

SENATE BILL REPORT

SB 5123

As of January 23, 2015

Title: An act relating to tenant screening.

Brief Description: Concerning tenant screening.

Sponsors: Senators Frockt, Kohl-Welles, Mullet, Pedersen, Jayapal, Darneille, McCoy, Conway and Keiser.

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/21/15.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Staff: Shani Bauer (786-7468)

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

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 screening tenants. RLTA provides that if a landlord uses a tenant screening service to obtain the report, only the landlord's cost may be charged to the tenant. The landlord's actual costs may be charged if the landlord conducts the screening. A landlord may not charge a tenant for obtaining background information unless the landlord first notifies the tenant of what the tenant screening will entail, the tenant's right to dispute the information received by the landlord, and the name and address of the tenant screening service used by the landlord.

The use of credit reports and consumer reports is regulated under both federal and state law. These laws require that consumer reporting agencies establish procedures to ensure that the information in consumer reports is accurate and is provided only for appropriate purposes. Certain outdated information is prohibited from appearing in a consumer credit report, including information relating to suits or judgments, or criminal records, that are more than seven years old.

Prior to screening a prospective tenant, and in order to charge the prospective tenant for that screening, the prospective landlord must first notify the prospective tenant in writing of the following information:

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- what types of information will be accessed to conduct the tenant screening;
- what criteria may result in the denial of the application;
- the name and address of the consumer reporting agency, if used; and
- the prospective tenant's right to obtain a free copy of the consumer report in the event of an adverse action, and to dispute the accuracy of information in the consumer report.

If an adverse action is taken, the prospective landlord must provide this information to the prospective tenant in writing, in a form substantially similar to the one prescribed by statute. If the adverse action is based on information received from a consumer report, the contact information of the consumer reporting agency must be provided.

Summary of Bill: If a comprehensive screening report regarding the prospective tenant was prepared within 30 days of the rental application date and is provided to the prospective landlord by the consumer reporting agency, the landlord may not charge the prospective tenant a tenant screening fee. In this instance, a prospective landlord is not prevented from getting an independent tenant screening report, but the prospective landlord may not charge the prospective tenant for the cost of the tenant screening report. The landlord may not treat a prospective tenant any less favorably solely because a comprehensive screening report has been made available regarding the tenant.

A comprehensive screening report means a tenant screening report that includes all of the following: (1) contact information for the consumer reporting agency; (2) criminal history, including a sex offender search; (3) eviction history; (4) employment verification; and (5) the prospective tenant's address history.

Criminal history and eviction history are defined.

Language regarding a stakeholder workgroup is stricken.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on November 1, 2016.

Staff Summary of Public Testimony: PRO: This bill is about eliminating unfair and unnecessary barriers to housing. This bill does not prevent a landlord from using a credit report, but rather ensures that the landlord receives a high-quality report that is timely. A landlord can still use their own report but cannot charge the tenant if a comprehensive report is made available. Moving is very expensive and tenant screening fees can be burdensome. After being denied for housing once, a person looking for housing is in the position of using up money saved for deposit and rent for screening fees. In order to find a landlord that will accept a record that may not be perfect, the person needs to be able to apply. Low-income tenants are in the position of paying application fee after application fee only to be denied. Further, landlords may charge a screening fee for every member of the household. One

application for one family totaled \$179. This constitutes a significant barrier to affordable housing. This bill would also assist persons applying for housing in ensuring their report contains accurate information. The tenant gets access to the report first and would be able to contact the company to correct any errors.

The original stance of the tenant's union was that the screening report was a cost of doing business and should be paid for by the landlord. We have come a long way in acknowledging that it may be appropriate for these costs to be paid by the tenant, but the costs should only be paid once.

CON: The Rental Housing Association is sympathetic to stories of low-income tenants paying multiple screening reports and are working on creating a product that provides a comprehensive product along these lines. However, the report should not be mandated for landlords. Landlords have a variety of different businesses and different operating models. They therefore need to be able to access a suite of products that meet those various needs. Mandating one particular product does not make sense. Also, there haven't been any stories of landlords rejecting portable reports. This is a viable new product, but landlords should not learn of this product through a mandate. Companies have run their own report next to some of these portable reports and found items that don't match. Landlords establish a relationship with a company and come to trust the data. Landlords are very concerned about potential fraud or inaccuracy of these reports.

Persons Testifying: PRO: Michele Thomas, Nick Federici, WA Low Income Housing Alliance; Patricia Abbate, Solid Ground; Liz Mills, YWCA Seattle, King and Snohomish; Eric Dunn, NW Justice Project; Jonathan Grant, Executive Director, Tenants Union; Ashley Albert, Kimberly Mays, Thomas Green, citizens.

CON: Gregory Cerbana, WA Multi Family Housing Assn.; Kyle Woodring, Doug Neyhart, Rental Housing Assn.; Chet Baldwin, WA Rental Owner Assn.