

MICHIGAN STATE
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May 6, 2014

Representative Gail Haines, Chair
Standing Committee Meeting
Health Policy
Room 519, House Office Building
Lansing, MI 48909-7514

RE: HOUSE BILL No. 5199

Dear Committee Members:

My name is Lee Schuchart and I am a third year law student at Michigan State University College of Law. After my first year of law school, I began working in the Housing Law Clinic. The Housing Law Clinic is pro bono legal clinic dedicated to assisting low to moderate income consumers in the State of Michigan with housing issues and other legal problems in their homes and communities. In the Clinic, I have served one year as a student clinician and one year as a research assistant. During that time, I worked on 20 different bed bugs cases that invoked Michigan's housing laws that seek currently to address bed bug infestation. With this experience, I come before you today to comment on the good, and bad, of House Bill No. 5199.

Our Clinic is pleased that Michigan is developing a law that is devoted to the problematic issue of bed bugs. Currently, Michigan does not have any law that specifically mentions bed bugs. Our approach to litigation has revolved around MCL 125.474, which states that every owner must keep every building free from vermin. Bed bugs are vermin and MCL 125.474 places a mandatory duty upon the landlord. In addition, The Truth in Renting Act, MCL 554.633(1)(e), prohibits the landlord from waiving their duty to keep every building free from vermin. Based on our interpretation of these statutes and no guidance from case law, Michigan has codified law that applies to bed bug infestations.

House Bill No. 5199 does two things particularly well. First, the Bill provides landlords and tenants with clear language as to what their duties and rights are when a bed bug infestation occurs in a dwelling. By providing a clear procedure, both tenants and landlords will be forced to work together at combating the bed bug infestation. If either party fails to perform a duty required, penalties exist to punish/incentivize that party. Compare this to the current Michigan law, which merely indicates it is the landlord's responsibility to keep the building free from vermin and provides no further guidance.

Second, the Bill provides prospective tenants notice whether the apartment they will be renting, or an adjoining unit to that apartment, has been treated for bed bugs in the past 180 days. In addition, on the tenant's request, the landlord will disclose the last date



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that a bed bug inspection was conducted for their specific apartment and adjoining units, and whether the apartment and adjoining unit were found to be free from infestation. Notice provides the tenant with the same knowledge base as the landlord and enables the tenant to make an informed decision when deciding whether or not to enter into a lease for a given apartment. The benefits of House Bill No. 5199 help provide clarity to bed bug law in Michigan, which forces cooperation between landlords, tenants, and pest management professionals to fight bed bug infestations.

While House Bill No. 5199 has numerous strengths, it also has two weaknesses that should be addressed. First, there is an incongruity within the Bill as it relates to inspection and control measures. If a tenant reports a bed bug infestation, the duty to inspect is placed on the landlord, who has the authority to determine if a bed bug infestation is present. However, a landlord is not typically a pest management professional, which may limit the reliability of the landlord's inspection. In other portions of the Bill, the landlord must follow the expertise of the pest management professional. At one stage the bill places the burden on the landlord to determine if an infestation exists and then at another stage, the landlord must heed to the expertise and advice of a pest management professional. Why not place the initial inspection in the hands of the pest management professional? Second, the Bill does not explicitly state which party is responsible for the costs of the bed bug treatment. Our Clinic's position is that these costs should stay consistent with other Michigan landlord tenant law and MCL 125.474 that primarily requires landlords to be responsible for such maintenance costs.



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The Clinic handles bed bug cases on a regular basis and we have seen the first hand devastation that bed bugs can inflict on their victims. We support House Bill No. 5199, in general, because it provides much needed clarity to Michigan bed bug law. We also absolutely support House Bill No. 5199 when directly compared to the alternative bed bug bills.

Thank you for your time.

Sincerely,

A handwritten signature in black ink, appearing to read "Lee Schuchart". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Lee Schuchart

Research Assistant

MSUCOL Housing Clinic