

HOUSE BILL REPORT

HB 1565

As Passed House:
February 16, 2016

Title: An act relating to ensuring housing options for participants in government assistance programs.

Brief Description: Concerning the preservation of housing options for participants in government assistance programs.

Sponsors: Representatives Ormsby, Walsh, Pettigrew, Kirby, Jenkins, Robinson, Riccelli, Wylie and Santos.

Brief History:

Committee Activity:

Judiciary: 2/4/15, 2/2/16, 2/4/16 [DP].

Floor Activity:

Passed House: 2/16/16, 50-47.

Brief Summary of Bill

- Amends the Residential Landlord-Tenant Act to prohibit certain adverse actions or disparate treatment of tenants or applicants based on their lawful source of income.
- Creates a civil cause of action for violations.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 7 members: Representatives Jenkins, Chair; Kilduff, Vice Chair; Goodman, Hansen, Kirby, Kuderer and Orwall.

Minority Report: Do not pass. Signed by 5 members: Representatives Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Haler, Klippert and Stokesbary.

Minority Report: Without recommendation. Signed by 1 member: Representative Muri.

Staff: Edie Adams (786-7180).

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.

Background:

The Residential Landlord-Tenant Act (RLTA) regulates the rights and duties of landlords and tenants in residential rental housing.

Under the RLTA, landlords may screen and 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. Such reports may include information about a tenant's credit, employment, criminal background, and civil judgments. A landlord may use the information obtained from these reports to determine whether a prospective tenant would make a suitable tenant. However, under the Washington Law Against Discrimination, a landlord may not discriminate against a prospective tenant with regard to sex, marital status, sexual orientation, race, creed, color, national origin, families with children status, honorably discharged veteran status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability.

In addition, under the RLTA, a landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant's or applicant's or a household member's status as a victim of domestic violence, sexual assault, or stalking. A landlord who violates this prohibition may be liable to the tenant or applicant in a civil action for damages sustained by the tenant or applicant. The prevailing party may also recover court costs and reasonable attorneys' fees.

Summary of Bill:

A person is prohibited from taking certain acts based on the source of income of an otherwise eligible applicant or tenant. Prohibited acts include, but are not limited to:

- refusing to lease or rent any real property to an applicant;
- expelling a tenant from any real property;
- making any distinction, discrimination, or restriction against an applicant or tenant in the price, terms, conditions, or privileges relating to the rental;
- attempting to discourage the rental or lease of any real property;
- publishing, circulating, issuing, or displaying any communication of any kind relating to the rental or lease of real property that indicates any source of income; and
- assisting another to commit a prohibited act.

Source of income includes income derived from social security, supplemental security income, other retirement programs, and any federal, state, local, or nonprofit-administered benefit or subsidy programs, including housing assistance, public assistance, and general assistance programs. Source of income does not include income derived in an illegal manner.

These prohibitions do not apply with respect to housing for older persons as defined by federal law. The prohibitions are also not applicable to local, state, and federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling unit.

A person who violates a prohibited act may be held liable for up to treble the damages sustained by the tenant or applicant, plus court costs and reasonable attorneys' fees.

Appropriation: None.

Fiscal Note: Not requested.

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) There have been many efforts over the years to support housing assistance and reduce homelessness. We need for landlords to step up and help in this effort. Accepting housing vouchers will impose some new burdens on landlords, but those burdens pale in comparison to the damage done to veterans, persons with disabilities, and others who are denied housing. Homelessness is on the rise in this state. There is a pressing need to address the problem, and one way to do that is to reduce the barriers to access to housing. The Section 8 housing program sharply reduces homelessness and lifts families out of poverty and into safer neighborhoods. Too often tenants hear or see ads that say "no Section 8." Landlords should not categorically deny housing to low income tenants. Many states have already outlawed this practice, as have a number of jurisdictions in Washington.

Housing voucher programs are important for persons with disabilities to allow them to live stable lives. It is insulting that tenants with housing assistance are assumed to be problematic. They deserve to be considered for any rental for which they can afford to pay the rent. For victims of domestic violence, it is critically important that they be able to move quickly. When landlords again and again deny housing based on a voucher, a domestic violence victim's ability to stay safe is jeopardized.

It is a very difficult and lengthy process to find housing. Sometimes people are on the list for housing assistance for four or five years. If they cannot find housing in the required time period, they lose the voucher and then have to go back on the list for another number of years. Source-of-income discrimination is a state-level issue that cannot be adequately addressed by local laws. Housing assistance and other public benefit programs operate throughout the state to meet basic needs and reduce the impact of poverty. These programs are not effective if landlords do not have to accept them.

Section 8 vouchers are not a burden and it is not difficult to understand the process. The required inspections are not cumbersome; they address basic safety issues that are already embodied in the RLTA or building code laws. Section 8 tenants are not any more difficult to deal with than other tenants. Landlords may still use other legitimate criteria to deny housing. This bill does not establish rent control and does not change the eviction process.

(Opposed) Section 8 housing will be a protected class if this bill is passed. Section 8 is a federally created program that is voluntary for private landlords. Local housing authorities are responsible for implementing the program. Landlords do accept Section 8 vouchers if their properties qualify for the program. When landlords say that they cannot accept Section 8 vouchers, it may well be because the rents are too high for the program. That is a federal funding issue.

The bill creates treble damages which are not authorized under any other circumstance in the RLTA. There is only one instance where double damages are available, and in that case the provision only doubles the amount of the deposit that is not properly returned.

The bill creates a moving requirement. Landlords will have to comply with all types of subsidy programs and their various requirements. There is a lot of work still to do on this issue. Creating a cause of action is not the best approach to getting people into housing. Instead, there should be landlord liaison programs to find the people who need housing and find the units to house them.

Persons Testifying: (In support) Representative Ormsby, prime sponsor; John Hannaman; Carissa Daniels; Liz Mills, YWCA; Michael Althaus, Columbia Legal Services; Michele Thomas, Washington Low Income Housing Alliance; Colleen Melody, Office of the Attorney General; Jim Adrian, Adrian Properties; and Chris Lowell, Association of Washington Housing Authorities.

(Opposed) Joe Pucket, Washington Multifamily Housing Association; and Kyle Woodring, Rental Housing Association.

Persons Signed In To Testify But Not Testifying: None.