

SENATE BILL REPORT

SB 5923

As of February 25, 2009

Title: An act relating to funding affordable housing programs through interest accrued on residential landlord/tenant security deposits.

Brief Description: Funding affordable housing programs through interest accrued on residential landlord/tenant security deposits.

Sponsors: Senators Kline and Fairley.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/24/09, 2/25/09 [DPF].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Diane Smith (786-7410)

Background: The Residential Landlord-Tenant Act provides that the landlord must deposit tenants' security deposits into a trust account in a bank or with an escrow agent. Unless agreed otherwise, the interest on these deposits accrues to the benefit of the landlord.

There are affordable housing programs that are limited to benefiting low-income households, meaning those with adjusted family incomes of less than 80 percent of the county median family income. These programs are largely administered through the Department of Community, Trade and Economic Development (CTED). An account in the State Treasury, called the Affordable Housing for All Account, is used only for affordable housing programs.

Each county auditor charges a \$10 surcharge per instrument, for each document recorded. The county retains up to 5 percent for collection, administration, and local distribution of these funds. Of the remaining funds, 40 percent is transmitted to the Affordable Housing for All Account. CTED must use these funds to provide housing and shelter for extremely low-income households. These are households with incomes at or below 30 percent of the area median income.

Summary of Bill: Banks or escrow agents holding trust accounts holding tenants' security deposits must transfer the interest on these accounts monthly to the Affordable Housing for

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All Account held by the State Treasurer. The banks or escrow agents may charge reasonable deposit processing charges, which are enumerated.

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: PRO: Homelessness is up and our money is not. We have nowhere near the money we used to have to address homelessness. This takes the interest on the Landlord's Deposit Trust Accounts and pools it to fund homes for the most needy, those with less than 30 percent of the local median income. Like the Interest On Lawyers' Trust Account (IOLTA) program, banks can facilitate this program inexpensively using a universally available computer program. Homeless programs are experiencing shortfalls. Many buildings operate on a shoestring, having to choose between repair and safety and security. This bill makes sense because it uses an existing account and structure. It would add \$6 to 8 million a year to house those most vulnerable. There is a clear nexus between the source of the money and its use. There is a clear precedent with IOLTA. While the act states the interest on the tenant's money belongs to the landlord, that was not in the original law. It was a floor amendment that got no public hearing and has been a disgrace ever since. Interest on escrow accounts goes to legal aid. Interest on real estate trust accounts goes to the Housing Trust Fund. There is precedent that these nominal amounts should go into the Housing Trust Fund. Electronic transfer is low cost. The private sector cannot serve this homeless population without subsidies for the rent. The legal authority mentioned in other testimony was reversed in a 2003 United States Supreme Court decision.

CON: Three years ago when the court recording fee was added, we were told it would go to provide vouchers for the homeless and all it has gone for is bricks and mortar and maintenance and operations of buildings that compete with us. None of the money has gone to vouchers. Where will this money go? To house people or to administration? All I get is 1 percent interest from the bank. I checked, and my bank says it will cost 2 percent for the requirements of this bill. Tenants expect the deposit back. We will have to spend into the trust monies to pay the fees on this. You won't get as much from this program as you think. Many landlords rent to the disadvantaged. We may have to go to nonrefundable fees or put the money into noninterest bearing accounts. The court has said that this is different from IOLTA because the attorneys' clients can demand their money back at any time. Here the tenants can't do that. This is unconstitutional. We feel this is an extra tax and we must watch every penny.

Persons Testifying: PRO: Senator Kline, prime sponsor; Linsey Hinand, Washington State Community Action Council; Jan McLellan, Metropolitan Development Council; Lynn Davison, Executive Director, Common Ground, Washington Low Income Housing; Sharon Lee, Low Income Housing Institute; Nick Federici, Washington Low Income Housing Alliance; Pat Tussani, Thurston County Tenants Union.

CON: Judi Violet, Washington Apartment Association; Doug Noyhart, Rental Housing Association; Joe Puckett, Washington Multi Family Association; Jerry Von Fossen, Puget Rental Owners Association; Chuck Beck, Washington Landlord Association.