

Legislative Analysis



LAWFUL REENTRY BY LANDLORD: REVISE

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House Bill 5034

Sponsor: Rep. Pam Byrnes

Committee: Judiciary

Complete to 10-20-09

A SUMMARY OF HOUSE BILL 5034 AS INTRODUCED 6-2-09

The bill would add to the circumstances under which a landlord could lawfully reenter and take possession of rental property so as to include when a tenant dies, if certain conditions were met.

Under current law, a tenant whose possession of a rental unit has been unlawfully interfered with by the owner, lessor, licensor, or their agents (landlord) is entitled to recover the amount of his or her actual damages or \$200, whichever is greater, in addition to regaining possession of the premises. Actions by the landlord that constitute "unlawful interference" are set forth in statute and include such things as removing or destroying the tenant's personal property; changing the locks on the doors; using force or threats of force; and introducing noise, odors, or other nuisances to drive out the tenant.

The above provision does not apply if the landlord regained entry under a court order; interfered temporarily with possession in order to make needed repairs or inspections (if conducted according to law); or believed in good faith that the tenant had abandoned the premise, and, after diligent inquiry, had reason to believe the tenant did not intend to return and the current rent had not been paid.

House Bill 5034 would add another exception to the above. The bill would amend the Revised Judicature Act (MCL 600.2918) to specify that the provision discussed above would not apply where the owner, lessor, licensor, or their agents (landlord) can establish all of the following:

- The landlord knew or believed in good faith that the last surviving tenant had been deceased for at least 30 days.
- The landlord had not been notified in writing that the tenant's estate was being probated or provided with the name and address of a personal representative appointed by a probate court.
- The rent was overdue.
- At least seven days before reentry, the landlord placed a notice on the door of the premises indicating his or her intent to reenter and take possession of the premises.

FISCAL IMPACT:

House Bill 5034 would have an indeterminate, but likely negligible, fiscal impact on the judiciary. Any fiscal impact would be the result of a reduction in court costs due to an expansion of the requirements for lawful reentry by a landlord.

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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.