

SENATE BILL REPORT

SB 5050

As of January 21, 2011

Title: An act relating to residential landlord/tenant security deposits.

Brief Description: Changing provisions concerning residential landlord/tenant security deposits.

Sponsors: Senators Kline, Nelson, Harper, Keiser and Hatfield.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/25/11 [DPF].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Alison Mendiola (786-7483)

Background: The Residential Landlord-Tenant Act. The Residential Landlord-Tenant Act (RLTA) was enacted in 1973 and proscribes the rights, responsibilities, and remedies for landlords and tenants.

Currently, if a tenant is required to pay a security deposit that money is to be deposited into a financial institution, or with a licensed escrow agent. The landlord is entitled to the interest on such deposits, unless otherwise agreed in writing.

Fourteen days after the termination of a rental agreement, a landlord is to provide the former tenant with a full and specific statement of the basis for retaining any of the security deposit, along with any refund due to the former tenant. Failure to provide this notice or refund within 14 days entitles the former tenant to a full refund of the security deposit. The landlord may assert that circumstances beyond his or her control prevented the landlord from providing the statement in a timely matter, or the tenant abandoned the premises. In an action brought by a tenant to recover the security deposit, the prevailing party is entitled to the cost of the suit or arbitration, including reasonable attorneys' fees.

The Affordable Housing for All Account. The Affordable Housing for All Account was created in 2007 (E2SHB 1359). This account is funded by a \$10 recording fee surcharge. Of the funds collected, the county auditor may retain up to 5 percent for the costs of collecting, administering, and distributing the funds. Forty percent of the remaining funds are remitted to the Affordable Housing for All Account. The Department of Commerce must use these

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funds to provide housing and shelter for extremely low-income households at or below 30 percent of the area median income. This is accomplished through grants for building operation and maintenance costs for such housing projects that require a supplement to rent income to cover ongoing operating expenses. The remaining funds are retained by the county and used for specific eligible housing activities for households at or below 50 percent of the area median income.

The Consumer Protection Act. The Consumer Protection Act (CPA) is designed to regulate the conduct of any business entity that engages in commercial transactions with consumers. The CPA contains very general language prohibiting "unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." The Attorney General's Office may bring an action in the name of the state on behalf of persons injured by a violation of the CPA. A private party may also bring an action to enforce the CPA. In a private action in which an unfair or deceptive act or practice is alleged, a claimant may establish that the act or practice is injurious to the public interest because it violates a statute which incorporates the CPA; violates a statute that contains a specific legislative declaration of public interest impact; or injured other persons, or had or has the capacity to injure other persons. An action brought by the Attorney General's Office under the CPA is presumed to involve an act or practice injurious to the public interest. The CPA allows an injured party to receive treble damages, up to a maximum of \$25,000.

Summary of Bill: Under the RLTA, a landlord is not entitled to the interest earned on a tenant's security deposit. Interest earnings must be deposited monthly by the financial institution or escrow agent, into the Affordable Housing for All Account, minus processing charges which is limited to an items deposited charge, monthly maintenance fees, a per check item charge, and a per deposit charge.

A violation of the security deposit section of the RLTA is a violation of the Consumer Protection 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.