
Housing Committee

SSB 5840

Brief Description: Concerning leases.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Padden, Pedersen and Kuderer).

Brief Summary of Substitute Bill

- Provides that a conveyance of real estate by a lease under the general real estate statute of frauds does not require acknowledgment, witness, or seal, unless the lease is recorded.
- Provides that a recorded lease requires acknowledgment of the lessee's and lessor's signatures on the lease and memorandum of lease.
- Removes recognition of leases with terms less than one year for year-to-year (periodic) tenancies under the general real estate statute of frauds, and maintains consistency with leases under the Residential Landlord-Tenant statute of frauds.

Hearing Date: 2/14/24

Staff: Martha Wehling (786-7067).

Background:

Statute of Frauds.

The statute of frauds is the legal principle that requires certain contracts to be in writing to be enforceable. There are multiple statutes of frauds governing interests in real estate, including tenancies from year-to-year (also known as periodic tenancies), the Residential Landlord-Tenant statute of frauds, the general real estate statute of frauds, and the Manufactured/Mobile Home Landlord-Tenant statute of frauds. These statutes prescribe the formal requirements for creating

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a valid lease in certain situations.

Leases.

A lease is an encumbrance. Encumbrances on real estate normally must be by deed, and a conveyance of real estate, an interest in real estate, or a contract affecting real estate must be by deed. A deed must be in writing, signed by the party, and acknowledged. An acknowledgment is a formal declaration made in the presence of an authorized officer, such as a notary public, who confirms that the signature is authentic.

Some leases must be in writing and signed by the parties. Tenancies and leases that have terms less than a year are valid without acknowledgment. A lease with a term longer than one year must be in writing and acknowledged. An unacknowledged lease that is longer than one year is effective only as an oral agreement, and results in a month-to-month tenancy.

A tenancy is the possession or occupancy of land under a lease. A lease is the contract which conveys the right for a tenancy to use and occupy property in exchange for rent. A tenancy from year-to-year is a periodic tenancy that automatically renews for a year unless terminated by notice.

Recording.

Leases longer than two years may be recorded in a county's recorder's office. A memorandum of lease is a recordable instrument used to put third parties on notice of an interest encumbering real property. The memorandum of lease outlines the specific terms of a lease agreement.

Summary of Bill:

The statute of frauds for year-to-year tenancies limits those tenancies in the absence of a written contract, and should not be construed to conflict with the Residential Landlord-Tenant statute of frauds.

A lease under the general real estate statute of frauds does not require acknowledgement, witness, or a seal. However, when a lease is recorded, the lease and memorandum of lease must have the lessee's and lessor's signatures acknowledged.

Appropriation: None.

Fiscal Note: Available.

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