
Judiciary Committee

SSB 6459

Title: An act relating to the inspection of rental properties.

Brief Description: Concerning the inspection of rental properties.

Sponsors: Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs, Berkey, Marr and Schoesler).

Brief Summary of Substitute Bill

- Allows local municipalities to require landlords to provide a certificate of inspection as a business license condition.
- Creates penalties for non-compliance, falsifying information in a certificate of inspection, and obstructing an inspection pursuant to a search warrant.
- Permits the issuance of a search warrant for the purpose of allowing a code enforcement official to inspect any specified premises to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance.

Hearing Date: 2/18/10

Staff: Courtney Barnes (786-7194).

Background:

The Residential Landlord-Tenant Act (RLTA) establishes the rights and duties of landlords and tenants.

Remedies for Defective Conditions.

If a rental unit has a defective condition, the tenant must notify the landlord in writing. The RLTA provides a timeline for how long a landlord has to respond to a tenant's complaint. If the landlord fails to remedy the condition, the tenant has a choice of remedies under the RLTA,

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including terminating the tenancy or requesting a local government to inspect the unit. The landlord may not prohibit entry for the inspection.

Entry of a Rental Unit by a Landlord.

Under the RLTA, a tenant is prohibited from unreasonably withholding consent to allow a landlord to enter the premises, provided the landlord's entry is consistent with one of the purposes authorized by statute. The purposes for which a landlord may enter the premises include:

- inspections;
- completing necessary or agreed repairs, alterations, or improvements;
- supplying necessary or agreed services; or
- exhibiting the premises for authorized purposes.

Search Warrant Authority.

Under the RLTA, fire officials may seek a search warrant if tenants or landlords deny the fire official the right to search dwelling units and common areas. A court must issue a search warrant if it finds that there is probable cause, specific to the dwelling unit or common area, of a criminal fire code violation. Under case law, administrative search warrants must be supported by an authorizing statute or court rule or by allegations of a criminal violation supported by probable cause.

Summary of Bill:

Certificate of Inspection.

Local municipalities may require landlords to provide a certificate of inspection as a business license condition. A local municipality does not need to have a business license or registration program in order to require landlords to provide a certificate of inspection.

A "certificate of inspection" is a statement by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under the RLTA that substantially endangers or impairs the health or safety of a tenant, including: (a) structural members that are of insufficient size or strength to carry imposed loads with safety; (b) exposure of the occupants to the weather; (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury; (d) not providing facilities to supply adequate water and hot water; (e) providing heating or ventilation systems that are not functional or are hazardous; (f) defective, hazardous, or missing electrical wiring or electrical service; (g) defective or hazardous exits that increase the risk of injury to occupants; and (h) conditions that increase the risk of fire.

A local municipality may only require a certificate of inspection on a rental property once every three years. Rental properties are exempt from inspection if, within the last four years, they have received a certificate of occupancy and had no reported code violations. Rental properties that have been inspected by a government agency or other qualified inspector within the previous 24 months may provide proof of that inspection, which the local municipality may accept in lieu of a certificate of inspection.

Generally, multi-unit rental properties are inspected by a sampling based on the number of units, or the property owner may elect to have all of the units inspected. If a rental property is asked to provide a certificate of inspection for a sample of units and a selected unit fails the initial inspection, the local municipality may require all of the units to provide a certificate of inspection. A local municipality may also require all of the units to provide a certificate of inspection if a rental property has had conditions that substantially endanger or impair the health or safety of a tenant reported since the last required inspection. If a property owner chooses to hire a qualified inspector other than a municipal housing code enforcement officer, and a selected unit of the rental property fails the initial inspection, both the results of the initial inspection and any certificate of inspection must be provided to the local municipality.

Appeals.

If a rental property owner does not agree with the findings of an inspection performed by a local municipality, the local municipality is required to offer an appeals process.

Notice to Tenants.

A landlord must provide written notice of his or her intent to enter an individual unit for the purposes of providing a local municipality with a certificate of inspection. The notice must indicate: (a) the date and approximate time of the inspection; (b) the company or person performing the inspection; and (c) that the tenant has the right to see the inspector's identification before the inspector enters the individual unit. Upon request, a copy of the notice must be provided to the inspector on the day of inspection.

Penalties.

A penalty for non-compliance may be assessed by the local municipality. Any person who knowingly submits or assists in the submission of a falsified certificate of inspection, or knowingly submits falsified information upon which a certificate of inspection is issued, is guilty of a gross misdemeanor and must be punished by a fine of not more than \$5,000.

Search Warrant Authority.

A civil search warrant may be issued by a judge for the purpose of allowing a code enforcement official to inspect any specified premises to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance. The search warrant may only be issued if sufficient evidence has been set forth by affidavit or declaration establishing probable cause for the inspection. Provisions are created to address the information that must be contained in the warrant and when an inspection to a warrant may be conducted. Generally, the warrant is valid for up to 10 days and any inspection made under the warrant may only be made Mondays through Fridays between 8:00 a.m. and 7:00 p.m., with certain exceptions.

Any person who willfully refuses to permit inspection, obstructs inspection, or aids in the obstruction of property authorized by the warrant is subject to remedial and punitive sanctions for contempt of court and may be subject to a civil penalty imposed by local ordinance.

Other.

After the effective date of this bill, a local municipality may not enact an ordinance requiring a certificate of inspection unless it complies with the requirements for inspection created by the bill.

Appropriation: None.

Fiscal Note: Not requested.

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