
Judiciary Committee

HB 1865

Title: An act relating to limiting the obligations of landlords under writs of restitution.

Brief Description: Limiting the obligations of landlords under writs of restitution.

Sponsors: Representatives Williams, O'Brien, Springer, Fromhold, Warnick and McCune.

Brief Summary of Bill

- Provides that a landlord, when evicting a tenant, has the option of either storing the property or placing the property onto the nearest public property.

Hearing Date: 2/13/07

Staff: Trudes Tango (786-7384).

Background:

The Residential Landlord-Tenant Act (RLTA) governs the relationship between landlords and tenants of residential dwelling units, establishes the duties and liabilities of the parties, and provides procedures for each side to enforce its rights.

The RLTA provides a court process, called an unlawful detainer action, by which a landlord may evict a tenant from the premises. The landlord must serve the tenant with a summons and complaint of the unlawful detainer action, which must designate a specific date by which the tenant must respond. The landlord may also request a show cause hearing directing the tenant to appear in court and show why a writ of restitution (an order directing the sheriff to physically evict the tenant) should not be issued.

If the court issues a writ of restitution, the sheriff must deliver a copy of the writ to the tenant, informing the tenant that he or she can be physically removed from the premises after a certain date. The sheriff must also give the tenant a written notice informing the tenant what can happen to the tenant's personal property if it is not removed by the date of the eviction.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

When the sheriff executes the writ, the landlord may enter and take possession of the tenant's property left on the premises and store the property in any reasonable secure place. If the tenant objects to the storage of the property, the landlord must deposit the property onto the nearest public property. If the tenant is not present at the time of eviction, it is presumed that the tenant does not object to storage.

The tenant is liable for the actual or reasonable moving and storage costs, whichever is less. After notice to the tenant, the landlord may sell the tenant's property, apply any income from the sale to the costs of moving and storage, and then must hold any excess income from the sale for the tenant up to a year. If the tenant does not claim the remaining income within a year, the landlord must treat it as abandoned property and deposit it with the Department of Revenue.

Recently, the Washington Court of Appeals interpreted the statute to mean that a landlord has an affirmative duty to store the tenant's property upon the execution of a writ of restitution unless the tenant objects to the storage. Up until this decision, the practice in some jurisdictions was to, at the landlord's discretion, either store the property (absent any objection from the tenant) or deposit the tenant's property onto public property.

Summary of Bill:

Upon the execution of a writ of restitution, a landlord may either store the tenant's property (absent any objection from the tenant) or deposit the property onto the nearest public property. The requirement that the storage be "in any reasonably secure place" is removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.