

HOUSE BILL REPORT

HB 2501

*As Reported By House Committee on:
Housing*

Title: An act relating to landlords' claims on tenants' property.

Brief Description: Authorizing landlords' claims on tenants' property.

Sponsor(s): Representatives Wineberry, Ballard, Ogden, Mitchell, P. Johnson, Franklin, D. Sommers, Winsley, Paris, Van Luven, Bowman, Brough and Wynne.

Brief History:

Reported by House Committee on:
Housing, February 7, 1992, DPS.

**HOUSE COMMITTEE ON
HOUSING**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 7 members: Representatives Nelson, Chair; Franklin, Vice Chair; Mitchell, Ranking Minority Member; Winsley, Assistant Ranking Minority Member; Ballard; Leonard; and Ogden.

Staff: Bill Lynch (786-7092).

Background: All moneys, negotiable instruments, securities, or other tangible or intangible property that is furnished or intended to be furnished in exchange for a controlled substance, or acquired in whole or in part with proceeds traceable to exchanges of controlled substances, or that is used or intended to be used to facilitate a violation of the law pertaining to controlled substances, is subject to seizure by law enforcement officers or authorized inspectors. All property rights in items seized in this manner are forfeited by the owner.

When property is seized and forfeited, the law enforcement agency that seized the property may retain it for official use or sell that property which is not required to be destroyed by law and which is not harmful to the public. The proceeds from the sale of all forfeited property, and all moneys that are forfeited, must be used for paying the expenses of conducting the investigation leading to the

seizure; the expenses of the proceedings for forfeiture and sale; the expenses of seizure, maintenance of custody, and advertising; the costs of the prosecuting attorney; and court costs.

If there is any money remaining after the expenses associated with the seizure are paid, and the property that was forfeited was personal property, then 75 percent of the proceeds are deposited into the general fund of the seizing agency and 25 percent of the proceeds are deposited into the state public safety and education account.

The money deposited into the general fund of the seizing agency may only be used for the expansion or improvement of law enforcement services, which includes the creation of reward funds to help in the conviction of people who violate controlled substances laws. Money deposited into the public safety and education account is used for traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, winter recreation parking, and the state Game Program.

If the forfeited property is subject to a valid security interest, and the secured party was unaware of the illegal activity when the security interest was created, then the forfeited property is still subject to the security interest. There is no provision to allow landlords to recover for damages to the apartment from the proceeds of seized and forfeited property.

Summary of Substitute Bill: A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property is subject to a claim by a landlord for damage to the property caused by a law enforcement officer or by the tenant. The damage must be related to a violation of the laws pertaining to uniform controlled substances, prescription drugs, or imitation controlled substances. The claim by the landlord must be filed with the law enforcement agency who seized the property within 30 days after the seizure.

The landlord cannot recover on a claim for property damage if the landlord knew about the illegal drug activity by the tenant. The landlord must first use the tenant's damage deposit to repair any damage caused by the tenant before asserting a claim against the seized property.

The landlord may assert a claim for damage only after the seized property has been sold, and all costs related to the investigation, seizure, and prosecution of the tenant have been paid.

Substitute Bill Compared to Original Bill: Provisions are added to prevent the landlord from recovering if the landlord knew about the tenant's drug activity; require the landlord to seek compensation from the tenant's damage deposit before asserting a claim against seized property; and require that all costs related to the investigation, seizure, and prosecution of the tenant be paid first.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Landlords should have an opportunity to recover for damages related to drug activity of the tenant. Sometimes an entire rental unit will be declared unfit for habitation.

Testimony Against: There are no guidelines on how these claims should be processed. There are no limits on the claims. Damage could have existed before the drug seizure occurred. There will be less money available to fight drugs. If law enforcement damages property, a claim procedure already exists.

Witnesses: Arnold Fox, Washington Apartment Owners Association (supports); Elvin Hopper, landlord (supports); Jeanette Burrage, Northwest Legal Foundation (supports); Rick Slunaker, Yakima Valley Rental Association (supports); Mike Patrick, Washington State Council of Police Officers (opposes); and William Logan, Lewis County Sheriff (opposes).