

---

## Civil Rights & Judiciary Committee

---

### HB 2520

**Brief Description:** Addressing documentation and processes governing landlords' claims for damage to residential premises.

**Sponsors:** Representatives Thai, Macri, Doglio, Morgan, Entenman, Kilduff, Pollet, Ryu and Robinson.

#### Brief Summary of Bill

- Defines "wear resulting from ordinary use of the premises" for purposes of the Residential Landlord-Tenant Act (RLTA).
- Requires that the checklist provided at the commencement of a tenancy indicate the age of various items, the time since their installment or replacement, and their useful life, defines "useful life," and tasks the Department of Commerce with adopting tables establishing useful life of various items for use in determining damages under the RLTA.
- Establishes parameters with respect to damage claims.

**Hearing Date:** 1/24/20

**Staff:** Cece Clynch (786-7195).

#### Background:

The Residential Landlord-Tenant Act (RLTA) regulates the relationship between residential landlords and tenants, and includes provisions regarding the duties of tenants and landlords and remedies for violations of those duties. Tenants have the duty to restore the premises to their initial condition except for reasonable wear and tear or conditions caused by failure of the landlord to comply with his or her obligations under the RLTA.

Landlords often collect a damage or security deposit, the purpose of which is to cover any damage caused to the property by the tenant, in excess of normal wear and tear resulting from

---

*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.*

ordinary use. The RLTA requires that the deposit be placed in a trust account. Any interest earned generally belongs to the landlord.

The RLTA also requires that, in order to collect such a deposit, the rental agreement be in writing and a written checklist or statement (checklist) specifically describing the condition and cleanliness of, or existing damages to, the premises and furnishings, including walls, floors, countertops, carpets, drapes, furniture, and appliances be provided by the landlord to the tenant at the commencement of the tenancy. Both the landlord and the tenant must sign the checklist or statement, and the tenant must be provided with a copy. Failure to provide the written checklist at commencement subjects the landlord to liability for the amount of the deposit.

Within 21 days after the termination of the rental agreement and vacation of the premises, or after abandonment by the tenant, the landlord must give a full and specific statement of the basis for retaining any of the deposit and pay any refund due the tenant. No portion of any deposit may be withheld on account of wear resulting from ordinary use of the premises. A landlord complies with this requirement if the required statement or payment, or both, are delivered to the tenant personally or deposited in the mail within 21 days.

Failure to do so within the time specified subjects the landlord to liability to the tenant for the full amount of the deposit. The landlord is prohibited, in any action brought by the tenant to recover the deposit, from asserting any claim or raising a defense for retaining any of the deposit unless the landlord shows that circumstances beyond his or her control prevented compliance or that the tenant abandoned the premises. The court may award up to two times the amount of the deposit for intentional refusal by the landlord to provide the statement or refund due.

The RLTA expressly recognizes that landlords have the right to proceed against a tenant to recover sums exceeding the amount of the tenant's damage or security deposit for damage to the property for which the tenant is responsible, together with reasonable attorneys' fees.

### **Summary of Bill:**

"Wear resulting from ordinary use of the premises" is defined as deterioration that results from the intended use of a dwelling unit, including breakage or malfunction due to age or deteriorated condition. Such wear does not include deterioration that results from negligence, carelessness, accident, or abuse of the premises, fixtures, equipment, or furnishings by the tenant, immediate family member, or guest. Current references in the Residential Landlord-Tenant Act (RLTA) to "normal wear and tear" and "reasonable wear and tear" are amended to be consistent.

The written checklist or statement (checklist) that must be provided at the commencement of the tenancy generally covers the same fixtures, equipment, and furnishings but adds specific reference to wall paint, wallpaper, window coverings, and screens. In addition, the checklist must indicate the age of all fixtures, equipment, and furnishings, the time since their installment or replacement, and their useful life. The tenant has the right to request one free replacement copy of the checklist.

The term "useful life" is defined to mean the expected lifetime, or the acceptable period of use under normal circumstances. The Department of Commerce is tasked with adopting by rule tables establishing the useful life of fixtures, equipment, and furnishings for use in determining

damages to premises under the RLTA. These tables must be adopted before December 31, 2020, and periodically thereafter. After their adoption, useful life shall be determined under the RLTA with reference to those tables. If a fixture or a piece of equipment or furnishings does not appear in the tables or is substantially different from what appears in the tables, the useful life may be determined with reference to items in the table with similar characteristics or information published by the manufacturer or other evidence.

With the statement required within 21 days after termination of the rental agreement and vacation of the premises, or abandonment, the landlord must include copies of estimates received or invoices paid to substantiate damage charges. Where repairs are performed by the landlord or his or her employee, if a deduction is made for materials or supplies the landlord must provide a copy of the bill, invoice, or receipt and a statement of the time spent and the reasonable hourly rate charged. Provision is made for the landlord to document the cost of materials or supplies already possessed or purchased on an ongoing basis.

Withholding of any part of the deposit for wear resulting from ordinary use is prohibited. Additionally:

- Any part of the premises that requires replacement or repair but has reached the end of its useful life shall be deemed to have deteriorated as the result of wear resulting from ordinary use regardless of its condition at the time replacement or repair is required.
- A tenant who damages the premises in excess of wear resulting from ordinary use may be charged only that proportion of the cost of replacement that represents the item's remaining useful life at the time the tenancy is terminated.
- Where there is damage in excess of wear resulting from ordinary use and the damage does not encompass the entirety of the item, no portion of any deposit may be withheld in excess of the cost of repair or replacement of the damaged portion.

A tenant may request a walkthrough of the premises not more than 30 days and not less than 14 days before the termination of the rental agreement. Immediately following the walkthrough, the landlord must provide a written checklist specifically describing the condition and cleanliness of or existing damages to the premises. The written checklist must be signed by both the landlord and the tenant, and the tenant must be provided with a copy.

Any action to recover sums exceeding the amount of the damage deposit must be commenced within one year of the termination of the rental agreement or the tenant's abandonment of the premises. Damages for wear resulting from ordinary use of the premises or not substantiated by documentation may not be:

- charged to the tenant;
- reported to any credit agency, tenant screening service, or prospective landlord; or
- submitted for collection by any third-party agency.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2020.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.