

FINAL BILL REPORT

ESHB 1223

C 276 L 98

Synopsis as Enacted

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).

House Committee on Law & Justice
Senate Committee on Law & Justice

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: Under the Residential Landlord-Tenant Act, a 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 within a gang or advances a gang purpose. "Gang" means a group that: (1) consists of three or more persons; (2) has identifiable leadership or an identifiable name, sign, or symbol; and (3) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

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 a 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 a tenant's gang-related activity and who resides, works in, or owns property in the same building or within a one block radius may give the landlord a notice and demand that the landlord commence an unlawful detainer action against the tenant. 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 take reasonable steps to investigate whether there is gang-related activity occurring.

After giving the landlord a notice and demand, the person may also petition a court to have the tenancy terminated under the following circumstances: (1) if the landlord fails to take any action within 10 days of the notice and demand; (2) if the landlord believes there is no gang-related activity; or (3) if, after the landlord's attempt to stop the activity, the tenant fails to comply within a reasonable time. The court may not terminate the tenancy unless the allegations of gang-related activity are corroborated by a source other than the petitioner.

The court must award reasonable attorney fees to the prevailing party in the tenancy termination action. 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. The court may impose sanctions against a petitioner for bringing multiple actions against the same tenant with the intent to harass.

Votes on Final Passage:

House 90 3
Senate 46 3 (Senate amended)
House 97 0 (House concurred)

Effective: June 11, 1998