

HOUSE BILL REPORT

SHB 2501

As Amended by the Senate

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

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

Sponsor(s): By House Committee on Housing (originally sponsored by 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;
Passed House, February 13, 1992, 96-0;
Amended by Senate.

**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 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.

EFFECT OF SENATE AMENDMENT(S): A landlord may recover damages directly caused by law enforcement officers pursuant to a search of the tenant's property because of drug-related activity. The ability of the landlord to recover for damages caused by the tenant is removed. The tenant's damage deposit must be applied to any damages before a claim may be made against the proceeds of the tenant's seized property. The damage recovery is limited to damages to tangible property and clean-up costs, and is the lesser of the cost of repair or fair market value of the damage directly caused by law enforcement officers. The landlord's recovery cannot exceed the proceeds from the sale of the tenant's property, and the proceeds must first be used to satisfy the expenses related to the seizure and forfeiture of the tenant's property. The landlord cannot have had any knowledge of the tenant's drug-related activity.

Fiscal Note: Available.

Effective Date: 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).

VOTE ON FINAL PASSAGE:

Yeas 96; Excused 2

Excused: Representatives Basich, Wineberry