

HOUSING INSPECTIONS

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Senate Bill 394 (S-2) as reported from House committee

Sponsor: Sen. Dave Robertson

House Committee: Local Government

Senate Committee: Local Government

Complete to 12-9-15

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 14 of 2016)

BRIEF SUMMARY: The bill would amend the Housing Law of Michigan to apply the statute to each city, village, and township that had a population of 10,000 or more; allow (rather than require) an enforcing agency to maintain a registry of owners and premises; specify that a local governmental unit would not be required to inspect a multiple dwelling or rooming house unless a complaint from a lessee reported a violation of the Housing Law; revise provisions pertaining to entering a leasehold in the case of an emergency; and, specify that an inspection fee would not be required to be paid sooner than six months before the inspection was to take place.

FISCAL IMPACT: The bill would have no fiscal impact on state government. There would be an indeterminate fiscal impact on local governments that would vary by the impacted municipalities. Local governments that currently maintain a rental registry would no longer be required to do so. This could lead to a reduction in costs if a municipality decided to eliminate the registry.

In addition, localities would no longer be required to inspect multi-unit dwellings except under a resident-driven complaint process. Local governments could potentially save on inspection costs. However, rental companies are charged an inspection fee which covers these costs, so the anticipated savings would probably be minimal.

There could be a loss of revenue if the municipality has instituted fines for violations of rental codes and would not be doing the same amount of inspections that catch potential violations. However, the amount of variables involved across the numerous localities would make this number impossible to calculate.

THE APPARENT PROBLEM:

The Housing Law of Michigan establishes statewide minimal standards for the physical condition of multi-family rental housing units located in municipalities with populations of 10,000 or more. The state statute assigns responsibility for enforcement of these standards to local governments, and mandates their enforcement. Michigan's state policy that sets out minimal standards for multi-family rental housing is nearly a century old.

To ensure that the rental housing stock in a community is adequately preserved, and that tenants are safe from fires and accidents, many local officials adopt rental housing codes—a set of ordinances that embody maximum occupancy rates and minimum standards. The communities then hire local housing inspectors to perform periodic on-site walk-throughs,

and they inform landlords if their rental units pose health and safety problems to renters. Generally, landlords are required to ensure their rental units are in compliance with the local housing code, and an asset in the neighborhood. Customarily, landlords are charged an annual rental licensure fee, and sometimes they are assessed fines if their properties become unlivable, unsightly, or unsafe.

Towns throughout Michigan—most especially university towns where rental housing constitutes a primary business—boast comprehensive rental housing programs, including, for example, Holland, Jackson, Ann Arbor, Kalamazoo, Lansing, and East Lansing, to name a few. See *Background Information*, below.

Owners of rental properties in some communities—for example, Port Huron—believe local rental housing inspection programs should be curtailed, and they have worked to elect local officials who agree. Legislation has also been introduced during the past three legislative sessions to curtail the state housing statute, but those bills have not yet been enacted into law. Now, legislation has been introduced in the 2015-2016 legislative session to modify the Housing Law.

THE CONTENT OF THE BILL:

The bill would amend the Housing Law of Michigan so that it would apply to each city, village, and township with a population of 10,000 or more as of the last federal census, and delete the current population criteria for local units subject to the law. However, as is the case now, the provisions of the act would not apply to private and two-family dwellings in a local government unit with a population under 100,000, unless the legislative body of the local unit adopts the provisions by resolution.

Additionally, the bill would remove the requirement for a local enforcing agency to maintain a registry of owners and premises, and make the registry optional.

The bill would also remove the requirement that a multiple dwelling or rooming house be inspected periodically. Instead, the local government would only need to inspect such premises if it receives a complaint from a lessee of a violation of this act.

In addition, the bill elaborates on the types of emergencies that would allow an inspector to enter a leasehold; they include, but are not limited to, fire, flood, or other threat of serious injury or death.

The law says an enforcing agency can establish and charge a reasonable fee for inspections. The bill adds, "an inspection fee is not required to be paid more than six months before the inspection is to take place." (The act says inspection fees do not have to be paid if the inspection is not performed and the enforcing agency is the direct cause of that failure.)

MCL 125.401 et al.

BACKGROUND INFORMATION:

To learn more about local rental housing inspection programs, visit any of the following websites:

<http://www.cityofjackson.org/298/inspections>

http://www.lansingmi.gov/inspection_portal

<http://www.kalamazoocity.org/rental-housing-inspections>

<http://www.a2gov.org/departments/planning-development/housing>

<http://www.cityofholland.com/housingandneighborhoods/housing-inspection-program>

<https://www.cityofeastlansing.com/702/Rental-Housing-Information>

To learn more about the Port Huron landlords who sued the city over its inspection ordinance, visit: <http://rentalinspections.com/>

HOUSE COMMITTEE ACTION:

The members of the House Local Government Committee reported out the Senate-passed version of the bill without amendments.

ARGUMENTS:

For:

The proponents of the bill argue it improves the Housing Law of Michigan, making it applicable to all municipalities having 10,000 or more people, but allowing—rather than requiring—those municipalities to adopt local housing inspection programs. The bill would no longer require local officials to maintain a registry of landlords, nor would it require them to inspect a multiple dwelling or rooming house unless they received a complaint from a renter that the state housing law was being violated.

Some proponents say that mandatory rental inspections are a clear violation of a tenant's right to privacy; the right to be free from search without probable cause to believe a crime has been committed; and a landlord's private property rights. They argue that rental inspection programs result in unequal enforcement, rising rents, disappearance of low-rent units, higher eviction rates, and bribes and corruption of rental housing inspectors.

Response:

One group, while supporting a common sense update to the inspection law, is opposed to the idea of advanced payment prior to inspection. The note that with boiler inspections, for example, there is no requirement to pay upfront. This should not be a burden placed on property management.

Against:

Those who oppose the bill note that the enactment of Senate Bill 394—which would curtail local housing inspection programs—is a worrisome prospect because Michigan's rental housing stock is old, and multi-family rental property is generally subject to high turnover, heavy use, and more rapid deterioration than owner-occupied housing. They argue the heightened risk of harm from, and blight to, uninspected properties—most especially older rental housing—is significant. Those expressing concern note that low income households make up a high proportion of multi-family rental housing residents, many of whom are not knowledgeable about their rights as tenants. Consequently, opponents say the bill does not promote the health and safety of Michigan tenants.

Opponents who are residents in university towns (where fifty percent or more of a neighborhood can be renters) say comprehensive rental housing inspection programs are essential, if neighborhood residents are to be safe, and the housing stock is to be preserved.

POSITIONS:

The Apartment Association of Michigan supports the bill. (12-2-15)

Rental Property Owners Association. (12-9-15)

The Michigan Townships Association supports the bill. (12-2-15)

The Michigan Municipal League supports the bill. (12-2-15)

The Michigan Realtors support the bill. (12-2-15)

The Property Management Association is opposed to the bill because it requires advanced payment prior to inspection. (12-14-15)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.