

# Legislative Analysis



## LANDLORDS TO DISCLOSE FLOOD PLAIN

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**House Bill 6548 without amendment**

**Sponsor: Rep. Joan Bauer**

**Committee: Intergovernmental, Urban and Regional Affairs**

### **First Analysis (11-20-08)**

**BRIEF SUMMARY:** The bill would require landlords to disclose to tenants when their residential rental properties are in a flood zone.

**FISCAL IMPACT:** The bill would have no material budgetary impact on the state or local units of government. The act provides that the Attorney General or any affected individual may bring an action to enforce the act in a court of competent jurisdiction in the county where the defendant resides or does business. Any costs related to enforcement of the act, through the court system, would not be significant.

### **THE APPARENT PROBLEM:**

Oftentimes rental housing is built in the floodplain of a community--a fact seldom known by the tenants who live there.

For example, the City of Lansing Emergency Management administrator reports that 4,500 residents live in the floodplain along the Grand River, and 60 percent of them are renters. If a flood were to destroy their rental units, they would face an estimated \$172 million in uncompensated damages.

Legislation has been introduced to require landlords to tell their tenants when they are living in a flood zone.

### **THE CONTENT OF THE BILL:**

The bill would amend the Landlord-Tenant Act to require landlords to disclose when their residential rental properties are in a flood zone.

The bill requires that as a condition to entering into a valid written lease, a landlord must inform a tenant in a written document signed by the landlord (as well as the tenant) that the premises that are the subject of the lease are located in a flood zone, if that is the case.

If a landlord violated this requirement and a tenant suffered a loss of property or damage to property because of a flood, then the tenant could terminate the lease and be entitled to recover from the landlord *all* of the following: actual damages; \$500 or one month's rent, whichever was greater; and court costs and reasonable attorney fees, if incurred.

The bill specifies that it would be a complete defense to an action that the landlord did not know that the property was located in a flood zone.

The bill would define "flood zone" to mean one or more of the following: (a) any area of land in the 100-year floodplain that is susceptible to being inundated by water from any source; (b) any area of land that has been identified by the Federal Emergency Management Agency under federal statute, 42 USC 4001; and (c) any area of land that borders any river, stream, or other natural body of water and is typically subject to flooding at least once per calendar year.

MCL 554.601b

### **ARGUMENTS:**

#### **For:**

Both homeowners and renters should know when their homes are located in the floodplain of a community, allowing them to purchase flood insurance to cover possible loss, or to move elsewhere. Currently homeowners learn whether homes are located in a flood zone before they purchase a property. Renters are not so informed. In order to avoid potentially catastrophic damages, renters, too, should have an opportunity to protect their personal property; landlords should disclose flood zone information as a matter of course, and be penalized if they fail to do so. This bill would give tenants the information they need to make wiser housing location and property insurance decisions.

#### **For:**

Some supporters of this bill argue that the definition of "flood zone" should be amended so that the term refers, among other things, to *any area of land subject to at least a one percent probability of flooding in any given year as identified by the federal emergency management agency under 42 USC 4001*. [As reported from committee, the term "flood zone" is defined in the bill to mean (among other things) "any area of land that has been identified by the federal emergency management agency under 42 USC 4001."]

#### **Against:**

Opponents of the bill argue that landlords have many responsibilities toward their tenants, this among them. However, sharing this kind of information with tenants--i.e., whether their rental units are located in a flood zone--should be voluntary rather than required by law. That way, landlords who do not have flood zone information would not run the risk of being held liable for sharing false information.

### **POSITIONS:**

The City of Lansing supports the bill. (11-12-08)

City of Lansing Emergency Management supports the bill. (11-12-08)

The Property Management Association of Michigan (PMA-M) opposes the bill. (11-12-08)

The Rental Property Owners Association of Michigan opposes the bill. (11-12-08)

The Michigan Association of Realtors opposes the bill. (11-12-08)

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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.