

HOUSE BILL REPORT

ESB 6413

As Passed House - Amended:

March 2, 2016

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: Senators Mullet, Benton, Pedersen and Frockt.

Brief History:

Committee Activity:

Judiciary: 2/24/16, 2/26/16 [DPA].

Floor Activity:

Passed House - Amended: 3/2/16, 97-0.

Brief Summary of Engrossed Bill (As Amended by House)

- Requires that residential landlords 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.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. 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.

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:

Residential Landlord-Tenant Act.

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.

"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.

Unlawful Detainer.

The RLTA includes provisions governing unlawful detainer actions which allow a landlord to evict a tenant who has failed to pay rent or is otherwise holding over, and regain possession of the property.

Refund of Deposits.

Under the RLTA, 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 (U.S.) 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.

Summary of Amended 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 a consumer reporting agency within the past 30 days;
- the prospective tenant's criminal history;
- the prospective tenant's eviction history;
- an employment verification; and
- 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 U.S. 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.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended 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) Many landlord-tenant bills have been heard in the Senate and the House of Representatives over the last several years but haven't passed both chambers. The credit for this bill goes to both the landlords and tenants for working together on this and finding common ground. There is no mandate associated with the comprehensive reusable tenant screening report. It is reasonable to provide landlords with additional days to issue deposit refunds or a statement specifying the basis for retaining some or all of the deposit. The bill passed out of the Senate with 47 "yes" votes. There is some amendatory language that has been agreed to relative to the comprehensive reusable tenant screening report to replace language that would limit preparation of consumer credit reports to national credit bureaus, and replace that with new language that will allow local agencies to prepare these credit reports. An agreement on this amendment was found after the bill had passed out of the Senate. There is some concern with having to go back to the Senate if this bill is amended, but there is no objection to the amendatory language. This bill is good for both landlords and

tenants. While there are many additional things that may be desired, don't let the best be the enemy of the good. Move this bill forward.

(Opposed) Portability of reports is a good business practice, and the Washington Landlord Association was an early supporter of this concept, while some in favor of this bill today were in opposition. A landlord who owns 1,000 units will love this bill. The requirements in this bill are extremely detailed and are overkill. The bill mandates that those landlords that won't accept the comprehensive reusable tenant screening reports to advertise that fact. Credit reports promote disparity, and the federal Department of Housing and Urban Development is coming out against these.

Persons Testifying: (In support) Senator Mullet, prime sponsor; Chester Baldwin, Washington Rental Owners Association; Kathryn Hedrick, Washington Multifamily Housing Association; Sean Flynn and Kyle Woodring, Rental Housing Association of Washington; Cliff Webster, Consumer Data Industry Association; and Nick Federici, Washington Low Income Housing Alliance.

(Opposed) Tim Seth, Washington Landlord Association.

Persons Signed In To Testify But Not Testifying: None.