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Michigan House approves controversial short-term rental protections in overnight session

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Michigan House lawmakers in an overnight session Tuesday approved legislation in a 55-48 vote that would prohibit cities and townships from banning short-term rental housing.

Last-minute changes to the bill do not appear to have wooed opponents of the measure, which was voted on shortly before 2 a.m. Wednesday.

The controversial legislation would include short-term rentals as a valid residential use under Michigan's zoning act, upending zoning changes local communities have made or are considering to limit and regulate short-term rentals by deeming them commercial use.

Lawmakers have argued that noise and nuisance rules are enough for communities to bring problematic renters in line.

A House substitute adopted early Wednesday added language that seemed to make some concessions, allowing local governments to limit the number of short-term rentals with a common owner to no fewer than two and limit overall short-term rental units within the community to no less than 30% of all existing residential units.

The bill also was amended to create a narrow exemption for non-compliant local short-term rental overlay districts implemented by July 11, 2019, a carveout that appears to largely benefit the city of East Lansing.

"The measure approved by the House is a solid compromise that provides both certainty for private property owners across the state and flexibility for local municipalities that deserve to have some control over the planning and zoning of their communities," said Rep. Sarah Lightner, the Springport Township Republican who sponsored the bill.

Lightner argued the legislation protected the private property rights of Michigan residents who wanted to rent their property while also reining in corporations looking to "scoop up large numbers of homes to rent out, effectively acting as hotels without having to abide by safety standards or pay taxes like hotels."

The Michigan Municipal League expressed strong opposition to the legislation, which they called an avoidable "calamity," and urged the Senate "to reject this rolling disaster headed to a neighborhood near you."

"This bill will pour lighter fluid on an already red-hot housing market should it become law, making it even harder for families to put roofs over their heads," said Dan Gilmartin, CEO and executive director for the league. "Those voting yes on this legislation hold the responsibility for the entirely predictable and disastrous outcomes this measure will produce."

The legislation would allow for the continued rental of private residences through such services as Airbnb and VRBO and, in its initial form, it was backed by the Michigan Realtors and the fiscally conservative Mackinac Center for Public Policy.

Numerous local government and business groups — including the Michigan Townships Association, Michigan Restaurant and Lodging Association, and Michigan Municipal League — urged the Legislature earlier this year to not usurp local control over short-term rentals. Some communities spent months planning and discussing regulations only to have them threatened by the Legislature's proposal.

Among the opponents of the legislation earlier this year are several Michigan tourist destinations: Frankenmuth, Traverse City, Petoskey, Mackinac Island and Grand Haven.

Wednesday's changes to the legislation were not enough to satisfy local government opponents who have argued the most egregious part of the legislation is the designation of short-term rentals as a residential use.

"Everything that comes after that is secondary into how locals can regulate this," said the Michigan Municipal League's Jennifer Rigterink. "They're already strapped by what is in" the residential designation.

Compromises that would allow communities to limit short-term rentals to two per common owner have a loose definition of owner, Rigterink said, so that, in theory, a husband, wife and other acquaintances could have two each and still comply with the legislation.

"All you would have to do is tweak the ownership makeup," she said.

Additionally, the sections capping short-term rentals at no less than 30% use the word "units" while other sections of the bill use the term "dwellings," potentially setting up the legislation for litigation in the future, Rigterink said.

"Again, in theory, that sounds good, but how does a local unit of government enforce that? How does a local unit government regulate that? Local government was not consulted on these changes," she said.

This session's focus on the short-term rental issue marks at least the third time since 2017 that the Legislature is advancing bills that would "ban the ban" on short-term rentals.

A separate Senate bill largely similar to its House counterpart moved out of Senate committee earlier this year but has yet to be considered in a full chamber vote.

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