

# SENATE BILL REPORT

## ESB 6413

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As Amended by House, 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:** Financial Institutions & Insurance: 1/27/16, 2/03/16 [DP].

Passed Senate: 2/15/16, 46-2.

Passed House: 3/02/16, 97-0.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** Do pass.

Signed by Senators Benton, Chair; Angel, Vice Chair; Mullet, Ranking Minority Member; Fain, Hobbs, Litzow, Nelson, Pedersen and Roach.

**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.

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.

A landlord may collect a deposit from a tenant as security for the performance of the tenant's obligations in a rental agreement. In order to collect a deposit, the rental agreement must be in writing and must include the terms and conditions under which the deposit may be withheld upon termination of the agreement. A written checklist signed by the landlord and the tenant describing the condition of the unit must accompany the rental agreement.

Within 14 days after the termination of a rental agreement or abandonment of the premises, the landlord must give a full and specific statement of the basis for retaining any portion of the deposit together with the payment of any refund due to the tenant. No portion of a deposit may be withheld on the account of wear resulting from ordinary use of the premises. If a landlord fails to provide the required statement and refund to the tenant within 14 days, the landlord must return the entire deposit.

**Summary of Engrossed Bill:** Prior to screening a prospective tenant, and in order to charge the prospective tenant for that screening, the prospective landlord must notify the prospective tenant in writing as to whether or not the landlord will accept a comprehensive reusable tenant screening report made available to the landlord by a consumer reporting agency. If the landlord accepts such a report, the landlord may still access his or her own tenant screening report, but may not charge the prospective tenant for that report.

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 include a statement on the property's home page stating whether or not the landlord will accept a comprehensive reusable tenant screening report made available to the landlord by a consumer reporting agency.

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

- the court finds the plaintiff's case was sufficiently without basis in fact or law;
- the tenancy was reinstated; or
- other good cause exists for limiting dissemination of the unlawful detainer action.

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

A landlord must give a former tenant a full and specific statement of the basis for retaining any portion of a rental deposit together with the payment of any refund due within 21 days after the termination of the rental agreement or abandonment of the premises. If a landlord fails to provide the required statement and refund to the tenant within 21 days, the landlord must return the entire deposit.

Comprehensive reusable tenant screening report, criminal history, and eviction history are defined. Obsolete language is removed.

**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: Stakeholders had several meetings over the interim with a mission to figure out what to do about some of these issues that have continued to come up over the last few years. The only issue that wasn't discussed in detail was increasing the time period for return of a tenant's deposit. The 14 days is difficult for landlords to figure out what the costs are. Several west coast states use 21 days and this is in the realm of reasonableness. This is a good bill that will remove barriers to housing and address the high cost of rental applications. It also makes sense that it takes time to turn over rental units. This bill gives a landlord at least 19 business days to get a statement and refund back to the tenant. A small amendment is needed to the definition of a comprehensive reusable tenant screening report. A judge should be involved in the decision of whether to withhold information as to eviction. This bill requires that.

CON: This bill defines screening report so precisely that no screening report will qualify. Many credit reports are structured as pass/fail as opposed to containing detailed information. Instead of strict standards, it would make sense to allow a tenant to produce a credit report from a reputable consumer reporting company that is acceptable to the landlord. Tenants get upset if you hold their deposit for extended periods of time. Seven days should be sufficient - 21 days is only needed in rare circumstances such as when the landlord is out of state.

OTHER: From the perspective of the consumer reporting industry, portable screening products are fairly new. There is increasing acceptance of the product by landlords. The bill gets information out about portable screening reports but doesn't make acceptance of the reports mandatory which is a good thing.

**Persons Testifying:** PRO: Joe Puckett, Washington Multi-Family Housing Association; Kyle Woodring, Rental Housing Association; Michele Thomas, WA Low Income Housing Alliance.

CON: Timothy Seth, Washington Landlord Association.

OTHER: Cliff Webster, Consumer Data Industry Assn.

**Persons Signed In To Testify But Not Testifying:** No one.

**House Amendment(s):** A "comprehensive reusable tenant screening report" includes a consumer credit report prepared by a consumer reporting agency and is not limited to a consumer credit report prepared by one of the national credit bureaus.