

HOUSE BILL REPORT

HB 2323

As Reported by House Committee On:
Housing

Title: An act relating to requiring landlords to report on-time rent payments to consumer reporting agencies.

Brief Description: Requiring landlords to report on-time rent payments to consumer reporting agencies.

Sponsors: Representatives Peterson, Reed, Ramel, Morgan, Bateman, Davis, Simmons, Pollet and Macri.

Brief History:

Committee Activity:

Housing: 1/25/24, 1/30/24 [DP].

Brief Summary of Bill

- Requires landlords under the Residential Landlord-Tenant Act and the Manufactured/Mobile Home Landlord-Tenant Act to submit documentation on request of a tenant's on-time rental payments to a national consumer reporting agency.

HOUSE COMMITTEE ON HOUSING

Majority Report: Do pass. Signed by 7 members: Representatives Peterson, Chair; Alvarado, Vice Chair; Bateman, Chopp, Entenman, Reed and Taylor.

Minority Report: Do not pass. Signed by 3 members: Representatives Klicker, Ranking Minority Member; Connors, Assistant Ranking Minority Member; Hutchins.

Minority Report: Without recommendation. Signed by 3 members: Representatives Leavitt, Vice Chair; Barkis and Low.

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.

Staff: Austin Borcharding (786-7094).

Background:

Neither the federal nor the state Fair Credit Reporting Act prohibit the reporting of rental payment history to consumer reporting agencies (CRAs). The inclusion of such history in the credit reports that these agencies generate is also not prohibited. No federal law currently requires landlords to report rental payments of any sort to any CRA. There are two states with laws concerning the reporting of rental payment information by landlords to CRAs:

- California introduced legislation in 2020 which requires landlords to offer their tenants the option to have their rental payments reported to at least one nationwide CRA.
- Colorado introduced legislation in 2021 which created a pilot program for rent reporting to credit agencies. The program involves a set number of landlords and tenants and is managed by a third-party contractor.

Washington does not require landlords to report rental payment information to any CRA.

Summary of Bill:

Rental Payment Reporting.

At the request of a tenant, landlords must submit documentation of on-time rental payments to at least one of the two following types of CRAs:

- a nationwide CRA; or
- any other CRA, so long as the CRA furnishes rental payment information to a nationwide CRA.

Landlords must keep records sufficient to demonstrate that they have reported a tenant's rental payment information as requested, and they must provide documentation of this reporting upon request by a tenant.

Landlords are not required to report late or missed rental payments.

Notice to Tenants.

Landlords must provide written notice to tenants that they can request to have their on-time rental payments reported to a CRA.

If the tenant is a new or prospective tenant, the landlord must provide the notice prior to, or at the time of, the signing of the new lease.

If the tenant is an existing tenant, the landlord must provide the notice whenever a lease is renewed, or a new lease is entered into, except when the new lease is entered into by default

without the prior agreement of the parties.

The notice provided by the landlord must include the following:

- a statement that the tenant can have their on-time rent payments reported to a CRA;
- a statement that the landlord has no duty to report late or missed payments;
- a statement that the tenant's participation in rent reporting is voluntary, and that they can withdraw at any time, for any reason, by providing written notice;
- a statement that the reporting will commence within 30 days, and will continue until the tenant withdraws or the lease is terminated; and
- a section affirmatively asking if the tenant wishes to have their rental payment information reported, and a clearly marked space for the tenant to indicate yes or no, sign, and date.

Requests from Tenants.

At any time during a current lease or tenancy month-to-month, a tenant can request that a landlord begin reporting their rental payment information.

The request must:

- be made in writing;
- state that the tenant is requesting that the landlord begin reporting the tenant's on-time rental payment information;
- be signed and dated by the tenant; and
- be delivered in person or by certified mail to any one of the following:
 - the landlord;
 - the landlord's authorized agent;
 - a property manager involved in the management of the property where the rental is located;
 - any building that is:
 - regularly used for managing or otherwise administrating the business affairs of the property where the rental is located; and
 - located on the same property as the rental; or
 - any address that accepts delivery of rental payments under the rental agreement or lease.

Termination of Landlord's Duty to Report.

If a tenant fails to pay their rent on time, they are deemed to have provided notice that they no longer wish to have their rental payment information reported, and the landlord's duty to report such information is immediately terminated. If a tenant provides notice of their desire to withdraw in this manner, they are not eligible to have their rental payment information reported again in their current lease for six months.

A landlord's duty to report rental payment information terminates automatically at the end of a lease, or when a lease reverts by default to a tenancy month-to-month without prior agreement of the parties.

Appropriation: None.

Fiscal Note: Available.

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) This is a great opportunity for someone who pays their rent on time every month to improve their credit score. Credit scores are used for many things, and thus this could lead to more opportunities. This creates balance for people who are young or do not want to own a home to nonetheless build their credit in the way that mortgage payors do.

Renters are often credit-invisible, and this bill provides a way to build credit for people who often have limited opportunities to do so.

When stay-at-home mothers get divorced, many of them do not have credit, and this bill would provide a means for them to build credit faster so they could more quickly work their way into better living situations.

(Opposed) We oppose this bill because of admin costs, and because housing providers are required to report on-time reports but are not allowed to report late or missed payments. This involves labor and time, and if you were a business producing this service you would expect to be compensated. Any time we spend time taking care of state regulations we are not spending it helping our tenants in ways that we can.

On-time rental payments are only used in three rental score models although there are many, many credit scoring models. The main provider of technology for this sort of reporting charges a significant setup fee. There are First Amendment concerns with requiring landlords to report on-time payments but restricting landlord speech by not reporting late payments.

(Other) This bill could possibly create unintended discrimination. Because only on-time payments must be reported, housing providers could use a lack of previous reporting history as a proxy for a history of late or missed payments, which would discriminate against those who lack payment history simply because they chose not to opt into the rent reporting program.

Persons Testifying: (In support) Representative Strom Peterson, prime sponsor; Nicole Gomez, Washington Federation of State Employees; and Angela Rozmyn, Natural and Built Environments.

(Opposed) Patricia Hoendermis, Yakima Valley Landlords Association; and William

Shadbolt, Washington Business Properties Association.

(Other) Jim Henderson, National Association of Residential Property Managers and Benton Franklin County Rental Owners Association.

Persons Signed In To Testify But Not Testifying: Constance Nelson; Shane McGraw; Siddhant Bahadur; Carl Haglund, Columbia Modern Living; Bruce Becker; Monica Grant; Debby Herbert, Aquarius Utilities; Sheri Druckman, Legacy Partners; Chris Dukelow, CredHub Incorporated; Russ Millard, Manufactured Housing Communities of Washington; Brian Bouchard, 707 Limited Liability Corporation; and Susanna Jones.