

HOUSE BILL REPORT

ESHB 1223

As Amended by the Senate

Title: An act relating to landlord-tenant relations.

Brief Description: Addressing the public nuisance activities of tenants.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Carrell, Zellinsky, Talcott, Hickel, Thompson and Conway).

Brief History:

Committee Activity:

Law & Justice: 2/4/97, 2/27/97 [DPS].

Floor Activity:

Passed House: 3/12/97, 95-2;

Passed House: 1/12/98, 90-3.

Senate Amended.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Carrell; Lambert; Radcliff; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 5 members: Representatives Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney and Lantz.

Staff: Trudes Hutcheson (786-7384).

Background: The Residential Landlord-Tenant Act establishes various duties of landlords and tenants and provides remedies when those duties are not met. For example, the tenant has a duty to, among other things, keep the premises clean, not intentionally destroy the dwelling, not permit a nuisance or commit waste, and not engage in any drug-related activity.

If the tenant does not comply with any of the statutory duties and the failure to comply substantially affects the health and safety of the tenant or others, the landlord must give the tenant written notice of the noncompliance and allow the tenant 30 days in which to comply. Under certain circumstances, such as when the tenant is engaged

in drug-related activity, the landlord need not provide written notice of noncompliance and wait 30 days. Instead, the landlord may terminate the tenancy and proceed directly to an unlawful detainer action. An unlawful detainer action allows the landlord to evict the tenant and regain possession of the property if the tenant does not vacate the property after being served with a notice to vacate.

Summary of Bill: The tenant has a duty not to engage in any gang-related activity that renders people in at least two or more dwelling units or residences insecure with respect to their lives or the use of their property, or that injures or endangers the safety or health of people in at least two or more dwelling units or residences. "Gang-related activity" means activity that occurs in a group of three or more persons that has as one of its primary activities the commission of criminal acts and whose members individually or collectively engage in a pattern of criminal activity. "Pattern of criminal activity" means the commission, attempted commission, or solicitation of two or more felony or misdemeanor offense within a certain time frame. In determining whether gang-related activity is occurring, the court should consider the totality of the circumstances, including factors such as whether there have been numerous complaints, incident reports to police, property damage, and arrests.

The landlord may terminate the tenancy for gang-related activity and proceed directly to an unlawful detainer action. The landlord is not liable for bringing an unlawful detainer action if he or she acted in good faith.

Any person whose life, safety, health, or use of property is being injured or endangered by the gang-related activity may give the landlord a notice and demand that the landlord commence an unlawful detainer action. A copy of the notice and demand must be given to the tenant as well. Within 10 days from the time the notice and demand are served, the landlord must begin investigating to determine if gang-related activity is occurring and inform the person of the investigation.

The person may petition a court to have the tenancy terminated under the following circumstances: (a) if the landlord fails to take any action within 10 days of the notice and demand; (b) if the landlord believes there is no gang-related activity; or (c) if, after the landlord's attempt to stop the activity, the tenant fails to comply within a reasonable time.

The prevailing party in the action will recover reasonable attorney's fees. However, regardless of which party prevails, the court must order the landlord to pay costs and reasonable attorney's fees to the injured person if the landlord failed to conduct any investigation.

EFFECT OF SENATE AMENDMENT(S): The Senate amendment makes five changes: (1) The definition of "gang-related activity" is changed to mean any activity that occurs within the gang or advances a gang purpose; (2) "Gangs" mean a group

that consists of three or more persons, that has an identifiable leadership, name, sign, or symbol, and that, on an ongoing basis, regularly conspires and acts in concert for criminal purposes; (3) Third parties bringing an unlawful detainer action must reside, work in, or own property in the same building or be within a one-block radius; (4) Allegations of gang-related activity must be corroborated by a source other than the third party petitioner; and (5) The court may impose sanctions if a person brings multiple actions against the same tenant with the intent to harass.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Allowing landlords to bring an unlawful detainer action against a tenant engaging in adverse activity will help maintain safe neighborhoods. Because there is already a lack of housing for low-income tenants, it is especially important to keep the existing low-income communities a safe place to live. However, the bill as written may not address the entire scope of problem tenants.

Testimony Against: None.

Testified: Representative Carrell, prime sponsor; Mark Paulsen, Washington Landlord Association (pro); Teresa Bosler, Manufactured Housing Communities of Washington and Thurston County Rental Owners Association (pro); and Majken Ryherd Keira (pro, with concerns).