

SENATE BILL REPORT

SB 5221

As of January 29, 2015

Title: An act relating to the disposition of tenant property placed upon the nearest public property.

Brief Description: Concerning the disposition of tenant property placed upon the nearest public property.

Sponsors: Senators Benton and Roach.

Brief History:

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

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Staff: Shani Bauer (786-7468)

Background: The Residential Landlord-Tenant Act provides a court process called an unlawful detainer action by which a landlord may evict a tenant from the premises. When the landlord prevails in an unlawful detainer action, the court may order a writ of restitution to be issued by the court clerk directing the sheriff to physically evict the tenant. The sheriff must deliver a copy of the writ to the tenant, informing the tenant that the tenant can be physically removed from the premises after a certain date. The sheriff must also give the tenant a written notice informing the tenant what can happen to the tenant's personal property if it is not removed by the date of the eviction.

If the tenant does not voluntarily vacate the premises, the sheriff will execute the writ, at which time the landlord may enter and take possession of the tenant's property left on the premises and store the property in any reasonably secure place. The landlord must store the property if the tenant requests the landlord to do so in writing within three days of service of the writ. Otherwise the landlord may store the property at the landlord's discretion unless the tenant objects to the storage of the property. If the tenant objects or the landlord does not elect to store the property, the landlord must deposit the property onto the nearest public property.

If the landlord stores the tenant's property, the tenant is liable for the actual or reasonable moving and storage costs, whichever is less. After notice to the tenant, the landlord may sell the tenant's property, apply any income from the sale to the costs of moving and storage, and

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then must hold any excess income from the sale for the tenant up to a year. If the tenant does not claim the remaining income within a year, the landlord must treat it as abandoned property and deposit it with the Department of Revenue.

Summary of Bill: Any tenant property placed upon the nearest public property may be disposed of by the landlord at the tenant's expense after the property has remained for a period of not less than five days.

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: Under current law, once an eviction is finished the sheriff will give the tenant notice and additional time to move out. If the tenant has still not removed their belongings, the property may be put on the street. There is no current basis to determine how long the landlord has to let the property sit there. The answer from the county sheriff is different in every county. Landlords are just looking for some certainty and would be willing to compromise on the time and expense to the tenant.

CON: This has been a problem and a process should be defined. However, the tenant should not be required to pay for removal of the property. If they tenant has no resources to move out of the residence, they essentially have nothing at that point. Once an eviction is ordered, 70 percent move out before the sheriff has to execute the order. If they don't have any family around to help them they will be living on the street at the end of this process. Once the property is out on the street, one of three things can happen: (1) the tenant can get a friend to help move the belongings; (2) people decide the stuff is free and start to take it; or (3) the property is treated as garbage and people start adding to it. It is unfair to charge the tenant for removal at this point. The statute should be reworked so that the landlord always stores the tenant's property unless the tenant objects.

Persons Testifying: PRO: Joseph Puckett, WA Multifamily Housing Assn.; Chester Baldwin, WA Rental Owners Assn. Bill Hinkle, Rental Housing Assn.

CON: Gregory Provenzano, Columbia Legal Services; Rory O'Sullivan, King County Bar Assn.; Tim Seth, President, WA Landlord Assn.