
**Housing, Human Services & Veterans
Committee**

HB 1441

Brief Description: Prohibiting discrimination against prospective tenants for unpaid rent or eviction during the COVID-19 pandemic.

Sponsors: Representatives Morgan, Macri, Simmons, Berry, Johnson, J., Davis, Valdez, Taylor, Wicks, Fitzgibbon, Ramel, Bergquist, Chopp, Gregerson, Peterson, Ormsby, Pollet, Hackney, Thai, Berg and Harris-Talley.

Brief Summary of Bill

- Prohibits a landlord from discriminating against a prospective tenant based on unpaid rent or an eviction that resulted from unpaid rent that accrued during an eviction moratorium.
- Imposes civil penalties for violations.

Hearing Date: 2/9/21

Staff: Dawn Eychaner (786-7135).

Background:

The Residential Landlord-Tenant Act (RLTA) sets forth the rights and duties of residential landlords and tenants. Under the RLTA, landlords may screen and evaluate prospective tenants either by conducting their own search or by using companies that provide tenant screening reports. Gathered information may include details about a prospective tenant's credit, employment, criminal history, eviction history, and rental history. A landlord may use this information to determine whether a prospective tenant would make a suitable tenant.

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.

The RLTA prohibits a landlord from terminating a tenancy, failing to renew a tenancy, or refusing to enter into a rental agreement based on a tenant's, applicant's, or a household member's status as a victim of domestic violence, sexual assault, or stalking. A landlord who violates this prohibition may be liable to the tenant or applicant in a civil action for damages sustained by the tenant or applicant. The prevailing party may recover court costs and reasonable attorneys' fees. Additionally, under the Washington Law Against Discrimination it is generally an unfair practice to discriminate against a prospective tenant based on race, creed, color, national origin, sex, marital status, sexual orientation, or any of the following:

- honorably discharged veteran or military status;
- families with children status; the presence of any sensory, mental, or physical disability; or
- the use of a trained guide dog or service animal by a person with a disability.

Further, a landlord is generally prohibited from making any distinction, discrimination, or restriction against a prospective or current tenant based on the tenant's source of income.

Violation of these prohibitions may result in a civil penalty of up to 4.5 times the monthly rent of the real property, as well as court costs and reasonable attorneys' fees.

Eviction Moratoria.

In February 2020, Governor Inslee issued Proclamation 20-05, declaring a statewide emergency in response to the novel coronavirus pandemic (COVID-19). In March 2020, the Governor issued Proclamation 20-19, prohibiting certain activities related to residential evictions.

Proclamation 20-19 has subsequently been extended and modified. The current version, Proclamation 20-19.5, expires on March 31, 2021.

Generally, under Proclamation 20-19.5, residential landlords are prohibited from serving or enforcing or threatening to serve or enforce any notice requiring a resident to vacate unless the action is necessary to respond to a significant and immediate risk to the health, safety, or property of other or the property owner has intent to personally occupy or sell the property.

Under the moratorium, a landlord may not assess or threaten to assess late fees for the nonpayment or late payment of rent. In addition to other prohibitions, a landlord may not treat any unpaid rent or other charges as an enforceable debt or obligation that is owing or collectable, when nonpayment of rent or other charges resulted from COVID-19. This prohibition does not apply if the landlord can demonstrate to a court that the resident was offered, and refused or failed to comply with, a reasonable repayment plan.

The federal Centers for Disease Control (CDC) has issued an order to temporarily halt residential eviction to prevent the further spread of COVID-19. The CDC order prohibits evictions of covered persons for nonpayment of rent and expires March 31, 2021. A person must meet certain eligibility criteria to be covered under the order and may still be evicted for reasons other than not paying rent. The CDC order only applies in states that do not have a moratorium on residential evictions that provides the same or greater public health protections than the CDC's order.

Summary of Bill:

Based on a balance of rent due that was accrued during an eviction moratorium and has not been paid by an otherwise eligible prospective tenant, or based on an eviction that resulted from unpaid rent that accrued during an eviction moratorium, a landlord may not:

- refuse to lease or rent property to a prospective tenant;
- make any distinction, discrimination, or restriction in the price, terms, conditions, or privileges relating to the rental, lease, or occupancy;
- attempt to discourage the rental or lease;
- assist, induce, incite, or coerce another person to commit an act or engaging in a practice that violates this new section;
- coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of any right granted under this new section;
- represent to a person that a dwelling unit is not available for rental when the dwelling unit is available for rental; or
- make unavailable or deny a dwelling unit to a prospective tenant that, but for his or her rental arrears, would be an eligible renter.

Violation of these prohibitions may result in a civil penalty of up to 4.5 times the monthly rent of the real property, as well as court costs and reasonable attorneys' fees.

"Eviction moratorium" is defined to include the Governor's Proclamation 20-19 and all subsequent orders extending and amending the Proclamation as well as any federal order issued during the COVID-19 pandemic.

Appropriation: None.

Fiscal Note: Not requested.

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