

SENATE BILL REPORT

ESSB 5197

As Amended by House, April 7, 2023

Title: An act relating to addressing landlord-tenant relations by providing technical changes to eviction notice forms and modifying certain eviction processes.

Brief Description: Addressing landlord-tenant relations by providing technical changes to eviction notice forms and modifying certain eviction processes.

Sponsors: Senate Committee on Housing (originally sponsored by Senators Kuderer, Saldaña, Frame, Nguyen, Nobles, Wellman and Wilson, C.).

Brief History:

Committee Activity: Housing: 1/20/23, 2/08/23 [DPS, DNP].

Floor Activity: Passed Senate: 3/3/23, 28-20.

Passed House: 4/7/23, 57-40.

Brief Summary of Engrossed First Substitute Bill

- Allows remote participation by any party in forcible and unlawful detainer actions.
- Allows tenants who provide a pledge of financial assistance letter from a government or nonprofit entity up until the date of eviction to satisfy an unlawful detainer judgment and be restored to their tenancy.
- Allows judges to consider the validity of 14-day pay or vacate notices served as the basis for prohibition on eligibility for tenants to seek good cause judicial discretion.
- Extends permanently the exception to the prohibition on eligibility for good cause judicial discretion for tenants using the tenancy preservation program.
- Extends the period of time that landlords must suspend court action to allow for payment of emergency rental assistance funds from seven to 14

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.

days.

- Removes language in the uniform 14-day pay or vacate notice requiring landlords to provide 14-day pay or vacate notices to dispute resolution centers upon expiration of the eviction resolution pilot program.

SENATE COMMITTEE ON HOUSING

Majority Report: That Substitute Senate Bill No. 5197 be substituted therefor, and the substitute bill do pass.

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

Minority Report: Do not pass.

Signed by Senators Fortunato, Ranking Member; Braun, Gildon, Rivers and Wilson, J..

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.

Forcible Entry or Unlawful Detainer Actions. If the court finds in favor of the landlord against a tenant, a judgment shall be entered for the restitution of the premises. Execution upon the judgment may not occur until five court days have passed after the entry of the judgment. A tenant may seek to restore their tenancy after entry of a judgment by tendering the amount stated within the judgment. Under current law, a tenant may satisfy a judgment at any time up until five court days have passed after entry of the judgment.

Any tenant that seeks to restore their tenancy with funds acquired through an emergency rental assistance program provided by a governmental or nonprofit entity must provide a copy of the pledge from the appropriate governmental or nonprofit entity. In doing so, the tenant is entitled to exercise certain reinstatement rights, including a stay of the judgment and a provision by the landlord of the necessary documentation for processing the assistance.

Landlords must accept any pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity before the expiration of any 14-day notice to pay or vacate for nonpayment of rent for any amount owing under the rental agreement. Landlords must suspend any court action for seven court days after providing necessary payment information to the nonprofit or governmental entity to allow for payment of the

emergency rental assistance funds. Once a judgment has been satisfied, a landlord must file a satisfaction of judgment with the court.

Following the entry of a judgment against a tenant for the restitution of the premises and forfeiture of the tenancy due to nonpayment of rent, the court may stay the writ of restitution upon good cause and on terms the court deems fair and just for both parties. In making this decision, the court shall consider evidence of the following:

- tenants willful or intentional default or intentional failure to pay rent;
- whether nonpayment of the rent was caused by exigent circumstances that were beyond the tenant's control and are not likely to recur;
- the tenant's ability to timely pay the judgment;
- the tenant's payment history;
- whether the tenant is otherwise in substantial compliance with the rental agreement
- hardship on the tenant if evicted; and
- conduct related to other notices served within the last six months.

Under current law, a tenant who has been served with three or more notices to pay or vacate for failure to pay rent within 12 months prior to the notice to pay or vacate upon which the proceeding is based may not seek relief in this way.

Summary of Engrossed First Substitute Bill: Remote Participation. In any forcible or unlawful detainer proceeding, any party must be permitted to appear and participate in the proceeding remotely, or by telephone if authorized by the judge. Any party must also be permitted to make an emergency application by phone or videoconference and file such documents by email, fax, or other remote means.

Forcible or Unlawful Detainer Actions. When a tenant is liable for unlawful detainer after a default in payment of rent, execution upon the judgment may not occur until five court days have passed after the entry of the judgment. If a tenant provides a pledge of financial assistance letter from a government or nonprofit entity, the period of time within which a tenant who is liable for unlawful detainer after a default in the payment of rent may satisfy the judgment and be restored to their tenancy is extended from five court days after entry of the judgment to the date of eviction.

The period of time within which a landlord must suspend court action to allow for payment of emergency rental assistance funds is extended from seven to 14 court days.

The exclusion from seeking a stay of the writ of restitution upon good cause for tenants who have been served with three or more notices to pay or vacate for failure to pay rent within 12 months prior to the notice to pay or vacate upon which the proceeding is based is modified to allow judges to consider the validity and propriety of the notices served as the basis for the exclusion. The exception to the prohibition on eligibility for good cause judicial discretion for tenants using the tenancy preservation program is extended permanently.

Residential Landlord-Tenant Act, Generally. The uniform 14-day pay or vacate notice is updated by removing language requiring landlords to provide 14-day pay or vacate notices to dispute resolution centers upon expiration of the eviction resolution pilot program.

Appropriation: None.

Fiscal Note: Available.

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 on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The RLTA was enacted 40-50 years ago and had not been substantively updated until recently. With the update, substantive renter protections were added. When you change and update laws, issues can arise with implementation, and the bill fixes those issues. The fixes in this bill will greatly increase access to justice and will prevent evictions and homelessness. The fix regarding default judgment is important. The bill removes the exclusion from judicial discretion for tenants after being served 3 pay or vacate notices in 12 months. This bill would allow tenants to pay amount owed up to eviction date to redeem tenancy and avoid eviction. This will keep more people housed. The time extension for payment processing allows enough time for more payments to be processed by rental assistance programs. This bill contains essential elements to address evictions, including broader access to attorneys, but it could be strengthened. A large amount of pay or vacate notices get served, but a small amount results in an unlawful detainer filing with a formal complaint and summons filed with the clerk in court. Federal rent assistance was a major factor in resolving cases, but the resources have shrunk. Looking ahead, judicial leaders want to see a pre-filing option continue. It is important to continue funding for ongoing pre-filing dispute resolutions and would urge extension of civil legal aid for indigent tenants. The ability to participate virtually has increased access to justice and is a good change to continue.

CON: Bill would negatively impact mom and pop landlords and result in the loss of the single-family home rental. The bill would discourage housing providers from being landlords, which could result in fewer houses available for rental units, which could ultimately have a negative impact on housing affordability. Allowing tenants time to pay up to time of eviction artificially limits housing supply because people cannot resolve tenant issues. Emergency Rental Assistance takes a long time to pay/process. Landlords still have costs related to the property, but are left without rental income. Requiring the acceptance of rental assistance funds without being able to add any conditions unrelated to the payments is problematic. The 3 pay or vacate notice restriction from judicial discretion is not a large issue. Working with the dispute resolution centers has been frustrating and mediation dates are extremely difficult to secure and often result in delays. Small landlords do not want to

evict anyone and this bill makes evictions more complicated, expensive, and take too long.

Persons Testifying: PRO: Senator Patty Kuderer, Prime Sponsor; Jody Suhrbier, Resolution Washington; Edmund Witter, King County Bar Association; Michele Thomas, Washington Low Income Housing Alliance.

CON: Brett Waller, HNN Communities; Patricia Hoendermis, Yakima Valley Landlords Association; Ryan Weatherstone; Quinn Posner; Bruce Becker, Bruce Becker; Kaitlyn Jackson, Dimension Law Group PLLC; Cole Scarbrough.

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

EFFECT OF HOUSE AMENDMENT(S):

- Clarifies that hearings in certain eviction proceedings may be conducted remotely and permits, at the courts discretion, parties, witnesses, and other authorized participants to attend these hearings remotely.
- Requires a court to grant any request for a remote appearance unless the court finds good cause to require in person attendance or attendance through a specific means.
- Provides that courts shall require assurances of the identity of persons who appear remotely.
- Prohibits courts from charging fees for remote appearances.
- Requires courts to provide instructions for remote access either on the court's website or in writing directly to the party requesting to appear remotely, or both.