

# HOUSE BILL REPORT

## HB 2811

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### As Reported by House Committee On: Judiciary

**Title:** An act relating to tenant screening, evictions, and refunds under the residential landlord-tenant act.

**Brief Description:** Modifying residential landlord-tenant act provisions relating to tenant screening, evictions, and refunds.

**Sponsors:** Representatives Walkinshaw, Harris, Jinkins, Walsh, Robinson, Zeiger, Tarleton, McBride, Ormsby, Stanford, Pollet, Frame, Bergquist and Santos.

#### **Brief History:**

##### **Committee Activity:**

Judiciary: 1/28/16, 2/4/16 [DPS].

#### **Brief Summary of Substitute Bill**

- Requires residential landlords to notify prospective tenants as to whether "comprehensive reusable tenant screening reports" will be accepted, and defines this and other related terms.
- Allows courts to order an unlawful detainer action to be of limited dissemination under certain circumstances, and prohibits a tenant screening service provider from disclosing or using the existence of the unlawful detainer action if such an order has been entered.
- Extends, from 14 days to 21 days, the time within which a residential landlord must refund a tenant's deposit or provide a statement specifying the basis for retaining some or all of the deposit.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Kuderer, Muri, Orwall and Stokesbary.

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*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.*

**Staff:** Cece Clynch (786-7195).

## **Background:**

### Tenant Screening.

The Residential Landlord-Tenant Act (RLTA) regulates the relationship between tenants and landlords, setting forth requirements, duties, rights, and remedies with respect to the landlord-tenant relationship. "Tenant screening" under the RLTA means using a consumer report or other information about a prospective tenant in determining whether to rent to the tenant. A "tenant screening report" means a consumer report as defined under the Fair Credit Reporting Act and any other information collected by a tenant screening service.

Landlords may engage in tenant screening to evaluate potential tenants, either by conducting their own searches of public records or by using a tenant screening service to obtain a report on a tenant. Prior to screening, a prospective landlord must notify a prospective tenant about the:

- kind of information that will be accessed;
- criteria that may result in denial of the application; and
- name and address of the consumer reporting agency, if any is used, along with notice to the prospective tenant of his or her 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.

A landlord may charge a prospective tenant for the cost of obtaining a tenant screening report. If the landlord conducts his or her own screening, the prospective landlord may charge for actual costs in obtaining the background information, as long as the amount charged does not exceed the customary costs charged by a screening service in the area. In either case, the landlord may only assess such a charge if the landlord provides the prospective tenant with the requisite prior notice outlined above.

Adverse action must be reported to a prospective tenant in a written form that substantially complies with the statutory form. This writing must disclose the basis for the adverse action, including whether it was based on information received from:

- consumer credit reports;
- criminal records;
- previous rental history or references; and/or
- civil records.

### Refund of Deposits.

Within 14 days of termination of a rental agreement and vacation of the premises, or 14 days after the landlord learns that the tenant has abandoned the premises, a landlord is required to provide the tenant with a specific statement of the basis for retaining some or all of the tenant's deposit and provide a refund of any amount due. The statement and payment must be deposited in the United States mail, properly addressed, and with first-class postage prepaid.

Failure to meet this timeline results in the landlord being liable to the tenant for the full amount of the deposit. The landlord is also barred from asserting this as a claim or defense in any action brought by the tenant against the landlord to recover the deposit, unless the

landlord is able to show that circumstances beyond his or her control prevented the provision of the statement within the 14 days or that the tenant abandoned the premises under certain circumstances.

A court may, in its discretion, award up to two times the amount of the deposit for the intentional refusal of the landlord to give the statement or refund due. In any action brought by the tenant to recover the deposit, the prevailing party is entitled to the cost of suit or arbitration, including a reasonable attorneys' fee.

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### **Summary of Substitute Bill:**

#### Comprehensive Reusable Tenant Screening Report.

Prior to obtaining any information about a prospective tenant, a prospective landlord must notify the prospective tenant, in writing or by posting, as to whether or not the landlord will accept a comprehensive reusable tenant screening report (comprehensive reusable report). If the landlord indicates willingness to accept a comprehensive reusable report, the landlord may access the landlord's own tenant screening report with respect to a prospective tenant, as long as the prospective tenant is not charged for this.

Any landlord who maintains a website advertising the rental of a dwelling unit, or as a source of information for current or prospective tenants, must indicate on the website whether or not the landlord will accept a comprehensive reusable report.

Certain terms are defined as follows:

A "comprehensive reusable tenant screening report" is prepared by a consumer reporting agency at the direction of, and paid for by, the prospective tenant and is made available to the prospective landlord at no charge. Such a report contains all of the following:

- a consumer credit report prepared by one of the national credit bureaus within the past 30 days;
- a report containing the prospective tenant's criminal history;
- a report containing the prospective tenant's eviction history;
- an employment verification; and
- a report containing the prospective tenant's address and rental history.

"Criminal history" means a report containing or summarizing:

- the prospective tenant's criminal convictions and pending cases, the final disposition of which antedate the report by no more than seven years; and
- the results of a sex offender registry and the United States Department of the Treasury's Office of Foreign Assets control search, based on at least seven years of address history and alias information.

"Eviction history" means a report containing or summarizing the contents of any reportable records of unlawful detainer actions concerning the prospective tenant that are lawful for landlords to consider and are obtained after a search based on at least seven years of address

history and all information provided by the prospective tenant or available in the consumer credit report.

Dissemination of Information Related to Unlawful Detainer Action.

A court may order an unlawful detainer action to be of limited dissemination with respect to one or more persons if:

- the court finds that the plaintiff's case was sufficiently without basis in fact or law;
- the tenancy was reinstated pursuant to law; or
- other good cause exists for limiting dissemination.

Such an order must be in writing. When an order for limited dissemination has been entered, a tenant screening service provider must not disclose the existence of that unlawful detainer action in a screening report or use the unlawful detainer action as a factor in determining any score or recommendation to be included in the tenant screening report.

Refund of Deposits.

The time within which a landlord must refund a deposit or provide a statement regarding the basis for retaining some or all of the deposit is increased from 14 to 21 days. When mailed, the statement or payment must be addressed to the tenant's last known address. In addition to sending the refund or statement via mail, a landlord may also personally deliver these to the tenant.

**Substitute Bill Compared to Original Bill:**

The substitute bill added a required element of a comprehensive reusable screening report, that it also include a report containing the prospective tenant's address and rental history.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** 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 committee has heard several versions of this bill over the years. This bill represents a compromise that has been worked out by the landlord and tenant groups, and there is a companion to it in the Senate. The bill does not have the mandatory language that was seen in prior bills. It helps with the high cost of screening reports, provides for a longer time within which deposit refunds and statements with respect to damage and estimates for repair can be made, and provides a means by which to limit dissemination with respect to unlawful detainer cases in which the plaintiff's case was without basis or the tenant was reinstated. The tenant screening report is referred to as reusable, rather than portable. The extension of time is welcome, because it can be difficult for a landlord to obtain estimates with respect to damage within the current 14 day period. The stakeholders have worked a

long time on this and found common ground. There is one technical amendment that will be forthcoming, and on which the stakeholders agree. It has to do with adding another piece to the definition of a comprehensive reusable tenant screening report.

(Opposed) None.

**Persons Testifying:** Representative Walkinshaw, prime sponsor; Kyle Woodring, Rental Housing Association; Michelle Thomas, Washington Low Income Housing Alliance; and Chester Baldwin, Washington Rental Owners Association.

**Persons Signed In To Testify But Not Testifying:** None.