

SENATE BILL REPORT

SB 6275

As Reported By Senate Committee On:
Law & Justice, February 1, 1996

Title: An act relating to obtaining an order staying execution of a writ of restitution.

Brief Description: Staying execution of a writ of restitution.

Sponsors: Senators Long, Smith and Schow.

Brief History:

Committee Activity: Law & Justice: 2/1/96 [DPS, DNPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6275 be substituted therefor, and the substitute bill do pass.

Signed by Senators Smith, Chair; Goings, Hargrove, Haugen, Johnson, Long, Roach and Schow.

Minority Report: Do not pass substitute.

Signed by Senator Fairley, Vice Chair.

Staff: Lidia Mori (786-7755)

Background: The present statutory framework for residential evictions is considered complex and confusing. Some of the required procedures for unlawful detainer actions are contained in RCW 59.12 and other applicable provisions are contained in RCW 59.18. Much of RCW 59.12 was enacted in the 1890's and has not changed since that time. The Residential Landlord-Tenant Act was passed in 1973. Some of the language in the act duplicates remaining statutes that apply to unlawful detainer actions.

A landlord who wishes to evict a tenant must bring an action of unlawful detainer and obtain a writ of restitution restoring the property to the landlord. RCW 59.12 provides for the issuance of a writ of restitution without notice to the tenant. The statute also provides for the issuance of a stay order to stop the eviction process pending a hearing. The judge may require the tenant to post a bond or security as a condition to stopping the eviction pending a hearing. There is concern that most judges do not require the tenant to post a bond or security as a condition to stopping the eviction, and some judges and court commissioners do not require the tenant to give any notice to the landlord that a stay order is being sought.

Summary of Substitute Bill: A tenant who is served a writ of restitution may, within three days, seek a court order suspending the execution of the writ. A judge cannot grant the suspension unless the tenant certifies in writing that reasonable efforts are made to give notice to the landlord, the landlord's attorney or agent. The tenant must also provide

security for the payment of costs, attorneys' fees and damages if any are awarded to the landlord in the writ of restitution order. Every order suspending the execution of a writ of restitution expires within seven days unless the court extends the order or the landlord agrees to an extension. The order suspending execution of the writ must also specify a date and time for a hearing. A copy of the order and any documents presented to the court in order to obtain the order must be served on the landlord at least three days prior to the hearing.

Substitute Bill Compared to Original Bill: A tenant may also give notice to a landlord's agent.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: It is not uncommon for a judge to sign an order stopping an eviction without notice to the landlord or landlord's attorney.

Testimony Against: This bill mandates that the judge set a bond as a condition to issuing an order to stop the eviction. An indigent defendant may have a conclusive case against the eviction but cannot post a bond. The judge should be able to make a case-by-case judgment regarding what type of bond or security.

Testified: Joseph Puckett (pro); Steve Fredrickson, Columbia Legal Services (con).