

# HOUSE BILL REPORT

## ESHB 1236

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### As Amended by the Senate

**Title:** An act relating to protecting residential tenants from the beginning to end of their tenancies by penalizing the inclusion of unlawful lease provisions and limiting the reasons for eviction, refusal to continue, and termination.

**Brief Description:** Protecting residential tenants from the beginning to end of their tenancies by penalizing the inclusion of unlawful lease provisions and limiting the reasons for eviction, refusal to continue, and termination.

**Sponsors:** House Committee on Housing, Human Services & Veterans (originally sponsored by Representatives Macri, Taylor, Dolan, Gregerson, Berry, Fitzgibbon, Frame, Simmons, Ramel, Bateman, Johnson, J., Hackney, Chopp, Thai, Peterson, Santos, Orwall, Ortiz-Self, Ryu, Wicks, Lekanoff, Slatter, Berg, Senn, Harris-Talley, Ormsby and Pollet).

#### **Brief History:**

##### **Committee Activity:**

Housing, Human Services & Veterans: 1/26/21, 2/5/21 [DPS].

##### **Floor Activity:**

Passed House: 3/7/21, 54-44.

Senate Amended.

Passed Senate: 4/8/21, 28-21.

#### **Brief Summary of Engrossed Substitute Bill**

- Specifies exclusive causes for eviction, refusal to renew, and termination of tenancy under the Residential Landlord-Tenant Act and makes other changes to rights and remedies.

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### HOUSE COMMITTEE ON HOUSING, HUMAN SERVICES & VETERANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Peterson, Chair; Taylor, Vice Chair; Bateman,

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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 part of the legislation nor does it constitute a statement of legislative intent.*

Chopp, Leavitt and Thai.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Caldier, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Barkis.

**Staff:** Lena Brodsky (786-7192).

**Background:**

Residential Landlord-Tenant Act.

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. With some statutory exceptions, the rental of a dwelling unit for living purposes is generally covered under the RLTA.

Duration and Termination of Tenancy.

A tenancy for a specified time, sometimes also called a lease, is deemed terminated at the end of the specified period. A tenant who terminates a lease prior to the end of the lease period is liable for rent until the end of the period, although the landlord is required to mitigate his or her damages by attempting to re-rent the unit at a fair rental price. Alternatively, premises may be rented for an indefinite time, from period to period, or month to month. Such a tenancy is automatically renewed for another period until terminated by either the landlord or the tenant by giving at least 20 days' written notice prior to the end of any of the months or periods of tenancy. Landlords planning a change of use or demolition or substantial renovation must provide 120 days' notice.

Enforcement Remedies.

The RLTA specifies the remedies available to a tenant for a landlord's violation of his or her duties. Generally, the tenant must provide the landlord with written notice and a reasonable opportunity to fix or comply with the duty, the timeframe for which varies depending upon the type of problem. If a landlord includes prohibited provisions in a rental agreement, the tenant may recover statutory damages of up to \$500 together with costs of suit.

If the tenant is in unlawful detainer status, a landlord may bring a court action to evict the tenant. A tenant is in unlawful detainer status when he or she:

- holds over after the expiration of the specified term for which it is let to him or her; when real property is leased for a specified term or period, the tenancy is deemed terminated without notice at the expiration of the specified term or period;
- continues in possession of premises leased for an indefinite period, such as month-to-month, after the end of any month or period when the landlord, more than 20 days prior to the end of the month or period, served notice requiring the tenant to quit the premises at the end of the month or period;
- continues in possession after a default in rent, and after a 14-day notice to pay rent or vacate has been served, without complying with the duty to pay;

- continues in possession after failing to comply with a duty of tenancy (other than to pay rent) and after a 10-day notice to comply or vacate has been served, without complying;
- permits waste upon the premises, or carries on an unlawful business, or maintains a nuisance and remains in possession after the service of a three-day notice to quit the premises;
- enters upon the premises without permission and without having color of title and refuses to leave after a three-day notice; such a person may also be subject to criminal laws; or
- commits or permits any gang-related activity as prohibited by the RLTA.

### **Summary of Engrossed Substitute Bill:**

#### Cause Required for Eviction, Refusal to Renew, and Termination of Tenancy.

Except where the premises are rented for an indefinite time, on a month-to-month, or periodic basis during the first year, a landlord may terminate the tenancy without cause at the end of an initial lease term of three to 12 months upon at least 60 days' written notice. If the landlord does not give 60 days' notice, the tenancy becomes a month-to-month tenancy, which can only be terminated for one of the specified causes to evict. Nothing prohibits a landlord and tenant from entering into subsequent lease agreements that comply with the provided termination requirements. A tenant may terminate a tenancy for a specified time by providing written notice 20 days' prior to the end date of the specified tenancy.

Except as provided above, a landlord may not evict a tenant except for 14 enumerated causes:

1. failure to pay rent (14-day notice), provided that the unpaid rent did not accrue between March 1, 2020, and the end of a declared federal or state public health emergency related to the COVID-19 pandemic; if the unpaid rent accrues during that time, the landlord must offer a reasonable repayment plan of monthly payments not more than one-third of the tenant's monthly rent, and if the tenant fails to accept the repayment plan within 14 days of the offer, the landlord may proceed with an unlawful detainer action;
2. substantial breach of a material program requirement of subsidized housing, material term of rental agreement, or tenant obligation imposed by law that has not been remedied (10-day notice);
3. committing or permitting waste or nuisance, unlawful activity that affects the use and enjoyment of the premises, or other substantial or repeated interference with the use and enjoyment of the premises (3-day notice);
4. landlord, in good faith, seeks possession so that the owner or his or her immediate family may occupy the unit as the principal residence and no substantially equivalent unit is vacant and available (90-day notice);
5. owner elects to sell the premises, a single-family residence (90-day notice);
6. premises to be demolished, substantially rehabilitated, or change of use (120-day notice);

7. owner elects to withdraw the premises from the rental market to pursue a conversion (120-day notice);
8. premises are condemned by a local agency (30-day notice, or less if continued habitation would subject the landlord to criminal or civil penalties);
9. service of notice to quit or vacate by the owner or lessor with whom the tenant shares the dwelling unit or access to a common kitchen or bathroom area (20-day notice);
10. transitional housing program expires, the tenant ages out of a program, or the tenant has completed a program and is no longer eligible (30-day notice);
11. rental agreement of subsidized housing has expired, the landlord proffers a new rental agreement at least 30 days and no more than 90 days prior to the expiration, and the tenant does not sign;
12. intentional and knowing misrepresentation or omission of material information on the tenant's application that, had the misrepresentations or omissions not been made, would have caused the landlord to request additional information or take adverse action (30-day notice);
13. other good cause which constitutes a legitimate economic or business reason (60-day notice); and
14. four or more violations of a substantial breach subsidized housing requirement, material term of the lease, or tenant obligation under law (60-day notice).

Additionally, a landlord may not refuse to continue a tenancy except for two enumerated causes:

1. tenant is required to register as a sex offender during, or prior to the tenancy if not disclosed at the beginning of the tenancy; and
2. tenant makes unwanted sexual advances or commits other acts of sexual harassment directed at the property owner, manager, employee, or another tenant.

Notices must identify the facts and circumstances known and available to the landlord at the time the notice is issued that support the cause or causes with enough specificity so as to enable the tenant to respond. The landlord is allowed to present other evidence regarding the allegations within the notice where the evidence was unknown or unavailable at the time the notice was issued.

#### Occupants.

Where a tenant has permanently vacated for reasons other than termination by the landlord, and occupants co-resided with the tenant prior to and up to the tenant's vacation with the landlord's approval, the tenant must apply or reapply as a prospective tenant within 90 days of when the primary tenant vacates. In the event that the occupant fails to apply within 90 days or the application is denied, the landlord may commence an unlawful detainer action. This new provision regarding occupants is not applicable to subsidized housing.

#### Enforcement Remedies.

A landlord who removes a tenant or causes a tenant to be removed from a dwelling in violation of the section specifying exclusive causes and the landlord's responsibilities with

respect to occupants shall be held liable to the tenant for wrongful eviction for the greater of: (1) the tenant's economic and noneconomic damages; or (2) three times the monthly rent, as well as reasonable attorneys' fees and costs. The existing statutory damages available for inclusion in the rental agreement of prohibited provisions are increased from \$500 to two times the monthly rent, and the standard is changed for a landlord from "deliberately" to "knowingly" including such provisions.

#### Conforming Sections and Definitions.

Other sections are amended to reflect the new section providing the only causes cognizable under the RLTA:

- Language in the RLTA is stricken which allows a landlord to terminate a periodic or monthly tenancy with 20-days' notice.
- Language in the RLTA, which provides that where premises are rented for a specified time, the tenancy shall be deemed terminated at the end of the specified time, is amended to provide for exceptions as limited by the act.
- The definition of "unlawful detainer" found in a chapter separate from the RLTA, chapter 59.12 RCW, and which is applicable to tenancies under the RLTA as well as other tenancies, is amended to refer to this new section.

The terms "immediate family," "subsidized housing," and "transitional housing" are defined in the RLTA. References to a "fixed term" tenancy are changed to "tenancy for a specified time."

#### **EFFECT OF SENATE AMENDMENT(S):**

##### The Senate amendment:

- replaces references to "terminate" a tenancy with "end" a tenancy;
- provides that when a rental agreement allows for the tenancy to continue on a month-to-month or periodic basis after the agreement expires, a landlord may only end the tenancy for one of the enumerated causes;
- provides that a landlord may end a tenancy at the end of the initial period of the rental agreement without cause if the initial rental term is between six months and one year and the landlord provides the tenant with at least 60 days' written notice;
- provides that when a rental agreement is for a specified period and does not continue for an indefinite period or month-to-month after the specified period expires, the landlord may end the tenancy without cause if: the initial agreement is for one year or more, or the landlord and tenant have continuously entered into successive rental agreements of six months or more since the inception of the tenancy. In such cases, the landlord must provide the tenant with 60 days' written notice that the tenancy will expire at the end of the specified period;
- removes language requiring a landlord to offer a tenant a repayment plan for unpaid rent that accrued between March 1, 2020, and the end of the public health emergency related to the COVID-19 pandemic, before a landlord may evict a tenant, refuse to continue a tenancy, or end a periodic tenancy for nonpayment of rent;

- provides that one of the enumerated causes for a landlord to evict, refuse to continue, or end a periodic tenancy is if the tenant continues in possession of any dwelling unit, rather than a unit of subsidized housing, after the expiration of the rental agreement without signing a proposed new agreement proffered by the landlord at least 30 days prior to the expiration of the agreement;
- provides that a cause to evict a tenant, refuse to continue a tenancy, or end a periodic tenancy, rather than cause only to refuse to continue a tenancy, exists when a tenant failed to disclose a requirement to register as a sex offender if required in the rental application;
- provides that a cause to evict a tenant, refuse to continue a tenancy, or end a periodic tenancy, rather than only cause to refuse to continue a tenancy, exists when the tenant has made unwanted sexual advances or other acts of sexual harassment directed at the property owner, manager, employee, or another tenant in violation of any covenant or terms in the lease;
- modifies provisions addressing the remaining occupants after a tenant has permanently vacated a tenancy by requiring the landlord to serve a notice to any remaining occupants at least six months prior to and up to when the tenant vacated, and requiring the remaining occupants to either apply to become a party to the rental agreement or to vacate within 30 days of the notice; and
- makes technical corrections.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Staff Summary of Public Testimony:**

(In support) It is a privilege to own and rent out property, and this bill protects tenants against discrimination and retaliation from landlords. "Just cause" laws will not scare away new landlords or property owners. This bill will protect the most vulnerable among us from bad actors. When tenants are given 20-day notices to vacate without any advance warning, they have to scramble to move, and they often do not have enough funds to secure new housing. Tenants have had their lives ruined because of 20-day notices to vacate. There needs to be a higher bar for what constitutes acceptable notices from landlords.

This bill is about equity. Evictions have detrimental effects on people's health. Tenants deserve transparency. For the safety of individuals and our communities, there needs to be protection for people's housing. This bill provides needed protection to tenants, protection that is especially needed for undocumented and non-English speaking tenants.

This is a very balanced bill. In certain communities in the state, nearly half of the residents are renting. There is a housing crisis in many communities in Washington, and this bill

gives security to landlords and tenants. Low-income tenants are rent-burdened and live in month-to-month tenancies. The bill provides needed protections for people who struggle to find housing after being served with 20-day notices to vacate. This bill ensures that Washington joins Oregon and California in providing protection to tenants from no-cause evictions. The bill is critical because no-cause eviction protections prevent discrimination. The bill was necessary before COVID-19, and now it is needed more than ever.

(Opposed) The RLTA is already too burdensome, and more changes to the law should not be made. The costs for landlords and property managers are already too high right now due to COVID-19 to impose new rules and regulations. There should not be more carve-outs in the law for government programs. It is important not to make it more difficult for property managers, who already must continuously change their leases due to changes in the laws.

This bill limits the landlord's ability to remove a problematic tenant. Landlords have to provide safe housing for all tenants. Building management has been very difficult this past year. Passing this bill will only make it more difficult for tenants that have to endure others' problematic behaviors. This bill will allow tenants to engage in threatening and negative behavior toward their landlords and property managers. This bill will prevent landlords from handling problems presented by their tenants.

"Just cause" eviction policies do not reduce evictions, instead, they foster hostile relationships between landlords and tenants. The majority of landlords do not enjoy the eviction process, and always work to avoid evictions.

**Persons Testifying:** (In support) Representative Macri, prime sponsor; Terri Anderson and Julissa Sanchez, Tenants Union of Washington State; Michele Thomas, Washington Low Income Housing Alliance; Alicia Glenwell; Fadi Assaf, Northwest Justice Project; Daniel Low; Edmund Witter, King County Bar Association; Amber Pepka; Breean Beggs, Spokane City Council; Ashok Chandwaney; Kevin Breen; Pamela Duncan, Metropolitan Development Council; and Krystal Marx, City of Burien.

(Opposed) Brett Waller, Washington Multi-Family Housing Association; Christina Dobler, Dobler Management Company, Inc.; Yelena Kurkova, Prosper Property Management; Sarah Fried, Canyon Park Property; Saint Newton, Paragon Real Estate Advisors; MariLyn Yim; Erika Nava Sanchez; Brandy Schwartz; Rebecca Chale, RPDC Properties; and Cindy Pauley.

**Persons Signed In To Testify But Not Testifying:** Ana Bonilla, Enterprise Community Partners; Kimberlee Thornton; Debbie Carlsen, LGBTQ Allyship; Claire Lane, Anti-Hunger and Nutrition Coalition; Emily Murphy, Washington Community Action Network; Amber Abrahamson and Violet Lavatai, Tenants Union of Washington State; Carol Jensen, Faith Action Network; Mindy Woods, Resident Action Project; Joseph Peterson; Megan Capes, Tacoma Democratic Socialists of America; Vivian Grant and Joelle Craft, Washington CAN; Melanie Smith, National Alliance on Mental Illness Washington;

Sunaree Marshall, King County Department of Community and Human Services; Megan Veith, Building Changes; Cory Brewer, WPM NE Inc.; Chelsy Parrish, Washington Multi-Family Housing Association; Annette Abernathy, Private Housing Provider; Christopher Gurdjian, 11 Capital; Patricia Hoendermis, Yakima Valley Landlords Association; Patty Abberto, Clark County Rental Housing; Nancy Trucano; Thea Chard; Susan Gonzales; Christina Mays, Detente Management, Inc.; Chelsy Parrish; John Barrett; David Pitkin, RNR Property Investments; Brianne O'Hare; Jennifer Loughrey; Ron Greer; Curtis Bidwell; Neil Wilson; Nick Ragland; Cathy Jeney; David Monk; Milton Johnston, Johnston Property Management; Jennifer Lekisch; Kevieonna Pitmann, Los Altos Apartments; Jasmine Roberts, Warner Park Apartments; Ginnie Hance; Gordon Haggerty, 2310 Yale Apartments, LLC; Bruce Becker; Debra Manjarrez; Nora Schultz; Brogan Thomsen; Reyna Barajas; Jim Henderson, Rental Housing Association of Washington; Chester Baldwin, Rental Housing Coalition; and Andrew Calkins, Association of Washington Housing Authorities.