



**House  
Legislative  
Analysis  
Section**

Manufacturer's Bank Building, 12th Floor  
Lansing, Michigan 48909  
Phone: 517/373-6466

**EVICTION PROCEEDINGS IN DRUG POSSESSION**

House Bill 5318 (Substitute H-5)  
House Bill 5612 (Substitute H-3) 1 2 1 70  
First Analysis (6-12-90)

Sponsor: Rep. Lyn Bankes  
Committee: Urban Affairs

**THE APPARENT PROBLEM:**

Current law allows a property owner to recover possession of his or her property by summary proceedings when a tenant remains on the property illegally. A landlord can begin the eviction process when a tenant, for instance, fails to pay rent on time, if he or she damages the leased property, and for various other reasons. A landlord is required to give the tenant a "notice to quit" to initiate the proceedings, and after receiving this notice the tenant has either seven or 30 days to respond to it, depending on the reason(s) given for serving the notice. Currently, the act specifies that when a notice to quit is served because the landlord believes the tenant is engaged in illegal activities, the tenant is allowed 30 days before further legal action can be taken. Criminal drug activity that occurs in and around leased housing, especially in multi-family housing units, perhaps poses the greatest threat to the lives of law-abiding tenants while landlords fight what seems to be a losing battle to rid a housing complex of drug dealers. Some people complain that the act slows the process for evicting drug dealers by requiring a 30-day notice to quit before further action can be taken and would like the act amended to allow eviction proceedings to begin after seven days' notice when drug-related illegal activities are suspected.

**THE CONTENT OF THE BILLS:**

House Bill 5318 would amend the Revised Judicature Act (MCL 600.5714) and House Bill 5612 would amend the Revised Statutes of 1846 (MCL 554.134) to specify that a landlord could initiate summary proceedings to evict a tenant when the tenant remained on the property seven days after the landlord served the tenant a written notice to quit pursuant to a clause in the lease providing for termination because a tenant, a member of the tenant's household, or another person under the tenant's control had unlawfully manufactured, delivered, possessed with intent to deliver, or possessed a controlled substance (those substances or counterfeit substances classified under Schedules 1, 2, or 3 of the Public Health Code) on the leased premises. This provision would apply only if a "formal police report" was filed by the landlord alleging that a person had committed any of these drug-related offenses on the leased premises.

**FISCAL IMPLICATIONS:**

According to the House Fiscal Agency, the bills would not affect state expenditures. (6-11-90)

**ARGUMENTS:**

**For:**

The bills would help correct a problem many landlords face when trying to rid their leased properties of tenants involved in criminal drug activities.

Currently, both the Revised Judicature Act and the Revised Statutes provide that a tenant is allowed a 30-day notice to quit by a landlord if the notice was given due to illegal activities. This not only slows the process for evicting drug-dealing tenants, it also gives the person notified an opportunity to harass or threaten the lives of nearby tenants (for instance, if the drug dealer believes a tenant has informed the landlord or others of illegal activities). Under the bills, a landlord could serve a seven-day notice to quit only if a lease contract included a provision for termination due to drug-related activities and the landlord filed a formal police report alleging that this was taking place. The bills would not change the process by which eviction could be achieved: after a seven days' notice was served, the tenant could not be required to leave until the matter was settled in court, which usually takes at least 30 days after the notice to quit has expired. (Essentially, the bills would shorten by 21 days the time in which eviction could actually take place.) And even if a court ruled against the tenant, he or she could still appeal the decision (even though eviction had already taken place) and sue the landlord for his or her costs if the appeal was upheld, just as is the case currently.

**Against:**

The bills pose a serious threat to the rights of tenants who could be wrongly accused of criminal drug activity. In fact, a vindictive landlord could begin summary proceedings for evicting a person simply by filing a formal police report alleging that the person was involved in drug-related criminal activities. In addition, a person could be issued a notice of eviction by a court before he or she had actually been found guilty of the criminal charges. An eviction proceeding for nonpayment of rent or property damage, for instance, involves evidence that can be more easily proven or disproven. Evidence needed to substantiate an eviction for drug-related reasons would be much harder to come by and, at the same time, could be more easily manipulated to support a landlord's charge.

**Response:** A landlord currently may initiate summary proceedings for improper or vindictive reasons but is still limited from taking action against a tenant until a court decision has been reached. Even with seven days' notice, tenants would be accorded a great deal of protection from eviction. The bills attempt to balance tenants' rights to receive due process against the rights of landlords (and their law-abiding tenants) to deal quickly and effectively with persons involved in drug-related activities. According to a spokesman for the Livonia Housing Commission, it currently takes at least 60 days (which can vary depending on how busy a particular court is at any given time) to evict persons for drug-related activity; the bills merely would reduce this to a minimum of about 40 days.

**Against:**

By allowing landlords to begin summary proceedings for eviction against a tenant, including everyone within the tenant's household, suspected of illegal drug activity, the

H.B. 5318 & 5612 (6-12-90)

bills could subject family members innocent of criminal activity (and who may not have been aware of such activity) to being evicted. As such, household members could be punished despite having no knowledge of another household member's illegal activities.

**Response:** Again, this is something which could happen now but which is guarded against by advocate groups who represent all involved persons in eviction cases before the courts. Each case would be decided, presumably, on the evidence that was presented.

**Against:**

The original versions of both bills would have applied only to publicly-funded housing. This would seem more reasonable as managers of these units are held to more stringent guidelines by the federal Department of Housing and Urban Development (HUD) in summary proceedings, especially when drugs may be involved.

**Response:** The drug plague certainly is not limited to publicly-subsidized housing and neither should these bills only apply to landlords and tenants of such housing. Besides, the bills would require a landlord to have written into a lease contract that the lease was subject to termination if the tenant was involved in drug-related activities before the landlord could serve a seven-day notice.

**Against:**

The bills should remove the requirement for a landlord to file a formal police report alleging criminal activities before the seven-day notice to quit could be served. Such a provision may only serve to frighten landlords from taking action as they could be held personally liable for an improper accusation. On top of this, making such an allegation against a drug-dealer could put the landlord's own life in jeopardy.

**POSITIONS:**

The Michigan State Housing Development Authority supports the bills. (6-7-90)

The Grand Rapids Housing Commission supports the bills. (6-8-90)

The Livonia Housing Commission supports the bills. (6-7-90)

The Office of Drug Agencies supports the bills. (6-7-90)

The Michigan Landlords Association supports the concept of the bills. (6-11-90)