

HOUSE BILL REPORT

HB 1300

As Reported by House Committee On:
Housing, Human Services & Veterans

Title: An act relating to documentation and processes governing landlords' claims for damage to residential premises.

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

Sponsors: Representatives Thai, Chopp, Ramel, Simmons, Fitzgibbon, Peterson, Davis, Macri, Pollet, Slatter, Stonier and Taylor.

Brief History:

Committee Activity:

Housing, Human Services & Veterans: 1/28/21, 2/5/21 [DP].

Brief Summary of Bill

- Defines "wear resulting from ordinary use of the premises" for purposes of the Residential Landlord-Tenant Act.
- Establishes additional parameters with respect to damage claims and expressly requires: (1) certain documentation to reasonably substantiate damage charges; and (2) a landlord to provide a walkthrough prior to termination, if requested by the tenant, and to supply a post-walkthrough checklist.
- Establishes a one-year statute of limitations with respect to any action taken against a tenant to recover sums exceeding the amount of the damage deposit.

HOUSE COMMITTEE ON HOUSING, HUMAN SERVICES & VETERANS

Majority Report: Do pass. Signed by 6 members: Representatives Peterson, Chair;

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.

Taylor, Vice Chair; Bateman, 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:

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 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 must 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 owed to 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, appliances, or furnishings by the tenant, immediate family member, occupant, or guest. A landlord may not withhold a deposit on account of wear resulting from ordinary use of the premises. Current references in the RLTA to "normal wear and tear" and "reasonable wear and tear" are amended to refer to wear resulting from ordinary use of the premises.

The checklist that must be provided at the commencement of the tenancy generally covers the same fixtures, equipment, and furnishings, but specific references are added to wall paint, wallpaper, and other flooring in addition to carpet.

With the statement explaining the landlord's basis for retaining any of the deposit 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 reasonably 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.

No portion of a deposit may be withheld:

- for wear resulting from ordinary use;
- for carpet cleaning unless the landlord documents wear to the carpet that is beyond wear resulting from ordinary use of the premises;
- for the costs of repair and replacement of fixtures, equipment, appliances, and furnishings if their condition was not reasonably documented in the written checklist supplied at the commencement of the tenancy; or
- in excess of the cost of repair or replacement of the damaged portion in situations in which the premises are damaged in excess of wear resulting from ordinary use, but the damage does not encompass the entirety of the item.

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, or at another time agreed upon between the landlord and the tenant. Immediately following the walkthrough, at which the tenant may be present, the landlord must provide a 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, including the walkthrough checklist if a walkthrough was requested by the tenant, 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.

The requirements with respect to checklists and documentation do not apply to situations in which part or all of a security deposit is withheld by the landlord for reasons unrelated to damages to the premises, fixtures, equipment, appliances, and furnishings, such as for rent or other charges owing.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) It is important to consider the security deposit as the renter's money, and the landlord as the keeper of that money. Under current law, there is a required move-in checklist. This bill provides for a required moving-out checklist. The bill supports tenants who come together with landlords to sign a contract. The bill provides long overdue protection and provides a clearer definition of "wear and tear."

The protections in this bill will prevent collections accruing for tenants on unsubstantiated damage charges. The bill adjusts the longstanding problem of inflated and unsubstantiated damage claims against tenants. Tenants should only pay for substantiated damage claims. For many tenants, the first time that they are made aware of damage claims is when they are contacted by a collections agency. This can lead to substantial debt and is a significant barrier to obtaining housing.

(Opposed) Repair work on rental units is almost always custom work. This bill places impractical requirements on landlords. Existing law already works. Most residents already have most of their security deposit money returned to them. The new definition of "wear

and tear" in this bill is not reasonable.

Additionally, the requirement imposed in this bill for the landlord to provide a walkthrough checklist immediately to the tenant is not reasonable, and, because the walkthrough must happen before the resident moves out, the landlord will not be able to see the damage done to the unit because the resident's property will obscure the damage. There would be no way for the walkthrough to be completed before a resident vacates the rental unit. Providing an additional checklist to the tenant is not practical for housing providers. It would be logistically impossible to comply with the walkthrough requirements imposed in this bill.

Persons Testifying: (In support) Representative Thai, prime sponsor; Kimberlee Thornton; Robert Elon Mix; and Michele Thomas, Washington Low Income Housing Alliance.

(Opposed) Cory Brewer, Windmere Property Management Northwest Inc.; Gordon Haggerty, 2310 Yale Apartments, LLC; and Cory Brewer and William Shadbolt, Rental Housing Association of Washington.

Persons Signed In To Testify But Not Testifying: Terri Anderson, Violet Lavatai, and Amber Abrahamson, Tenants Union of Washington State; Carrie Graf, Northwest Justice Project; Sarah Nagy, Columbia Legal Services; Morgan Bustos; Susan Gonzales; Brett Waller, Washington Multi-Family Housing Association; Melissa Koenig, Koenig Properties; Sachel Madriz, West Mall Terrace Apartments; Saane Tome, Park Place Apartments; Jennifer Loughrey; Tami Jowers; Clyde Priddy; Eileen Zube, G and Z Enterprises LLC; Chris Dobler, Dobler Management Company Inc.; Jennifer Lekisch; Carolyn Kairez, Speck Property Management; Philip Kairez; Sharlene Stewart; Dick Fo; Donna Ruiz; Terry Lang; Rebecca Chale, RPDC Properties; Jim Henderson, Rental Housing Association of Washington; Ruth Abberto; Bruce Becker; Brandon Vukelich, BV Real Estate LLC; Chelsy Parrish, Silver Creek Apartments; Erika Nava Sanchez; and Yitbarek Teshome.