

SENATE BILL REPORT

SSB 6060

As Passed Senate, February 18, 2008

Title: An act relating to unlawful detainer actions based on nonpayment of rent.

Brief Description: Addressing unlawful detainer actions based on nonpayment of rent.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senator Kline).

Brief History:

Committee Activity: Judiciary: 2/28/07, 2/01/08, 2/04/08 [DPS].

Passed Senate: 2/18/08, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6060 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Tom, Vice Chair; McCaslin, Ranking Minority Member; Carrell, McDermott, Roach and Weinstein.

Staff: Lidia Mori (786-7755)

Background: An unlawful detainer action occurs when a tenant of real property continues in possession after a default in the payment of rent, notice in writing has been served on the tenant requiring the payment of the rent or the surrender of the detained premises, and the person has remained for three days after service. A writ of restitution restores to the plaintiff the property described in the complaint.

When an action is commenced under the residential landlord tenant act for nonpayment of rent, the tenant must either: pay into the court registry the amount of rent alleged due in the complaint and any rent that becomes due while the lawsuit is pending, or the tenant must file a sworn statement denying that the rent is owing. If the tenant does the latter, payment to the court registry is not required. The tenant must pay the rent or file the sworn statement within seven days after service of a filed summons and complaint. Where the landlord commences an unlawful detainer action by service prior to filing the lawsuit, the tenant must pay the rent or file the sworn statement within seven days after written notice that the action has been filed and notice of these payment requirements is received. Failure of the tenant to comply with these requirements is grounds for the immediate issuance of a writ of restitution without bond. Issuance of the writ does not affect the tenant's right to a hearing to contest the amount of rent alleged to be due. A landlord who intends to use these procedures must serve the tenant with a summons that provides notice to the tenant of the payment requirements in the form required by the statute.

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.

Summary of Substitute Bill: In an action of forcible entry, detainer, or unlawful detainer based upon nonpayment of rent, the defendant is required to do one of two things: (1) the defendant must pay into the court registry the amount alleged due in the notice and continue to pay the monthly rent into the court registry while the action is pending; or (2) submit to the court a written and sworn under penalty of perjury statement that sets forth the reasons why the rent alleged due in the notice is not owed. The reasons may include that the rent alleged due is not owed based upon a legal or equitable defense or set-off arising out of the tenancy. The defendant must comply with one of the options on or before the deadline date in the notice. That date may not be prior to the deadline for responding to the eviction summons and complaint for unlawful detainer. If the defendant fails to comply with either of the two options, a writ of restitution without further notice may be obtained.

If a plaintiff intends to make use of the writ of restitution procedures, the plaintiff must first file the summon and complaint for unlawful detainer with the superior court of the appropriate county, and deliver notice to the defendant of the payment requirements or sworn statement requirements. The form for the notice is specified in the act.

If a writ of restitution is issued, the defendant may seek a hearing and an immediate stay of the writ. The court may set a show cause hearing as soon as possible but no later than seven days from the date the stay is sought or the date the defendant requests the show cause hearing. If the court, at the show cause hearing, determines that the writ of restitution should not have been issued, it must be quashed and the defendant restored to possession.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Proposed Substitute as Heard in Committee :

PRO: This bill will greatly facilitate communication between landlords and tenants. It is substantially better than current law. I am authorized to say Steve Fredrickson is in agreement with this bill. The landlord representatives and tenant groups met during the interim and this is an agreed upon bill.

PRO: Bruce Neas, Columbia Legal Services; Evan Loeffler, Rental Housing Association, WRHIC.