

HOUSE BILL REPORT

ESB 5389

As Reported by House Committee On:
Judiciary

Title: An act relating to clean and sober housing.

Brief Description: Managing clean and sober housing.

Sponsors: Senators Benton, Prentice, Winsley, Reardon, Roach, Shin, Zarelli, Regala and T. Sheldon.

Brief History:

Committee Activity:

Judiciary: 4/1/03, 4/3/03 [DPA].

Brief Summary of Engrossed Bill
(As Amended by House Committee)

- Creates provisions in the Residential Landlord Tenant Act that apply to "drug and alcohol free" housing.
- Provides procedures for a landlord of "drug and alcohol free housing" to terminate the rental agreement of a tenant who has been living in the housing for less than two years if the tenant violates the prohibition against using, possessing, or sharing alcohol or drugs either on or off the premises.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Trudes Tango Hutcheson (786-7384).

Background:

A variety of state laws regulate the relationship between landlords and tenants. The Residential Landlord Tenant Act (RLTA) governs the renting of residential dwelling units. The RLTA establishes the duties and liabilities of landlords and tenants with respect to each other, and provides procedures for each side to enforce its rights.

Some of the tenant's specified duties include the duty to pay rent as required by the rental agreement, keep the premises clean and sanitary, and not engage in drug related activity on the premises.

The landlord may terminate a tenancy if there has been a substantial noncompliance with the tenant's duties, such as the failure to pay rent or perform other conditions of a rental agreement. The landlord must give the tenant written notice before termination and, depending upon the circumstances, allow the tenant time to comply or cure the violation. Generally, the number of days required for notice depends on the reasons for the termination of the tenancy.

A three-day notice is required if the tenant fails to pay rent. A 10-day notice is required if the tenant fails to perform conditions of the rental agreement. The notice must set forth the noncompliance by the tenant so that the tenant can cure the deficiency. If the tenant fails to comply, the landlord may bring an unlawful detainer action.

An unlawful detainer action is a court process to evict a tenant who remains on the rental premises beyond the time he or she is required to leave. The landlord must serve an "eviction summons" on the tenant, and the tenant has a certain number of days to respond. The landlord may seek a pretrial hearing in court directing the tenant to show cause why the court should not issue a writ of restitution (an order directing the sheriff to evict the tenant).

Summary of Amended Bill:

"Drug and alcohol free housing" is defined in the RTLA and means housing in which:

- (a) each of the units on the premises is occupied or held for occupancy by at least one tenant who is a recovering alcoholic or drug addict and is participating in a recovery program;
- (b) the landlord is a for-profit or nonprofit corporation or a housing authority;
- (c) the landlord provides certain services, such as an employee who monitors the tenants for compliance, individual and group support, and access to a recovery program; and
- (d) the rental agreement includes certain provisions regarding prohibitions against the use, possession, or sharing of alcohol or drugs either on or off premises.

The tenant must provide written verification from the tenant's recovery program that the tenant is participating in the program and not using drugs or alcohol. The landlord has the right to require urine analysis tests at the landlord's discretion and expense.

If a tenant who has been living in the drug and alcohol free housing for less than two years uses, possesses, or shares alcohol or drugs, the landlord may deliver a written

notice to the tenant terminating the tenancy. The notice must specify the acts constituting the drug and alcohol violation and must state that the rental agreement terminates in not less than three days after delivery of the notice. The notice must also state that the tenant can cure the violation by a change in conduct or otherwise within one day after delivery of the notice. If the tenant cures the violation within the one-day period, the tenancy shall not be terminated.

If a substantially similar violation occurs a second time within six months of the previous violation, the landlord may terminate the tenancy with delivery of at least a three-day written notice. The tenant does not have the right to cure the subsequent violation.

Notwithstanding the definition of drug and alcohol free housing, non-transient housing in which a tenant must abstain from drugs and alcohol as a condition of occupancy and pays for the housing on a periodic basis (whether the payment is characterized as rent or program fees) is covered by the RTLA.

Amended Bill Compared to Original Bill:

The original bill allowed the landlord to serve a 48-hour notice terminating the tenancy for the first violation and a 24-hour notice for the second violation. The original bill allowed the landlord to remove the tenant from the premises without going to court (bringing an unlawful detainer action) after the second violation. The original bill also applied the expedited procedures to all tenants in the drug and alcohol free housing, instead of tenants who have been living in the housing for less than two years.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: (With amendment) This bill would allow a landlord of clean and sober housing to more readily deal with a tenant who begins using alcohol or drugs again. If a tenant relapses, it is very disruptive to the other tenants. The bill would give the tenant a chance to cure the violation by meeting with staff and developing a new treatment plan. The bill is a tool to keep people housed and in recovery programs. There is confusion as to whether a tenant can be evicted for using alcohol because the use of alcohol is not illegal under current law. These housing arrangements can be long term or short term depending on the person's needs.

Testimony Against: None.

Testified: Kevin Glackin-Coley, Washington State Catholic Conference; and Joe Thompson, Archdiocesan Housing Authority.