summary proceeding is commenced to issue a summons commanding the defendant to appear for trial. 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.

House Bill 5197

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 seven-day notice to quit. This provision applies only if the landlord files a formal police report alleging the controlled substance activity. Under the bill, the landlord could terminate the tenancy by giving the tenant a written 24-hour notice to quit.

MCL 600.5714 (H.B. 5182)
554.134 (H.B. 5197)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Fiscal Analyst: Bethany Wicksall

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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.