

HOUSE BILL REPORT

SSB 5318

As Passed House-Amended:

April 9, 1997

Title: An act relating to writs of restitution.

Brief Description: Preserving writs of restitution when partial payment is accepted.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Haugen, Winsley and Goings).

Brief History:

Committee Activity:

Law & Justice: 4/4/97 [DPA].

Floor Activity:

Passed House-Amended: 4/9/97, 98-0.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Radcliff; Sherstad and Skinner.

Staff: Bill Perry (786-7123).

Background: One of the remedies available to a landlord when a tenant violates the lease agreement is a "writ of restitution." A writ of restitution is issued by a court and directs the county sheriff to evict the tenant and to "restore" the rental premises to the landlord. The writ must be served on the tenant by the sheriff. A writ of restitution may not be executed until at least three days after its service on the tenant and 10 days after its issuance. A sheriff is not liable for damages caused by his or her ordinary negligence in serving or executing a writ of restitution.

Specific procedures allow the tenant to stay the execution of a writ of restitution. Unless the landlord has alleged illegal drug activities, the tenant may, within three days of being served with the writ, post a bond sufficient to cover the landlord's damages and costs. If the reason for the writ is that the tenant has failed to pay the rent, and the case has not yet gone to final judgment, the tenant may, within three days of being served with the writ, pay "all rent" due, plus all the costs of the action.

Sometimes, when served a writ of restitution, a tenant may make a partial payment of the amount that is due. The tenant, the landlord, and the sheriff may not have the same understanding of the effect of such a partial payment on the writ of restitution. In some jurisdictions, at least, the sheriff may be unwilling to execute the writ following a partial payment.

Summary of Bill: Specific provisions are made for partial payment by a tenant of a judgment owed a landlord when a writ of restitution has been issued.

Partial payment of a judgment does not invalidate the writ unless the landlord and tenant have agreed in writing that the partial payment will postpone or stop the execution of the writ. The tenant must present a copy of such an agreement to the sheriff in order to prevent execution of the writ. Upon receipt of such an agreement, the sheriff is to refrain from executing the writ unless ordered otherwise by the court.

A writ of restitution must contain notice of these provisions on the effect of partial payment.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill will clarify the effects of partial payments and fairly protects the interests of both landlords and tenants.

Testimony Against: None.

Testified: Ken Spencer, Manufactured Housing Communities of Washington (pro); John Woodring, Manufactured Housing Communities of Washington and Seattle-King County Apartment Association (pro); and Debbie Wilke, Washington Association of County Sheriffs (pro, with suggested amendment).