
SUBSTITUTE SENATE BILL 6321

State of Washington

62nd Legislature

2012 Regular Session

By Senate Judiciary (originally sponsored by Senators Kohl-Welles, Regala, Chase, Harper, Nelson, Keiser, Frockt, and Kline)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to the use of certain unlawful detainer and
2 protection order records to protect housing opportunities; adding a new
3 section to chapter 59.18 RCW; creating a new section; and prescribing
4 penalties.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that unfettered public
7 access to civil court records materially diminishes the ability of some
8 rental applicants to obtain rental housing in this state. This often
9 affects individuals who have sought orders of protection against
10 domestic violence, sexual assault, or stalking, who have been unjustly
11 sued for eviction, or who have acquired civil court records that are
12 not predictive of their suitability for residential tenancies. These
13 records are commonly searched and compiled by tenant screening
14 companies and reported to residential landlords who frequently deny
15 housing to applicants about whom the records pertain, often with little
16 or no regard for the circumstances, merits, or dispositions of the
17 civil litigation. Such use of court records is contrary to the public
18 policy of this state. Such use of court records also does not
19 contribute to public oversight of the administration of justice, and

1 tends to undermine the legitimacy of our civil courts by systematically
2 deterring people from appearing in court, even when they have
3 meritorious claims or defenses.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 59.18 RCW
5 to read as follows:

6 (1) A landlord may not refuse to renew or enter into a rental
7 agreement based upon a court record indicating that the tenant,
8 applicant, or household member was a defendant in a civil case in
9 which:

10 (a) The court entered a final order in an unlawful detainer action,
11 and the tenant, applicant, or household member was not found guilty of
12 unlawful detainer or otherwise in unlawful possession of the disputed
13 premises;

14 (b) The tenant, applicant, or household member occupied the real
15 property as a tenant prior to a foreclosure sale concerning the same
16 premises, and the action was filed less than ninety days after the
17 foreclosure sale;

18 (c) Notwithstanding any other findings or orders in the unlawful
19 detainer action, the tenant, applicant, or household member prevailed
20 on an affirmative defense, counterclaim, or setoff asserted in the
21 action, such as a claim for breach of an implied warranty of
22 habitability or breach of the covenant of quiet enjoyment; or

23 (d) A judgment entered solely for nonpayment of rent was entered
24 but was fully cured, and the tenancy was reinstated pursuant to RCW
25 59.12.170, 59.12.190, or 59.18.410, or any other law.

26 (2) A landlord who refuses to enter into a rental agreement in
27 violation of this section may be liable to the tenant or applicant in
28 a civil action for damages sustained by the tenant or applicant. The
29 prevailing party may also recover court costs and reasonable attorneys'
30 fees.

31 (3) It is a defense to an unlawful detainer action under chapter
32 59.12 RCW that the action to remove the tenant and recover possession
33 of the premises is in violation of subsection (1) of this section.

34 (4) This section does not prohibit adverse housing decisions based
35 upon other lawful factors within the landlord's knowledge.

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