

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], 1/13/22, 1/20/22 [DPS].

Brief Summary of Substitute 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 certain documentation to reasonably substantiate damage charges.
- 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: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Peterson, Chair; Taylor, Vice Chair; Bateman, Chopp, Donaghy and Leavitt.

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.

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

Staff: Lena Langer (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 normal 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, counter tops, 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 Substitute 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.

The landlord must refund any deposit owed to the tenant, and provide documentation explaining the basis for retaining any of the deposit, from within 30, instead of 21, days after the termination of the rental agreement or the landlord learns of the tenant's abandonment of the premises. With the statement explaining the landlord's basis for retaining any of the deposit required within 30 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.

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.

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.

The timeline that the landlord must provide the full and specific statement of the basis for retaining any deposit together with any refund due to a deceased tenant's representative is made to conform to the timeline required after the termination of the rental agreement or the landlord learns of the tenant's abandonment of the premises.

Substitute Bill Compared to Original Bill:

Language permitting the tenant to request a walkthrough of the premises before the end of the rental agreement, and, after the walkthrough, requiring the landlord to provide a written checklist of the damages to the tenant is removed. The walkthrough checklist is removed as documentation needed to support damages that could be charged to the tenant, reported to any consumer reporting agency, tenant screening service, or prospective landlord, or submitted for collection by a third-party agency.

The landlord must refund any deposit owed to the tenant, and provide documentation explaining the basis for retaining any of the deposit, from within 30, instead of 21, days after the termination of the rental agreement or the landlord learns of the tenant's abandonment of the premises.

The timeline that the landlord must provide the full and specific statement of the basis for retaining any deposit together with any refund due to a deceased tenant's representative is made to conform to the timeline required after the termination of the rental agreement or the landlord learns of the tenant's abandonment of the premises.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Increasingly, landlords claim unreasonable damages and charge tenants for improvements to units and for the ordinary use of the unit. We need to reform damage deposit laws. When renters move, they need to have their deposits returned to them to cover their moving expenses. Tenants often never have their deposits returned. Tenants whose first language is not English are particularly at risk for losing their damage deposits because they do not understand the complicated process or the charges. This bill ensures that the landlords' charges to tenants are substantiated by documentation and creates a definition for "wear and tear." Renters should not find themselves in debt years after moving out because of inflated charges that they had no way to contest. This bill is clear and fair and helps to level an unfair playing field.

Under current law, there is nothing that prevents landlords from sending unsubstantiated and inflated damage claims to collections. When a landlord puts a tenant in collection for damage debts, the tenant is then shut out of housing and this is a factor driving up homelessness in Washington. Requiring the landlord to provide the tenant with proof of damage claims is a matter of basic fairness. Renters are charged excessive charges for repairs and damages, and sometimes spend years fighting to get their deposit back. Unpaid debt to a landlord damages a renter's credit and credit reports for years, foreclosing housing opportunities.

(Opposed) Most tenants receive their deposits back within 21 days of moving out. It does not seem like much has changed in this bill from last session. The statute already covers this process and there are stiff penalties in place for a landlord who misses a deadline or does not send documents to the correct address. The bill has a couple of logistical nonstarters. The bill does not touch the concern of landlords charging tenants for remodels. The bill puts many barriers in front of housing providers to become whole when a tenant causes damages or leaves a unit unclean. One year is not enough time for a housing provider to pursue damage debt from a tenant.

Under the current law, a remedy already exists when the renter and housing provider have a dispute over the security deposit. The removal of the part of the bill requiring a pre-move-out walkthrough is appreciated, but the changes in the bill are long and complicated and a stakeholder work group should be put together to work on the bill during the interim. The additional documentation requirements of the bill will increase costs for tenants. This bill is just as unworkable as it was last year. Providing estimates for repairs is not always possible. The biggest nonstarter in the bill is the requirement to sign a checklist from a walkthrough before the tenant has moved out. Damages often occur while tenants move out. Housing providers are not taking advantage of tenants and are not charging tenants for remodeling. For the most part, landlords are thrilled when someone takes care of their property and leaves it in good condition.

Persons Testifying: (In support) Representative My-Linh Thai, prime sponsor; Carla Marie Manly; Terri Anderson, Tenants Union of Washington State, Spokane; Sarah Nagy, Columbia Legal Services; Crystal Mukai; Marico Barnett; and Adam Johnson, Northwest

Justice Project.

(Opposed) Gordon Haggerty; Jim Henderson, Rental Housing Association of Washington; Cory Brewer, Windermere Property Management Northwest Incorporated; Jamie Williams, Clockwise Property Management; Chelsy Parrish; Jennifer Lekisch; Marion Durand, Security Properties Residential; Shep Salusky; Patricia Hoendermis, Yakima Valley Landlords Association; Bruce Becker; Jeannette Gordon, Rental Housing Association Coalition and National Association of Residential Property Managers; MariLyn Yim; and Duncan Green.

Persons Signed In To Testify But Not Testifying:

Phil Sodoma; David Sitler; Winnie Fung ; Ronald Greer; Lana DeMaria; David Nagel; Loyd Moore; and Ian Randall.