

# Rental Housing Inspection Law

## Introduction

Michigan's Rental Housing Law was amended in 2008, 2016, and 2017; together, these three Acts (PA 408 of 2008, PA 14 of 2016, and PA 169 of 2017, respectively) significantly changed rental housing inspection regulations.

## What Is the Purpose of the Changes to the Rental Housing Law?

The 2009 Act provided more options for inspections, allowed local units of government to accept other inspections as their own, allowed local units the power to inspect according to federal or state laws, prevented locals from charging if an inspection was not done due to the fault of the enforcing agency, and required locals to provide information to those who request it (with cost recovery if the information is not available). The 2016 Act decreased the population threshold of local units' subject to the Act and added townships. The 2017 Act was a reaction to a federal court case in Ohio. Specifically, a U.S. District Court ruled against the city of Portsmouth in *Baker v City of Portsmouth*, (No. 1:14cv512), after property owners argued successfully that the city violated the Fourth Amendment of the U.S. Constitution by authorizing warrantless inspections. In both this case and Michigan law, if the lease provided a landlord's right of entry, that right was extended to the enforcing agency, and the agency could require the landlord to provide access. The 2017 amendment changed the wording in the law to require inspecting agencies to gain the renter/lessee's consent before entering a household. The Legislature made this change peremptorily, before a Michigan case was reported. In early 2019, *MS Rentals v City of Detroit* found the city's property maintenance code unconstitutional due to its involuntary inspection provisions.

## Rental Housing Inspection Changes - 2008

1. Allows for inspections of multiple dwellings or rooming houses conducted by HUD under the Real Estate Assessment Center inspection process or other government agencies (MSHDA, etc.) to be accepted by the local unit of government as a substitute for inspections required by local enforcing agencies.
2. A local enforcing agency can perform inspections that would normally be performed by other governmental units such as HUD or MSHDA. The new language specifically authorizes a local enforcing agency or its designee to exercise inspection authority delegated by law or agreement from other agencies or authorities that perform inspections under state or federal law.
3. The maximum period of time that a local government may provide between inspections is now six years (previously three) if the most recent inspection of the premises found no violations of the Act. This section of the Act now includes a provision that the multiple dwelling or rooming house must not have changed ownership during the six-year period.
4. The Act adds new options for manner of inspection. Current law allows for the community to inspect on an area basis, complaint basis (complaints inspected within a reasonable period of time), and/or recurrent violation basis. The new language adds the new options of percentage basis and compliance basis (if in compliance before certificate expires, may be issued certificate of compliance for maximum renewal certification period).
5. An owner or property manager shall not be liable for an inspection fee if the inspection is not performed and the enforcing agency is the direct cause of the failure to perform.
6. An enforcing agency or a local governmental unit is now required to produce a report to a requesting party on the income and expenses of the inspection program for the preceding fiscal year within 90 days of the request. The report must contain the fees assessed by the enforcing agency, the costs incurred in performing inspections, and the number of units inspected. The enforcing agency or local governmental unit may produce the report electronically. If the enforcing agency does not have readily available access to the information required for the report, the enforcing agency may charge the requesting party a fee no greater than the actual reasonable cost of providing the information.

## **Rental Housing Inspection Changes - 2016**

The 2016 Act keeps the 2009 changes and in addition, decreased the population threshold, “This Act applies to each city, village, and township that has a population of 10,000 or more. However, this Act does not apply to private dwellings and 2-family dwellings in any city, village, or township having a population of less than 100,000 unless the legislative body of the local government unit adopts the provisions by resolution passed by a majority vote of its members.”

## **Rental Housing Inspection Changes – effective 2018**

The 2017 Act (effective February 2018) keeps the 2009 and 2016 changes and added a new requirement for consent to entry:

“An inspector **must request and receive consent from the lessee** to enter before entering a leasehold regulated by this act to undertake an inspection.”

The Act still contains an emergency provision, “...in the case of emergency, including, but not limited to, fire, flood or other threat of serious injury or death, the owner may enter at any time.” MCL 125.526(1).