

HOUSE BILL REPORT

HB 1441

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

Title: An act relating to prohibiting discrimination against prospective tenants for unpaid rent or eviction during the COVID-19 pandemic.

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 History:

Committee Activity:

Housing, Human Services & Veterans: 2/9/21, 2/11/21 [DP].

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.

HOUSE COMMITTEE ON HOUSING, HUMAN SERVICES & VETERANS

Majority Report: Do pass. Signed by 6 members: Representatives Peterson, Chair; Taylor, Vice Chair; Bateman, Chopp, Leavitt and Thai.

Minority Report: Without recommendation. Signed by 3 members: Representatives Caldier, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Barkis.

Staff: Dawn Eychaner (786-7135).

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.

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.

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 another 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 engage 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.

Staff Summary of Public Testimony:

(In support) Renters are struggling to make ends meet due to the COVID-19 pandemic and are unable to pay rent during the eviction moratorium. This policy will prohibit landlords from denying a lease to an otherwise eligible tenant who could not pay their rent during an eviction moratorium. Many people will have to deal with the fallout from a lack of rental payment and keep tenants from falling into homelessness. This will prevent discrimination against people who lost their jobs due to a global pandemic that forced businesses to close. Families are using credit cards to pay their rent. There are not enough protections now against a landlords abilities to discriminate against tenants. The protections from the moratorium will disappear when the moratorium ends. There is a severe imbalance of power between landlords and tenants, and tenants need more protection. It is difficult to find housing as a low-income family and any barrier that can be removed for renters is necessary. Every year that a lease comes up for renewal a tenant is at risk of becoming unhoused. One in nine renters in Washington is behind on rent payments. This bill will protect families behind on rent from homelessness, especially families who are black, indigenous, and people of color who experience disproportionate levels of eviction and impacts from the pandemic. Students have been getting the short end of the stick during this pandemic and even before COVID-19 about 19 percent of college students were homeless or have difficulty finding housing. A lot of tenant households stand to be impacted and sent to collections when the moratorium is lifted.

(Opposed) This bill discriminates against landlords. Tenants should have to prove they are impacted by COVID-19. Tenants are receiving assistance but not landlords. Good tenants are seeking assistance and communicating with their landlords, bad tenants do not and can force landlords out of the industry. Small providers of housing can keep rent affordable, however if they are forced to sell their properties the rent will go up. Small housing providers are lower income and more likely to be people of color. Landlords are responsible for tenants actions, including their utilities if unpaid. The same protections should be afforded to landlords as to tenants. A bigger corporation may be able to handle these kinds of regulations but small landlords have trouble keeping up with these proposals. More data is needed on the impacts of these policies. A little over 10 percent of nonpayers of rent in Washington are elective nonpayers.

Persons Testifying: (In support) Representative Morgan, prime sponsor; Michele Thomas, Washington Low Income Housing Alliance; Samantha Cruz Mendoza, Associated Students of Washington State University; Cynthia Stewart, League of Women Voters of Washington; Emily Murphy, Washington Community Action Network; and Tara Villalba, Bellingham Tenants Union.

(Opposed) Brogan Thomsen; and Chantell Arnold, AP Properties.

Persons Signed In To Testify But Not Testifying: None.