

EVICTIONS: SUMMARY PROCEEDINGS

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House Bill 4025

Sponsor: Rep. Kurt Heise

Committee: Judiciary

Complete to 5-1-13

A SUMMARY OF HOUSE BILL 4025 AS INTRODUCED 1-22-13

The bill would:

- Prohibit a limit from being placed on the number of summary proceedings regarding evictions that could be filed or scheduled for a hearing at one time;
- Provide an alternative manner in which a summons and complaint could be filed upon a tenant; and
- Limit the amount of past due rent that could be claimed by a landlord in a claim for money judgment.

House Bill 4025 would amend Chapter 57 of the Revised Judicature Act, entitled "Summary Proceedings to Recover Possession of Premises" to revise some of the procedures in an eviction [MCL 600.5732, 600.5736 (proposed), and 600.5739].

Under the bill, a court, magistrate, district court clerk, or other court employee could not limit the number of summary proceedings that may be set for a hearing at the same time on the same date or that a person may concurrently file or schedule for hearing at any one time.

The bill would also permit a copy of a summons and complaint, including a claim for a money judgment that did not exceed the cap for an action in small claims court (currently \$5,000), to be served on the defendant if both of the following were done:

- Mail the summons and complaint to the defendant. Unless the court mails the documents and keeps a record, the plaintiff would have to mail the documents by first-class mail and obtain a certificate of mailing. The certificate of mailing would be proof of service.
- Doing one of the following:
 - Serve the defendant by any method provided in court rules for the service of process in a civil action.
 - After three attempts at personal service had been made, securely attach the papers to the main entrance of the defendant's dwelling unit. The return of service would have to list the attempts at personal service. Service would

only be effective under this provision if a return of service was filed showing that, after three attempts, personal service could not be made.

In addition, if the landlord included in a claim for money judgment the rent that was due because of breach of a lease or contract under which the premises were held, the claim would have to include all rent due through the end of the rental period at the time of trial. The amount due for rent could not be prorated through the date of the trial.

FISCAL IMPACT:

House Bill 4998 of last session, which was identical to House Bill 4025, was determined to have an indeterminate fiscal impact on the judiciary. To the extent that courts would not be permitted to limit the number of summary proceedings that may be set, they may see an increase in costs due to a higher caseload. Additional costs may also be associated with serving these claims to defendants. These costs would be partially or fully offset by fees associated with civil and summary proceedings.

Legislative Analyst: Susan Stutzky

■ 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.