

SENATE BILL REPORT

SB 6459

As of January 19, 2010

Title: An act relating to the inspection of rental properties.

Brief Description: Concerning the inspection of rental properties.

Sponsors: Senators Hobbs, Berkey, Marr and Schoesler.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/19/10.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Alison Mendiola (786-7483)

Background: The Residential Landlord-Tenant Act (RLTA) establishes the rights and duties of landlords and tenants.

Remedies for Defective Conditions. If a rental unit has a defective condition, the tenant is to notify the landlord in writing and the RLTA provides a timeline as to how long a landlord has to respond to a tenant's complaint. For example:

1. a landlord has 24 hours to respond to issues involving hot or cold water, heat, electricity, or issues considered imminently hazardous to life;
2. a landlord has 72 hours to respond to issues involving the refrigerator, range or oven, or major plumbing fixture; and
3. not more than ten days to respond to all other issues.

If the landlord fails to remedy the condition, the tenant has a choice of remedies as provided for under the RLTA, including terminating the tenancy.

Tenant Complained Based System. Under the RLTA, a tenant may request that the local government inspect the unit for defective conditions. However, the tenant must first notify the landlord of the problems and if the landlord fails to remedy the condition, then the tenant may request that the local government inspect the unit for that specific condition. The local government is to inspect the unit to verify whether the conditions exists and if it endangers the tenant's health or safety. The landlord may not prohibit entry for the inspection or retaliate against the tenant for filing such a complaint.

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.

Search Warrant Authority. Under the RLTA, upon a showing of probable cause that a criminal fire code violation exists in the dwelling unit, a court of competent jurisdiction must issue a search warrant to the fire official. The RLTA does not provide for administrative search warrant authority and local governments may only be granted such authority by statute.

City of Pasco. State law does not prohibit jurisdictions from adopting local mandatory rental housing inspection programs. To date, the City of Pasco is the only city to have adopted a local mandatory rental housing inspection program. This program requires landlords to hire inspectors to do building code inspections in order to receive a business license. The enacting ordinance was challenged in court and upheld by the State Supreme Court. Since the landlord, not the city, chooses who can inspect the unit and when the inspection can be done, it was determined that the program does not violate state or federal constitutional protections from unreasonable searches or invasions of privacy.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Local municipalities may require that landlords provide a certificate of inspection as a business license condition, although a local municipality does not need to have a business license or registration program in order to require that landlords provide a certificate of inspection.

Certificate of Inspection. A certificate of inspection is a statement by a qualified inspector (local or third-party inspector) that the property has been inspected and has not failed to fulfill any substantial obligation imposed by RCW 59.18.060 that substantially endangers or impairs the health or safety of a tenant, including: (1) structural members that are of insufficient size or strength to carry imposed loads with safety, (2) exposure of the occupants to the weather, (3) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (4) lack of water, including hot water, (5) heating or ventilation systems that are not functional or are hazardous, (6) defective, hazardous, or missing electrical wiring or electrical service, (7) defective or inadequate exits that increase the risk of injury to occupants, or (8) conditions that increase the risk of fire.

Certificates of inspection may only be required once every three years. The following properties are exempt from inspection: properties that have received a certificate of occupancy within the last four years, and properties that are inspected annually by a government agency or other qualified inspector.

Multi-family properties are inspected by a sampling based on the size of the project or the owner may elect to provide a certificate of inspection for all the units.

After the effective date of this bill, no local jurisdiction may enact legislation requiring a certificate of inspection unless it complies with these requirements. This does not preclude amendments to local ordinances adopted prior to the effect date of this bill.

Notice. Following the notice provisions provided for under the RLTA, the landlord must provide written notice to the tenant when an inspection is going to be conducted. The written notice must include the date, approximate time of inspection, who will be conducting the

inspection, and the fact the tenant has the right to be present during the inspection and ask the inspector for proof of identification.

Penalties. (1) Tenants: A tenant who continues to deny access to his or her unit after one notice, is liable for up to \$100 for each violation after receipt of the notice and failing to comply. The prevailing landlord may recover costs of the suit or arbitration under this section, and may also recover reasonable attorneys' fees; (2) Landlords: Any rental property owner failing to comply and provide a certificate of inspection may be punished by a fine of not more than \$250 per rental property by a local municipality; and (3) Any person who knowingly submits or assists in the submission of a falsified certificate of inspection, or knowingly submits falsified information upon which a certificate of inspection is issued is guilty of a gross misdemeanor and must be punished by a fine of not more than \$5,000.

Civil Search Warrant Authority. For municipalities that not have not implemented a mandatory rental inspection program, a civil search warrant may issued by a judge of a superior court or a court of limited jurisdiction to a code enforcement official of the state or a local municipality.

The warrant may only be issued if sufficient evidence has been set forth by affidavit evidence of probable cause to believe that an unsafe building condition is present in property sought to be inspected.

The warrant must include the name of the agency and building official requesting the warrant, the names of the officials authorized to conduct the inspection, a description of the premises and items to be inspected, and a brief description of the purpose of the inspection. The warrant is valid for up to ten days and any inspection made under the warrant may only be made between 8:00 a.m. and 6:00 p.m. during the week.

When prior consent has been sought and refused, notice that a warrant has been issued must be given to the tenant and the owner at least 24 hours before the warrant is executed, unless it must be immediately executed to prevent loss of life or property.

Any person who willfully refuses to permit inspection, obstructs inspection, or aids in the obstruction of the property authorized by the warrant is guilty of a misdemeanor.

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.