

SENATE BILL REPORT

SB 5960

As of February 15, 2007

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: Consumer Protection & Housing: 2/15/07.

SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

Staff: Alison Mendiola (786-7483)

Background: Under the Residential Landlord-Tenant Act, there is currently 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.

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.

Staff Summary of Public Testimony: PRO: One-third of Washington residents rent, so this is an important issue. Tenants don't have the power to negotiate the terms of rental agreements, so there needs to be a cap on late fees. Some landlords deduct late fees from the subsequent month's rent; therefore, the tenant continues to remain behind in rent. This issue is being litigated across the country so we can either let the courts decide, or the Legislature can decide. No state has a late fee that exceeds 5 percent of a tenant's monthly rent.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

CON: Late fees are considered liquidated damages under contract law, so landlords can't just charge whatever they want. The cap included in this bill is below liquidated damages.

Persons Testifying: PRO: Senator Franklin, prime sponsor; Bruce Neas, Columbia Legal Services; Pat Tassoni, Thurston County Tenant's Union.

CON: John Woodring, Doug Neyhart, Rental Housing Association and Manufactured Housing Communities of Washington; Susan Gonzales, Washington Apartment Association and private citizen.