



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 394 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Dave Robertson
Committee: Local Government

Date Completed: 12-23-15

RATIONALE

Since 2012, there have been concerns that municipalities are overcharging landlords and owners of housing property, and that the profits from the overcharges are benefiting the municipalities' general funds. In addition, there is concern that some of the Housing Law language is confusing, especially in regard to the scope of the Law. Although legislative proposals were introduced in 2012 and 2013 to address some of these concerns, neither was enacted.

To make sure that housing inspections are not used as a source of revenue for municipalities, and to create equity between landlords and municipalities, some have suggested that the statute be amended in a manner that would be agreeable to both municipalities and property owners.

CONTENT

The bill would amend the Housing Law of Michigan to do the following:

- **Replace the population criteria for local units subject to the Law with a provision applying the Law to each city, village, and township that had a population of 10,000 or more as of the last Federal census.**
- **Specify that a local unit would not be required to inspect a multiple dwelling or rooming house unless the local unit received a complaint from a lessee of a violation of the Housing Law.**
- **Allow, rather than require, an enforcing agency to maintain a registry of owners and premises.**
- **Revise provisions pertaining to entering a leasehold in the case of an emergency.**
- **Specify that an inspection fee would not be required to be paid more than six months before the inspections occurred.**

Applicability of Law

The Law applies to all of the following:

- Each city and organized village that had a population of at least 100,000, according to the last Federal census.
- Each city or village that reaches a population of 100,000, and the territory immediately adjacent and contiguous to the boundaries of that city or village and extending for a 2.5-mile radius.
- Each city and organized village that attains a population of at least 10,000, as determined by the last Federal census.

The Law's provisions related to private and two-family dwellings do not apply to any city or organized village lying outside the 2.5-mile radius and having a population of less than 100,000, unless the local governmental unit's legislative body adopts those provisions by resolution. Those provisions may be applied to townships and charter townships by ordinance of the respective township board adopting them.

The bill would delete these provisions. Instead, the Law would apply to each city, village, and township that had a population of at least 10,000 according to the last Federal census. The Law's provisions related to private and two-family dwellings would not apply to any city, village, or township with a population of less than 100,000 unless the applicable legislative body adopted them by resolution.

Inspection

Currently, the enforcing agency is required to inspect multiple dwellings and rooming houses regulated by the Law. The bill instead specifies that a local governmental unit would not be required to inspect multiple dwellings and rooming houses, unless the local unit received a complaint from a lessee of a violation of the Housing Law. If a local unit elected to inspect those facilities otherwise, the enforcing agency would have to inspect them in accordance with the Law.

("Enforcing agency" means the designated officer or agency charged with responsibility for administration and enforcement of the Housing Law.

"Multiple dwelling" means a dwelling occupied otherwise than as a private dwelling or two-family dwelling. Multiple dwellings are divided into two classes. "Class A" multiple dwellings are dwellings occupied "more or less permanently" for residence purposes by several families and in which the rooms are occupied in apartments, suites, or groups, in which each combination of rooms is designed to provide for cooking, toilet, and kitchen sink accommodations within the separate units. "Class B" multiple dwellings are dwellings that are occupied as the "more or less temporary" abiding place of individuals who are lodged, with or without meals, and in which as a rule the rooms are occupied singly and without any attempt to provide cooking or kitchen accommodations for the individual occupants.

"Rooming house" means any dwelling occupied in such a manner that certain rooms, in excess of those used by the members in the immediate family and occupied as a home or family unit, are leased or rented to individuals outside of the family, without any attempt to provide therein cooking or kitchen accommodations for individuals leasing or renting rooms.)

Registry

The Law requires the enforcing agency to maintain a registry of owners and premises. The owners of multiple dwellings or rooming houses containing units offered to let, or to hire, for more than six months of the year must register within 60 days after the day on which any part of the premises is offered for occupancy. The bill would allow, rather than require, an enforcing agency to maintain a registry of owners and premises and would require owners to register within 60 days only if the enforcing agency maintained a registry of owners and premises.

Emergencies

Except as otherwise provided, the Law requires inspectors to request and receive permission to enter before entering a leasehold regulated by the Law to undertake an inspection. In the case of an emergency, as defined under rules promulgated by the enforcing agency, or upon presentment of a warrant, the inspector or team of inspectors may enter at any time. Under the bill, instead, in the case of an emergency including, but not limited to, fire, flood, or other threat of serious injury or death, or upon presenting a warrant, the inspector or team of inspectors could enter at any time.

Fees

The enforcing agency may establish and charge a reasonable fee for inspections conducted under the Law. The fee may not exceed the actual, reasonable cost of providing the inspection. An owner or property manager is not liable for an inspection fee if the inspection is not performed and the enforcing agency is the direct cause of the failure to perform the inspection.

The bill specifies that an inspection fee would not be required to be paid sooner than six months before the inspection was to take place.

MCL 125.401 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill proposes several necessary changes to the Housing Law. First, the Law does not include townships and has confusing language relating to its overall scope. Because of the confusion, the bill would clarify which local units of government are subject to the Law.

Another issue is that housing inspection programs can be expensive for municipalities. Under the bill, local governmental units would no longer be required to perform housing inspections; instead, local units could approach housing inspections in a manner they determined. This would give local governmental units more flexibility to decide the best use of their resources with respect to housing inspections.

In addition, the bill represents an acceptable compromise between municipalities and landlords, creating equity between the parties. The issues addressed in the bill were very contentious, and it has taken several years to reach an appropriate balance.

Opposing Argument

Regular housing inspections are important, especially in Michigan. The State has aging housing, which requires constant attention to remain safe and habitable. Multiple dwelling housing is generally prone to high turnover, which creates more wear when compared to other categories of housing. In addition, multiple dwelling housing is generally made up of a comparatively high proportion of low-income households. The individuals in these households are not typically sophisticated consumers, and therefore may not be knowledgeable about their rights as tenants, including the right to request an inspection of a rental unit.

It would be dangerous to remove the requirement for regular housing inspections and replace the mandate with local governmental unit discretion. The bill would not promote the health and safety of Michigan tenants, and would depart from longstanding State policy.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have an indeterminate effect on local unit revenue that would vary by location.

The bill would eliminate a requirement for local units to inspect certain dwellings unless a lessee submitted a complaint to the local government. In other cases, local units would be allowed, but not required, to conduct those inspections. As a result, local units that chose not to conduct inspections would likely receive less revenue and incur fewer expenses. Given that the Law requires inspection fees to be reasonable and not exceed the actual cost of the inspection, the net impact of the bill's provisions regarding inspection fees would likely approximate zero.

The bill would have no fiscal impact on State government.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.