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## Housing, Human Services & Veterans Committee

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### HB 2023

**Brief Description:** Addressing enforcement of tenant protections.

**Sponsors:** Representatives Hackney, Macri, Berry, Fitzgibbon, Johnson, J., Peterson, Ramel, Chopp, Bateman and Pollet.

#### Brief Summary of Bill

- Establishes a court process for the enforcement of tenant rights.
- Provides that violations of the Residential Landlord-Tenant Act, the Mobile Home Landlord-Tenant Act, and other laws and agreements may be enforced under the Consumer Protection Act.

**Hearing Date:** 1/28/22

**Staff:** Serena Dolly (786-7150).

#### **Background:**

##### Residential Landlord-Tenant Act.

The Residential Landlord-Tenant Act (RLTA) regulates the relationship between residential landlords and tenants. The RLTA establishes rights and duties of both tenants and landlords, procedures for the parties to enforce their rights, and remedies for violations of the RLTA. With some statutory exceptions, the rental of a dwelling unit for living purposes is generally covered under the RLTA.

##### Mobile Home Landlord-Tenant Act.

The Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) governs the legal rights,

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remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot within a mobile home park where the tenant has no ownership interest in the property or in the association that owns the property.

#### Washington's Law Against Discrimination.

Washington's Law Against Discrimination (WLAD) prohibits discrimination based on race, color, creed, national origin, sex, marital status, family status, disability, and other enumerated factors. Discriminatory practices are prohibited in the areas of employment, commerce, credit and insurance transactions, access to public places, and housing and real estate transactions. Under the WLAD, an individual may bring a private action or file a complaint with the Washington State Human Rights Commission.

#### Consumer Protection Act.

The Consumer Protection Act (CPA) prohibits unfair or deceptive practices in trade or commerce. The CPA includes prohibitions on anti-competitive behavior and restraints on trade. The Legislature has enacted dozens of statutes covering specific areas of the marketplace, violation of which constitute per se violations of the CPA. The Attorney General and private consumers can bring actions to enforce violations of the CPA.

#### **Summary of Bill:**

Any aggrieved party may petition a superior court for relief if a landlord has: (1) violated a provision of the RLTA, the MHLTA, a rental agreement, or the WLAD as it applies to unfair practices with respect to real estate transactions, facilities, or services; or (2) engaged in unfair, deceptive, or abusive acts or practices against the tenant or tenants.

An aggrieved party is any tenant, or an entity acting on behalf of a tenant or tenants, asserting a violation of a landlord. Aggrieved party includes an association of tenants with the same landlord, a group or association whose mission or activities seek to protect the welfare of tenants, the Attorney General, and any city or county government.

Abusive acts or practices are those that:

- interfere with the ability of a tenant to understand a term or condition of the rental agreement or the tenancy;
- constitute unlawful harassment;
- take unreasonable advantage of a tenant's lack of understanding about the tenancy's conditions or the tenant's legal rights or the tenant's inability to protect his or her interests;
- or
- take reprisal or retaliatory action, such as increasing the rent, refusing to renew the rental agreement, evicting the tenant, increasing the obligations of the tenant, or reducing services, after a tenant seeks to enforce his or her rights.

The aggrieved party may initiate an action by filing a petition and order to show cause with the superior court in the county where the premises are located. The court must schedule a hearing

within 14 days of the filing of the petition. The petition and order to show cause must contain the following: a description of the premises and the identity of the landlord; a statement of facts that indicates the existence of the violation or condition; and a request for relief. A model form for tenants is provided. The petition must be served on the landlord, the landlord's agent, or the person who receives rent.

The landlord may file an answer to the petition at any time before the hearing. If genuine issues of material fact are raised at the hearing, those facts must be tried within 30 days of the hearing unless the parties agree otherwise.

If the court finds in favor of the tenant or other aggrieved party, it may order the following relief:

- If the landlord has violated the RLTA, the MHLTA, or the rental agreement, the court must order the landlord to: (1) remedy the violation; (2) refund any rent paid by the tenant that exceeds the diminished value as determined by the court; and (3) abate the rent until conditions are corrected.
- With the aggrieved party's consent, the court may order the aggrieved party to remedy the violation at the landlord's expense.
- If the dwelling will be condemned or unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances, or regulations, the court may authorize the termination of the tenancy.
- If the landlord has unlawfully excluded the tenant from the premises, the court must order the landlord to immediately restore the tenant to the premises.
- If the landlord has engaged in unfair, deceptive, or abusive acts or practices, the court must award damages in the amount of three times the tenant's monthly rent, and the landlord will also be liable for any attorneys' fees or court costs incurred by the tenant, in addition to any injunctive relief or damages provided by the CPA.
- The court may also award any damages provided by law or contract, grant injunctive relief, and award reasonable attorneys' fees and court costs.

In addition to other relief, a court may appoint an administrator to collect rent and remedy any violations. The administrator may be any person other than the landlord and may:

- collect rents from residential and commercial tenants;
- evict residential and commercial tenants for nonpayment of rent or other cause;
- enter into rental agreements for vacant dwelling units;
- rent vacant commercial units with the consent of the landlord;
- contract for the reasonable cost of materials, labor, and services necessary to remedy the violations and rehabilitate the property to safe and habitable conditions;
- provide services to the residential and commercial tenants that the landlord is obligated to provide but refuses or fails to provide;
- petition the court for an order allowing the administrator to encumber the property for funds to cover the cost of making the property habitable; and
- petition the court to allow the administrator to receive funds from a local, state, or federal government to cover the cost of making the property habitable.

The administrator or any other interested party may petition the court to terminate administration because the funds available are insufficient to remedy the violations or for any other reason. Administration of the property also may be terminated by the court or by petition of the landlord, the administrator, or any other interested party if the property has been brought into compliance with state law.

The landlord may not collect rent while an administrator is appointed. The administrator may not be held personally liable in the performance of duties except for misfeasance, malfeasance, or nonfeasance of office. The court may allow a reasonable payment for the services of an administrator and the expense of the administration from the rent money.

A landlord who engages in unfair, deceptive, or abusive acts or practices or who violates a provision of the RLTA, the MHLTA, the rental agreement, or the WLAD as it applies to unfair real estate practices is in violation of the Consumer Protection Act.

The requirements for a tenant to be current in the payment of rent, including all utilities, before exercising remedies under the RLTA or the MHLTA are repealed.

**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.