

SENATE BILL REPORT

SHB 1266

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, March 15, 2011

Title: An act relating to modifying the landlord-tenant act and other related provisions.

Brief Description: Modifying the landlord-tenant act and other related provisions.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Warnick, Kenney and Kelley).

Brief History: Passed House: 2/25/11, 92-5.

Committee Activity: Financial Institutions, Housing & Insurance: 3/09/11, 3/15/11 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton, Ranking Minority Member; Fain, Haugen, Keiser and Litzow.

Staff: Alison Mendiola (786-7483)

Background: The Residential Landlord-Tenant Act (RLTA) regulates the creation of residential tenancies and the relationship between landlords and tenants of residential dwelling units. The RLTA establishes rights and duties of both tenants and landlords, procedures for the parties to enforce their rights, and remedies for violations of the RLTA.

Landlord duties include such things as the duty to maintain the premises in reasonably good repair and remedy defective conditions within specified timelines. Tenant duties include the duty to pay rent, not damage the dwelling or allow a nuisance, and not engage in drug activity or criminal activity on the premises. The RLTA covers a wide variety of other issues governing the landlord-tenant relationship, including: prohibited provisions in rental agreements and prohibited practices by landlords; the landlord's right of access to the dwelling unit; procedures and remedies available to a landlord when a tenant has abandoned the tenancy or is subject to eviction for violations of the RLTA; and requirements with respect to the collection and retention of security deposits, nonrefundable fees, and fees or deposits to hold a dwelling unit or secure a tenancy.

Summary of Bill: Numerous provisions of the RLTA are revised and updated.

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.

Long-Arm Jurisdiction Over Out-of-State Owners. District courts are given authority to issue service of process out of state in actions filed in the small claims department if the action is brought under the RLTA against an owner. A provision is added to the RLTA governing small claims court jurisdiction over owners who reside outside the state. An owner who resides outside of the state and who violates a provision of the RLTA is deemed to have submitted himself or herself to the jurisdiction of the state. In actions brought in small claims court, the notice of claim may be served out of state in the same manner as if served in the state except that the date on which the party is required to appear must not be less than 60 days from the date of service.

Tenant Remedies for Defective Condition. Changes are made to provisions governing a tenant's rights when a landlord fails to remedy a defective condition within required time frames after written notice from the tenant. The notice a tenant must send to the landlord containing a good faith estimate of needed repairs is amended to allow use of first-class mail, rather than certified mail. The amount the tenant may deduct from rent in order to carry out repairs is increased from no more than one month's rent to no more than two month's rent. In the case of defective conditions that a landlord must commence to remedy within 10 days, the time period a tenant must wait in order to commence repairs after providing a written estimate is reduced to two days, rather than five days, but in no case sooner than 10 days after notice of the defective condition. The value of repairs that may be completed by the tenant and deducted from the rent is increased from one-half month's rent to one-month's rent.

Landlord Entry. More specific notice requirements are established for landlord entry into a tenant's dwelling unit. The notice must be in writing and specify the date or dates of entry and either the exact time of entry or a period of time during which entry will occur, including the earliest and latest possible times of entry. The notice must also include a telephone number for the tenant to call and communicate an objection or request to reschedule the entry.

Fees or Deposits to Hold a Unit or Secure a Tenancy. When a landlord requires a fee or deposit to hold a dwelling unit or secure that a prospective tenant will move into a dwelling unit, the landlord may not withhold a portion of the fee or deposit if the dwelling unit fails a tenant-based rental assistance program inspection by a qualified inspector. A landlord may elect to no longer hold a unit for a tenant if the inspection does not occur within 10 days from the date the fee or deposit is collected. The penalty for a violation of provisions relating to fees or deposits to hold a unit or secure a tenancy is changed from \$100 to two times the fee or deposit.

Security Deposits. A landlord who collects a security deposit without providing a written checklist describing the condition of the dwelling unit at the commencement of the tenancy is liable for the amount of the deposit, and the prevailing party in an action may recover costs and reasonable attorneys' fees. A tenant may request one free replacement copy of the written checklist.

When a tenant's dwelling unit is foreclosed upon and the security deposit is not transferred to the successor after the foreclosure sale, the foreclosed-upon owner must provide a full refund

to the tenant immediately after the foreclosure sale. A foreclosed-upon owner who fails to either transfer the deposit to the successor or refund it to the tenant is liable for damages up to two times the amount of the deposit.

Damages for Certain Prohibited Actions. The damages that may be awarded to a tenant when a landlord engages in certain unlawful practices are increased. Statutory damages of up to \$500 and costs of suit are added to the remedies a tenant may recover if a landlord includes prohibited provisions in a rental agreement. The statutory damages a tenant may recover when a landlord intentionally and wrongfully takes and detains a tenant's property are increased from \$100 to \$500 for each day the tenant is deprived of the property, up to a maximum of \$5,000.

Other Changes. When there is a change in the landlord, the requirement that the tenant be notified by certified mail is removed and instead the tenant must be notified in writing either by personally delivering the notice to the tenant, or by mailing the notice to the tenant and posting it on the premises.

The types of criminal activity resulting in arrest that allow a landlord to proceed directly to an unlawful detainer action against the tenant are expanded to include physical assaults and the use of a firearm or other deadly weapon.

The dollar limit for when a landlord can sell a tenant's abandoned property upon seven-day notice is raised from \$50 to \$250.

A landlord must provide each tenant who signs a lease agreement with an executed copy of the rental agreement, and a tenant is entitled to one free replacement copy. In addition, a landlord must provide a receipt for all tenant payments made in cash.

If a landlord charges a nonrefundable fee without providing the tenant with a written rental agreement, the landlord is liable for the amount of any fees collected as nonrefundable fees. Any fee that is not designated in the rental agreement as a nonrefundable fee must be treated as a refundable fee.

Various provisions of the RLTA are revised for clarity and to remove unnecessary language.

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: During the interim, landlord/tenant stakeholders met to work through the Residential Landlord-Tenant Act to see if there could be agreed upon changes. The bill includes a number of modest but agreed upon changes as a result of that workgroup – including the requirement of receipts for cash payments. The last significant changes to the Act were made 20 years ago.

Persons Testifying: PRO: Representative Pedersen, prime sponsor; Bruce Neas, Columbia Legal Services; Kathryn Hedrick, Washington Multifamily Housing Assn.; Chuck Beck, Washington Landlord Assn.; John Woodring, Rental Housing Assn.