

# SENATE BILL REPORT

## SB 5218

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As of January 28, 2015

**Title:** An act relating to unlawful detainer actions for at-will tenancies.

**Brief Description:** Expanding the definition of unlawful detainer to include a provision governing at-will tenancies.

**Sponsors:** Senators Hobbs and Benton.

**Brief History:**

**Committee Activity:** Financial Institutions & Insurance: 1/28/15.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Staff:** Shani Bauer (786-7468)

**Background:** Unlawful detainer is the process for evicting a residential tenant. The process is generally as follows:

- The landlord serves a tenant with, most commonly, a three-day pay or vacate or a ten-day comply or vacate notice;
- If after three or ten days the tenant is still in the rental unit either without paying rent or failing to comply with the terms of the notice, the landlord will have a neutral third party deliver the Summons and Complaint. This document does not need to be filed with the court. These documents will include a reply deadline. If the tenant fails to reply, the tenant will automatically lose the eviction;
- Show Cause Hearing: this is a notice of appearance date. This hearing is an opportunity for the tenant to raise any defenses to the eviction. The judge makes a ruling at this point. If the tenant prevails, the case is dismissed. If a tenant loses, they will be issued a judgment in the amount of money owed which may include rent, court costs, attorneys' fees, and other fees; and
- Writ of Restitution: if a tenant loses, the sheriff will also issue a writ of restitution which is notice of when the sheriff is coming to oversee the tenant's removal from the property, if the tenant has not already vacated.

**Summary of Bill:** A new category is added to the unlawful detainer statute in determining who may be sued for an unlawful detainer.

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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.*

A person who occupies real property with the consent of the owner but without a specific rental amount or designated period of tenancy on an at-will basis may be evicted if they fail to leave the premises after 30-days' notice, in writing, served as provided for in statute.

This does not apply to housing for seasonal agricultural employees when provided in conjunction with employment. Double damages do not apply.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: A person in an at-will tenancy currently must be removed via an ejectment action. Under this process, it takes 12–18 months to remove someone. This arises most in the context where a family member lets another move into their house, or a house they own, rent free. At some point they are asked to move and the person refuses. The owner must go through a lengthy ejectment process to get them out of the house.

CON: This bill allows a person to file an unlawful detainer against a tenant at will without filing an ejectment action. Essentially an at-will tenant lives on the premises without paying rent. This situation generally occurs when a person is given a place to stay as part of the person's employment. The landlord can always structure an arrangement up front so it is not a tenancy at will. There is a need to deal with some situations but this statute is too broad and there are unintended consequences. Further, the 30-day notice requirement is confusing. The notice should be 20 days to be consistent with other landlord-tenant provisions.

**Persons Testifying:** PRO: Chester Baldwin, Mobile Home Communities of WA; Joseph Puckett, WA Multifamily Housing Assn.

CON: Gregory Provenzano, Columbia Legal Services; Tim Seth, President, WA Landlord Assn.