

SENATE BILL REPORT

ESHB 1865

As Reported By Senate Committee On:
Consumer Protection & Housing, February 21, 2008

Title: An act relating to limiting the obligations of landlords under writs of restitution.

Brief Description: Limiting the obligations of landlords under writs of restitution.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Williams, O'Brien, Springer, Fromhold, Warnick and McCune).

Brief History: Passed House: 2/13/08, 96-0.

Committee Activity: Consumer Protection & Housing: 2/21/08 [DP].

SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

Majority Report: Do pass.

Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Honeyford, Ranking Minority Member; Delvin, Jacobsen, Kilmer, McCaslin and Tom.

Staff: Alison Mendiola (786-7483)

Background: The Residential Landlord-Tenant Act (RLTA) governs the relationship between landlords and tenants of residential dwelling units, establishes the duties and liabilities of the parties, and provides procedures for each side to enforce its rights. The RLTA provides a court process, called an unlawful detainer action, by which a landlord may evict a tenant from the premises. The landlord must serve the tenant with a summons and complaint of the unlawful detainer action, which must designate a specific date by which the tenant must respond. The landlord may also request a show cause hearing directing the tenant to appear in court and show why a writ of restitution (an order directing the sheriff to physically evict the tenant) should not be issued. If the court issues a writ of restitution, the sheriff must deliver a copy of the writ to the tenant, informing the tenant that he or she can be physically removed from the premises after a certain date. The sheriff must also give the tenant a written notice informing the tenant what can happen to the tenant's personal property if it is not removed by the date of the eviction. When the sheriff executes the writ, the landlord may enter and take possession of the tenant's property left on the premises and store the property in any reasonably secure place. If the tenant objects to the storage of the property, the landlord must deposit the property onto the nearest public property. If the tenant is not present at the time of eviction, it is presumed that the tenant does not object to storage. The RLTA states in part, "A landlord may, upon the execution of a writ of restitution by the sheriff, enter and take possession of any property of the tenant found on the premises and store the property in any

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reasonably secure place." RCW 59.18.312 (1). Recently, Division III of the Court of Appeals upheld this statute and affirmed that it is the duty of the landlord to store such property unless the tenant objects.

Summary of Bill: Upon the execution of a writ of restitution, the landlord must take possession of any property of the tenant found on the premises. The landlord may store the property in any reasonably secure place, including on the premises, unless: (1) the tenant has requested storage by serving the landlord with a written request within three days of service of the writ of restitution (in which case the landlord must store the property); or (2) the tenant has objected to storage (in which case the landlord must deposit the property upon the nearest public property). If the landlord knows that the tenant is a person with a disability and the disability (as defined by the law against discrimination) impairs or prevents the tenant from making a written request for storage, it is presumed that the tenant has requested storage unless the tenant objects in writing. The presumption that the tenant does not object to storage if the tenant is not present during the eviction is removed. The procedures for selling and disposing stored property are changed. The threshold cumulative value of property for when a landlord must provide more notice to the tenant before selling the property is changed from \$50 to \$100. For property with a cumulative value over \$100, the landlord may sell the property (but not dispose of it) after 30 days, rather than 45 days, from the date the landlord sent notice of the sale to the tenant. The landlord may dispose of any property not sold. The notice must be delivered to the tenant's last known address. When serving the writ of restitution, the sheriff must also serve the tenant with a form provided by the landlord in which the tenant may request the landlord to store the tenant's property. The landlord's form must substantially comply with the form created in statute.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Engrossed Substitute Bill: PRO: Over the interim, this bill has been worked on to address the concerns of members, tenant advocates, and landlords. This bill improves upon current statute, as it makes it clear what both a landlord and a tenant's obligations are in the case of an eviction. Regarding the sheriff's concerns, it's not their concern as to what happens to personal property; what is at issue is the real property. There is no direction to the court as to how they should decide what to do with the personal property. The three-day notice period tenants have to inform landlords of their intent is based on the three-day bond period tenants have to stop the eviction. The sheriff is already not liable by statute. Both the landlord and tenant's rights are protected under this negotiated bill.

OTHER: When a writ is issued by court, the sheriff needs to deliver this notice, which is not always in person. What if a tenant says he or she sent notice to the landlord but the landlord disagrees. Then what? The notice should go in the summons which is personally served.

Persons Testifying: PRO: Representative Brendan Williams, prime sponsor; Joseph Puckett, Washington Multifamily Housing Association; Bruce Neas, Columbia Legal Services.

OTHER: Craig Adams, Pierce County Deputy Prosecuting Attorney.