

# Legislative Analysis

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## LANDLORD REGAINING POSSESSION: SQUATTING

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### House Bills 5069-5071

**Sponsor: Rep. Kurt Heise**

**Committee: Criminal Justice**

**Complete to 10-22-13**

## A SUMMARY OF HOUSE BILLS 5069-5071 AS INTRODUCED 10-9-13

House Bill 5069 would relieve landlords from liability for damages for unlawful interference when the occupant is squatting and allow a landlord to use force to regain possession of premises occupied by a squatter.

House Bill 5070 would make it a felony offense for a squatter to occupy a single-family home with a state-equalized value of \$50,000 or more or one or both units of a two-family home with a state-equalized value of \$100,000 or more, respectively. (State equalized valuation is a property tax-related term that, generally speaking, is equal to 50% of the true cash value, or market value, of the property.)

House Bill 5071 would place the felony provision for squatting in a single or two-family home meeting the threshold within the sentencing guidelines.

House Bill 5069 would amend the landlord/tenant provisions within the Revised Judicature Act (MCL 600.2918, 600.5711, and 600.5714). The RJA establishes the rights and liabilities of landlords and tenants regarding possession of the leased premises. Currently, the use of force or threat of force by a landlord constitutes unlawful interference with a possessory interest and entitles the tenant to recover the actual amount of damages or \$200, whichever is greater. A landlord would not be subject to this liability if he or she could establish that the tenant took possession of the premises by means of a forcible entry, holds 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 (hereinafter "squatting").

The RJA also specifies that a person may not make any entry into or upon premises unless the entry is permitted by law and, if entry is permitted by law, a person may not enter with force but only in a peaceable manner. The bill would exempt a landlord (owner, lessor, or licensor or one of their agents) from the prohibition on a forcible entry and allow that person to enter the premises if the occupant took possession by squatting.

The RJA already allows a person entitled to possession of premises to recover possession by summary proceedings if another took possession by squatting. The bill would specify that this remedy is in addition to using forcible entry to regain possession of the premises.

**House Bill 5070** would add Section 553 to the Michigan Penal Code to make it a felony to take possession of certain properties by squatting. Under the bill, a squatter who occupied a single-family home with a state equalized value of \$50,000 or more or a two-family home with an SEV of \$100,000 or more would be guilty of a felony punishable by a fine of not more than \$10,000 per dwelling unit occupied and/or imprisonment for not more than five years. (State equalized valuation is a property tax-related term that, generally speaking, is equal to 50% of the true cash value, or market value, of the property.)

"Squatter" would mean an individual who occupies property and has not, at any time during that period of occupancy, occupied the property with the owner's consent for an agreed-upon consideration. Squatter does not include a guest or a family member of the owner of the property or of a tenant.

**House Bill 5071** would amend the Code of Criminal Procedure (MCL 777.16bb) to specify that squatting is a Class E property crime with a five-year maximum term of imprisonment. The bill is tie-barred to House Bill 5069, which means that it cannot take effect unless House Bill 5069 is also enacted. However, it is House Bill 5070 that creates the criminal penalty of squatting in a single- or two-family home meeting the SEV threshold.

#### **FISCAL IMPACT:**

To the extent that the bills result in a greater number of convictions, they could increase costs on state and local correctional systems. Information is not available on the number of persons that might be convicted under these provisions. Felony convictions could result in increased costs related to state prisons, county jails, and/or state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,500 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,000 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

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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.