

SENATE BILL REPORT

SB 5742

As of February 13, 2009

Title: An act relating to local government crime-free rental housing programs.

Brief Description: Concerning local government crime-free rental housing programs.

Sponsors: Senators Hargrove, McCaslin, Hobbs, Schoesler and Hatfield.

Brief History:

Committee Activity: Human Services & Corrections: 2/12/09.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Shani Bauer (786-7468)

Background: Crime Free Rental Housing Program. The Crime Free Rental Housing Program (program) is based on the Crime Free Multi-Housing Program that was developed in Arizona in 1992. The program has since been adopted and utilized by many different cities across the country. Generally, the program consists of three phases:

1. Landlord Training – educating landlords and property managers in the basics of crime prevention on their premises;
2. Crime Prevention Through Environmental Design – a walk through of the property by crime prevention specialists to identify crime hazards and steps the landlord can take to improve the safety of the premises; and
3. Crime-Free Commitment – the landlord committing to maintain crime-free activities such as proper screening of tenants, having tenants sign a crime-free addendum to the rental agreement, and maintaining open communication with law enforcement.

Several cities in the state of Washington have adopted the program. Many of the cities have a certification process. By participating in the program and maintaining its commitments, the landlord's housing is certified as "Crime-Free." The landlord can then use this phrase in advertising that landlord's rentals. Some cities in the state have passed ordinances making the program mandatory.

Termination of Tenancy. The Residential Landlord-Tenant Act establishes various duties of landlords and tenants and provides remedies when those duties are not met. Those duties include an obligation not to engage in certain criminal activity including:

1. drug-related activity;

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2. gang-related activity; and
3. other activities resulting in arrest that are imminently hazardous to the physical safety of other persons that entail a physical assault or the unlawful use of a firearm or deadly weapon.

If the tenant engages in one of the above activities, the landlord does not have to give the tenant a 30-day notice in which to cure the lack of compliance and may proceed immediately 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 of Bill: A local government entity may adopt and implement a program to reduce crime by having the rental property owner or manager:

1. attend classes on property management;
2. submit to a Crime Prevention Through Environmental Design inspection; and
3. commit to the following:
 - a. agree to screen all applicants and not rent to criminals;
 - b. agree not to hire known felons to work on the property; and
 - c. hold a crime awareness social on the property or in the neighborhood.

The program must be voluntary. The local government entity may not treat a landlord who elects to participate in the program differently than a landlord who elects to participate. Participation in a program cannot be a pre-condition to obtaining a business license or operating rental housing in the area. A fee may be charged for participation in the program, but a separate fee may not be charged for providing law enforcement services on the premises.

If a program provides for education, the local government entity may educate landlords and tenants on crime prevention and safety. Educational programs regarding leases, addendums, background screening, and other landlord tenant matters may be taught by state and local associations representing landlords or experts in that particular field.

A program may not impose any requirement on how a landlord operates rental housing, including employee standards, tenant screening standards, property construction and maintenance standards, or any other activities that would normally be in the strict purview of the rental-housing owner.

When criminal activity on a rental property is suspected, the local government must provide law enforcement assistance and technical assistance to rental-property owners. Owners or managers may contact law enforcement to request assistance in providing the property owner or manager with all documentation associated with the suspected or convicted criminal activity and police communication with the tenant to convey that the criminal activity will result in an eviction.

Criminal activity is a criminal act defined by statute or ordinance that threatens the health, safety, or welfare of the tenants, owner, or property manager.

If a tenant has engaged in criminal activity, a rental-property owner may terminate the tenancy immediately and may commence an unlawful detainer action. The landlord is not required to produce evidence of a criminal conviction. Notice from law enforcement of criminal activity by the tenant or the seizure of illegal drugs constitute sufficient grounds for eviction.

This act must be known as the Local Government Crime-Free Housing Act.

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: This legislation defines what a rental housing program may or may not include. Landlords wouldn't be seeking this legislation if they weren't being asked to intervene in tenant activities. Several crime free programs across the state are mandatory. Landlords can get charged fines and fees for having police come to their property. This discourages landlords from renting to populations who may have criminal histories and who also need a place to live. Eviction is not currently allowed under the law for any type of criminal activity, but yet cities are requiring this. Landlord groups support crime free housing, but don't agree with the government imposing requirements on them, particularly where they don't have the tools to comply.

These crime free programs need to be voluntary. Many programs require participation in order for the landlord to get a business license. Additionally, we don't think it is appropriate to dictate what tenant screening standards a property owner should have or who they can employ. New section 4 in this legislation is based directly on the criminal activity provision currently in the Mobile-Home Tenant Act. This provision is used effectively all over the state in manufactured housing communities when a tenant engages in criminal activity. Those provisions also require that an arrest record be given to the landlord for use in an eviction proceeding. We are asking that this provision also be put into the Landlord Tenant Act.

Yakima has a terrible drug and crime program. Landlords began looking for a tool to help prevent crime on their premises and heard about crime free programs being utilized in Walla Walla and Lacey with success. Landlords liked the fact that it was voluntary and provided incentives. Although these programs reduce crime and, ultimately, costs for the city, Yakima believed that this would cost money to implement. A landlord may not know when criminal activity is going on and the police don't necessarily notify them. This was the point of contention between the city and landlords in Yakima; however, the city wants to charge landlords for criminal activity and providing police protection.

CON: Each city is different and takes different approaches to enforcement depending on the condition and finances of the community. Des Moines was overrun by criminal activity. As gangs proliferated into the community, they had to find alternative means to deal with them.

That is when the crime free rental ordinances were passed. The best way to implement the program is to make it mandatory. It requires every landlord to work in partnership with law enforcement. In this way, law enforcement gets to know all the managers and all the owners. There are lots of absentee landlords and managers. The city has no way to make them participate in the program. From 2002-2004 the city experienced a double-digit increase in crime. Over the next two years, the crime rate dropped 30 percent. It is a requirement that a landlord cannot hire someone who has been convicted. The ordinance talks about renting to active criminals.

We have three concerns. One, Section 2 will encourage landlords not to hire or rent to anyone with a criminal record. This has no bearing on whether a person can meet that person's rental obligations. Second, the provision of Section 3 mandating disclosure information related to criminal activity has the potential for violating privacy laws. Third, Section 4 is written so broadly that it would allow landlords to commence eviction immediately even if the person is not guilty of the crime. This bill allows a landlord to move forward without even a preponderance of the evidence that a crime occurred. The only need is to have a report by law enforcement. Provisions in the current Landlord Tenant Act are drafted carefully to balance the rights of both landlord and tenant.

OTHER: The Lacey program has been very successful in reducing crime in rental housing in the community. Some of the provisions in this bill would be problematic for Lacey's program. Subsection (2)(e) would virtually eliminate how the program operates. As part of the program, they ask that the landlord do tenant screening and maintain background checks. The program started because landlords were asking for help. This is a partnership between landlords and the police. Lacey doesn't have a fee for participating in the program, but charges a fee for a business license. The city will waive the license fee if the landlord participates in the program. This program also benefits those families who have to live in multi-family housing and have to live next door to drug and gang activity. At the end of the day, the landlord can choose who to rent to and who to hire. The program is designed to urge landlords to be informed as to who is on their property. The main concern is preventing criminal activity on property and not necessarily renting to those who might have a criminal background. This program ultimately works in reducing crime. One particular complex of 26 units had 300 police calls per year, ten calls per unit. This was reduced to three calls per unit within a period of six months after participation in the program. Part of the program is plugging people into the system and getting them the support that they need.

Persons Testifying: PRO: Julie Johnson, John Woodring, Rental Housing Association; Charles Beck, Washington Landlord Association; Roy Newbry, Yakima Valley Landlords Association.

CON: Roger Baker, Des Moines Police Department; Greg Provenzano, Columbia Legal Services; Pat Tassoni, Thurston County Tenants Union.

OTHER: Dave Campbell, Dusty Pierpoint, Miguel Stansbury, Lacey Police.