

SENATE BILL REPORT

SB 6227

As of January 20, 2006

Title: An act relating to setting limits on rental late fees.

Brief Description: Setting limits on imposing fees for late payment of a tenant's rent.

Sponsors: Senators Franklin, Fairley, and Kline.

Brief History:

Committee Activity: Financial Institutions, Housing & Consumer Protection: 1/12/06.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & CONSUMER PROTECTION

Staff: Jennifer Arnold (786-7471)

Background: Currently, under the Residential Landlord-Tenant Act, there is no limitation on the amount of fees that a landlord may charge a tenant for late payment, nor is there a statutory grace period for rent payment after the initial due date. A landlord may evict a tenant for failure to pay late fees.

Some tenants are charged late fees that exceed more than their monthly rent. There are concerns that additional safeguards need to be created to protect tenants from excessive late rent payment fees.

Summary of Bill: The Residential Landlord-Tenant Act is amended to provide that a landlord cannot charge a late fee in excess of 10 percent of the monthly rent payment or 50 dollars, whichever is greater. Late fees cannot be charged more than once per month. Any late fees that exceed this statutory limit are void and unenforceable.

A tenant cannot be evicted solely on the basis of failure to pay late fees; however, a landlord is entitled to deduct late fee payments from a tenant's security deposit.

A grace period of five days beyond the rental payment due date is created, in which a tenant cannot be charged late fees.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: We need to have tenant protections against fees accumulating on top of fees. Otherwise, there is no way to get out from under the debt. Late fees are being used as a profit margin for landlords; many fees currently being charged have no relation to the harm suffered

by the landlord. We need to put a stop to the parade of contingent horrors that is set in place starting with late fees and proceeding through eviction. Some of the current late fees being charged are tantamount to usury and a number of other states have already enacted such caps.

Testimony Against: Courts treat late fees as liquidated damages to compensate landlords for their expenses, in which event there is already a judicial mechanism to deal with unreasonable late fees. This bill could work against tenants by causing landlords to be less likely to accommodate late paying tenants. If a landlord is not entitled to evict a tenant for late fees unpaid, the end result could be a tenant that pays rent, but never on time, is allowed to remain in the residence in perpetuity; the tenant has no incentive to pay on time.

Who Testified: PRO: Senator Franklin, prime sponsor; Pat Tassoni, Thurston County Tenants Union; Michele Thomas, Tenants Union of Washington State; Bruce Neas, Columbia Legal Services; Artee Young, citizen.

CON: Joe Puckett, Washington Multifamily Housing Association; John Woodring, Rental Housing Association; Marc Gjurasic, Washington Apartment Association.