

SENATE BILL REPORT

SHB 1074

As Passed Senate - Amended, April 10, 2023

Title: An act relating to documentation and processes governing landlords' claims for damage to residential premises.

Brief Description: Addressing documentation and processes governing landlords' claims for damage to residential premises.

Sponsors: House Committee on Housing (originally sponsored by Representatives Thai, Macri, Simmons, Ryu, Ramel, Peterson, Lekanoff, Alvarado, Pollet, Cortes, Gregerson, Kloba, Davis and Ormsby).

Brief History: Passed House: 3/2/23, 57-40.

Committee Activity: Housing: 3/15/23, 3/22/23 [DP, DNP, w/oRec].

Floor Activity: Passed Senate - Amended: 4/10/23, 29-19.

Brief Summary of Bill (As Amended by Senate)

- Requires a landlord to substantiate the cost of any damages withheld from a tenant deposit with estimates received, invoices paid, or other specified documentation.
- Extends the timeline for a landlord to provide a statement and documentation for retaining any portion of a tenant deposit from 21 days to 30 days.
- Prohibits a landlord from withholding any portion of a tenant deposit for certain items.
- Establishes a three-year statute of limitations for a landlord to file a lawsuit against a tenant to recover sums exceeding the amount of the damage deposit.

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.

SENATE COMMITTEE ON HOUSING

Majority Report: Do pass.

Signed by Senators Kuderer, Chair; Frame, Vice Chair; Cleveland, Saldaña, Shewmake, Trudeau and Wilson, J..

Minority Report: Do not pass.

Signed by Senators Fortunato, Ranking Member; Braun.

Minority Report: That it be referred without recommendation.

Signed by Senators Gildon and Rivers.

Staff: Riley Bengé (786-7316)

Background: Residential Landlord-Tenant Act. The Residential Landlord-Tenant Act (RLTA) regulates the creation of residential tenancies and the relationship between landlords and tenants of residential dwelling units. The RLTA establishes rights and duties of both tenants and landlords, procedures for the parties to enforce their rights, how and when a tenancy expires or may be ended, and remedies for violations of the RLTA.

Residential Landlord-Tenant Act—Damage Deposits. Landlords may collect a damage or security deposit at the inception of a tenancy to cover any damage caused to the property by the tenant in excess of normal wear and tear resulting from ordinary use. Landlords must place this deposit in a trust account, while retaining any interest earned. To collect a deposit, the RLTA requires that the rental agreement be in writing and include the terms and conditions under which the deposit may be withheld by the landlord. No deposit may be collected by a landlord unless a written checklist or statement is provided to the tenant at the beginning of the tenancy describing the condition, cleanliness of, or existing damages to the premises and furnishings, including walls, floors, counter tops, carpets, drapes, furniture, and appliances. Within 21 days after the termination of the rental agreement and vacation of the premises, or after abandonment by the tenant, the landlord must provide a full and specific statement of the basis for retaining any of the deposit and pay any refund due the tenant. No portion of any deposit may be withheld on account of normal wear and tear. If damages exceed the amount of the damage deposit, the landlord may proceed against the tenant to recover such amounts.

Summary of Amended Bill: Wear Resulting From Ordinary Use of the Premises. A landlord may not withhold a deposit on account of wear resulting from ordinary use of the premises. Wear resulting from ordinary use of the premises is defined as deterioration that results from the intended use of a dwelling unit, including breakage or malfunction due to age or deteriorated condition. Such wear does not include deterioration that results from negligence, carelessness, accident, or abuse of the premises, fixtures, equipment, appliances, or furnishings by the tenant, immediate family member, occupant, or guest. Statutory references to normal wear and tear are replaced with wear resulting from ordinary

use of the premises.

Damage Deposits. No damage deposit may be collected by a landlord unless the rental agreement is in writing and a written checklist or statement is provided by the landlord to the tenant at the commencement of the tenancy, specifically describing the condition and cleanliness of or existing damages to the premises, fixtures, equipment, appliances, and furnishings including, but not limited to walls, including wall paint and wallpaper; carpets and other flooring; furniture; and appliances.

Within 30 days after the termination of the rental agreement and vacation of the premises, or if the landlord learns of the tenant's abandonment of the premises, the landlord must refund any deposit owed to the tenant and give a full and specific statement of the basis for retaining any of the deposit. This statement must include copies of estimates received or invoices paid to reasonably substantiate any damage charges. If repairs are performed by the landlord or the landlord's employee, the landlord must provide a copy of the bill, invoice, or receipt and a statement of the time spent and the reasonable hourly rate charged.

No portion of any deposit may be withheld:

- for wear resulting from ordinary use of the premises;
- for carpet cleaning unless the landlord documents wear to the carpet that is beyond wear resulting from ordinary use of the premises;
- for the costs of repair and replacement of fixtured, equipment, appliances, and furnishings if their condition was not reasonably documented in the written checklist required at the commencement of the tenancy; or
- in excess of the cost of repair or replacement of the damaged portion in situations in which the premises are damaged in excess of wear resulting from ordinary use of the premises, but the damage does not encompass the item's entirety.

Damages for wear resulting from ordinary use of the premises or not substantiated by documentation may not be charged to the tenant, reported to any consumer reporting agency, tenant screening service, or prospective landlord, or submitted for collection by any third-party agency.

Any lawsuit filed against a tenant to recover sums exceeding the amount of the deposit must be commenced within three years of the termination of the rental agreement or the tenant's abandonment of the premises.

The requirements for checklists and documentation do not apply to situations where the landlord withholds any portion of a security deposit for reasons unrelated to damages to the premises, fixtures, equipment, appliances, and furnishings, such as for rent or other charges owed.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This legislation will help with housing stabilization to make sure those are currently housed remain housed. We need stabilization and we need to make sure people are housed. This bill is a part of our responsibility on building our communities.

One of the most common reason for tenants concern is not receiving damage deposits. The current definition of wear and tear in statute needs to be updated. Tenants do not know what constitutes normal wear and tear and the charges for wear and tear can be vague and confusing. Often tenants rely on the deposit being returned and are surprised when they get an invoice. Tenants will finally have long awaited insurance when they pay landlords money as a deposit. This bill makes landlords accountable to tenants for the return of the tenant's money. Landlords should be required to provide assurance that they won't arbitrarily take their tenants deposits. As of right now, they don't have to show proof of how the tenant's deposit has been utilized. This bill will help tenants understand why they are being charged.

Debts that have been sent to collections can cause a renter to be denied housing. The law needs to come up to speed with the current state of rental screening. There is no standard of proof a landlord has to send to a tenants debt to a collections agency. Often the only recourse tenants have is to file a claim in small claims court where only English is spoken and tenants are forced to act as their own attorney. There is no recourse for tenants who sent to collections to dispute charges. Homeless resources are often used to pay damage claims that are blocking new opportunities to find housing. This is helpful, but inflated and unsubstantiated claims drain our critical homeless resources. This bill protects tenants and Washington's homeless resources.

This bill will become a lifeline for renters that live paycheck to paycheck. This bill is a lifeline for a significant amount of renters that rely on their deposit to pay the rising cost of utilities and other necessities. Many tenants put a great deal of effort cleaning their units in preparation of moving out and are still having deposits withheld often without documentation or invoices. It is important to balance rights and responsibilities between parties. Right now, the power is with the landlords and not tenants.

CON: There are a few issues that need to be resolved, one of those issues around carpet cleaning and carpet cleaning deposits. It is pretty standard that this is something that tenants pay for. There is a difference between replacing a carpet and a carpet that needs to be cleaned. Documentation also needs to be defined in some capacity. Some landlords work very hard to make sure to give tenants back their full deposits at the end of their tenancy.

Taking care of damages is easier to do in the course of the tenancy and would reduce deposit withholdings. Normal wear and tear has been the standard for use and there is concern about moving to ordinary use definition. It may take much longer than 30 days to gather necessary documentation for severe damage. Cleaning and wear and tear and completely different requirements. Tenants should be responsible for cleaning Bills like this just increase the cost of providing housing.

OTHER: There are elements of this bill that are supported. There is a huge difference between single family houses that are rentals and large apartment communities. While the idea of providing receipts is good, it is not achievable to gather receipts within 21 or 30 days. It takes a long time to hire out work and buy materials.

Persons Testifying: PRO: Representative My-Linh Thai, Prime Sponsor; Michele Thomas, Washington Low Income Housing Alliance; Sarah Nagy, Columbia Legal Services; Talauna Reed, Tenants Union; Kasey Burton, Tenant Law Center; Scott Crain, NW Justice Project; Dominique Horn; Terri Anderson, Tenants Union of Washington State- Spokane; Hunter Herrera-McFarland; Nick Federici, City of Spokane.

CON: Ryan Makinster, Washington Multi-Family Housing Association; GORDON HAGGERTY, 2310 Yale Apts., LLC; Bruce Becker, Bruce Becker; Kent Hendricks.

OTHER: Cory Brewer.

Persons Signed In To Testify But Not Testifying: No one.