

HOUSE BILL REPORT

SSB 6315

As Reported by House Committee On:
Judiciary

Title: An act relating to the fair tenant screening act.

Brief Description: Concerning the fair tenant screening act.

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Frockt, Kohl-Welles, Kline, Chase, Keiser, Regala and Nelson).

Brief History:

Committee Activity:

Judiciary: 2/15/12, 2/20/12 [DP].

Brief Summary of Substitute Bill

- Requires landlords of residential property to provide prospective tenants with specified information regarding the tenant screening process.
- Convenes a workgroup for the purpose of addressing tenant screening issues.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Chandler, Hansen, Kirby, Nealey, Orwall, Rivers and Roberts.

Minority Report: Do not pass. Signed by 2 members: Representatives Shea, Assistant Ranking Minority Member; Klippert.

Staff: Omeara Harrington (786-7136).

Background:

The Residential Landlord-Tenant Act (RLTA) regulates the creation of residential tenancies and the relationship between landlords and tenants of residential dwelling units.

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.

Landlords may engage in tenant screening to evaluate potential tenants, either by conducting their own searches of public records or by using companies that provide consumer reports for use in tenant screening. The RTLA provides that if a landlord uses a tenant screening service to obtain the report, only the landlord's cost incurred in using the service can be charged to the tenant. If the landlord conducts his or her own screening, the landlord's actual costs may be charged.

A landlord may not charge a prospective tenant for obtaining background information unless the landlord first notifies the prospective tenant of what the tenant screening will entail, the tenant's right to dispute the information received by the landlord, and the name and address of the tenant screening service used by the landlord. A landlord is not required to disclose information to the tenant that was obtained from the screening process if that disclosure is not required by the federal Fair Credit Reporting Act.

The use of credit reports and consumer reports is regulated under both federal and state law. These laws require that consumer reporting agencies establish procedures to ensure that the information in consumer reports is accurate and is provided only for appropriate purposes. Certain outdated information is prohibited from appearing in a consumer credit report, including information relating to suits or judgments, or criminal records, that are more than seven years old.

A person who takes an adverse action against a consumer based on a consumer report must provide notice to the consumer of the adverse action and the name of the consumer reporting agency that provided the report. A consumer reporting agency must furnish a copy of the report to the consumer without charge if the consumer requests the report within 60 days of receipt of an adverse action based on the consumer report.

Summary of Bill:

A prospective residential landlord must notify a prospective tenant of the following, either in writing or by posting, prior to commencement of tenant screening:

- the kind of information that will be accessed in conducting the screening;
- the criteria that may result in denial of the application; and
- the name and address of the consumer reporting agency, if used, along with notice to the prospective tenant of their right, in the event of an adverse action, to a free copy of the consumer report and the opportunity to dispute the report's information.

The prospective landlord may not charge the prospective tenant a screening fee unless these disclosures are made.

The prospective landlord must provide the prospective tenant with notice of any adverse action taken. The notice must substantially comply with a statutory form, which includes information regarding the nature of and basis for the adverse action. If the adverse action is based on information contained in a consumer report, the contact information for the consumer reporting agency is to be provided.

A stakeholder workgroup must be convened for the purpose of addressing tenant screening issues, including cost of screening, portability of screening reports, criteria used in evaluation of prospective tenants' backgrounds, and the regulation of tenant screening services. Specific recommendations are due to the Legislature by December 1, 2012.

Rights of prospective tenants and duties of screening services as outlined in the state Fair Credit Reporting Act are not affected. A residential leasing exception to the general requirement that persons taking adverse action based on a consumer report provide written notice of the adverse action to the consumer is removed.

Definitions are added to the RLTA for tenant screening, tenant screening report, prospective landlord, and prospective tenant.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This issue is something that has been worked on for some time. Both landlord and tenant activists were brought together to work on this, and the bill strikes a good compromise. The larger historical background to this issue is that, 10 to 15 years ago, landlords would just check applicants' income. Background checking has changed from a cottage industry to a big business in the northwest with over 600 of these screening companies now in existence. The screening industry is underregulated and the screening process needs to be brought into line with the current state of the tenant screening industry.

The key issue in this bill is the notice requirement. The burden that will be placed on the landlord is minimal and fair. This notification process is already a best practice for landlords, because they should be establishing their screening criteria upfront. Requiring upfront notification, including the name of the screening company, is a great idea. The landlord can hand out a document or simply post the required screening information. Right now, people end up disclosing everything upfront to try to avoid a futile fee and then they get denied anyway on those criteria after paying. The adverse action notices are also a great step forward in terms of bringing a level of transparency to the process, as it is only fair that tenants know why they are being denied or charged a higher deposit. Without this notice, prospective tenants have no way to know why they are being turned down, which may be due to inaccurate or mismatched information.

People with low income are particularly affected by the high cost of repeated application fees. These people cannot afford to keep paying a new fee, usually \$35 to \$55, each time they apply for housing. This results in hundreds of dollars being invested in screening fees, and applicants do not have enough money left over to pay a deposit and first and last months'

rent when they finally are approved. Repeated application screening fees are an unnecessary burden and result in people having to stay in homeless shelters for an extended period of time. It is also a child welfare issue. For many families, finding stable housing is the most difficult step in the reunification process, and it is made more complicated when fees must be repeatedly paid to screening companies, and sometimes the same screening company. Additionally, requiring an adverse action notice is a key to enforcing anti-discrimination laws. It is almost impossible for a person to confirm that they have been discriminated against if they are not given a reason for their rejection.

Though this is a good start, a stakeholder group is created to work on the issues the bill does not solve. The tougher issues regarding portability and cost of screening reports will require continuing work. Also, very few companies will sell a tenant screening report to a rental applicant, so the possibility for tenants getting a copy in advance is something else the workgroup should look into.

(Opposed) None.

Persons Testifying: Senator Frockt, prime sponsor; Michele Thomas, Washington Low Income Housing Alliance; Thomas Green; Eric Dunn, Northwest Justice Project; Jonathan Grant, Tenants Union of Washington State; Julie Johnson, Rental Housing Association; and Kevin Solarte, Children's Home Society of Washington.

Persons Signed In To Testify But Not Testifying: None.