

HOUSE BILL REPORT

SHB 1043

As Amended by the Senate

Title: An act relating to the regulation of residential landlord-tenant duties.

Brief Description: Requiring the state landlord/tenant act to preempt all other local landlord/tenant acts.

Sponsors: By House Committee on Law & Justice (originally sponsored by Representatives Schoesler, Dunn and Smith).

Brief History:

Committee Activity:

Law & Justice: 1/21/97, 3/5/97 [DPS].

Floor Activity:

Passed House: 3/19/97, 55-42;

Passed House: 1/21/98, 55-43.

Senate Amended.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Carrell; Lambert; Radcliff; Sherstad and Skinner.

Minority Report: Do not pass. Signed by 5 members: Representatives Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Cody; Kenney and Lantz.

Staff: Bill Perry (786-7123).

Background: A variety of state laws regulate the relationship between landlords and tenants. There are specific and detailed laws relating to the renting or leasing of residential dwelling units. These laws establish the duties and liabilities of landlords and tenants with respect to each other, and provide procedures for each side to enforce its rights.

In landlord-tenant law, there is an action for "unlawful detainer." Generally, this is an action by a landlord to evict a tenant who remains on the rental premises beyond

the time when he or she is required to leave, either because of the expiration of the term of the tenancy, or because of some breach of the rental agreement by the tenant.

The state's residential landlord-tenant law requires a landlord to have cause for evicting a tenant before the end of a lease agreement. The causes that allow such an eviction include failure to pay rent, failure to maintain the premises, permitting a nuisance, creating a hazard, engaging in illegal drug or other criminal activities, or any one of several other acts or omissions by the tenant. With respect to month-to-month leases, the state law also requires a landlord to notify a tenant of the landlord's intent not to renew a lease for an additional month. However, as long as the landlord meets these notification requirements, the landlord does not need any cause for the termination of a month-to-month lease at the end of a month. Likewise, a tenant may terminate a month-to-month lease at the end of a month without any cause if proper notice is given to the landlord.

At least one city, Seattle, has adopted a local ordinance that prevents any eviction without "just cause." This "just cause" requirement applies to all evictions, even those at the end of a month-to-month lease. Among the grounds that may serve as just cause for an eviction are generally any breach of the tenant's duties under the state landlord-tenant law that would constitute cause for an eviction before the end of a lease period under the state law. Additional just causes include the desire of the landlord to use the premises for his or her immediate family members, to demolish the premises, or to convert the premises to other use. If the tenant's occupancy is conditioned upon certain employment, the tenant may be evicted if the employment is terminated. If the tenant is living in the landlord's own residence, the landlord may evict the tenant without cause.

The state supreme court has held that the state's residential landlord-tenant law does not preempt local jurisdictions from adopting additional rules regarding residential tenancies. *Margola Associates v. Seattle*. In that case, the court considered a Seattle city ordinance that, among other things, required landlords to register rental buildings and prohibited a landlord from evicting a tenant if the landlord had not complied with the registration requirement. In holding that the state's residential landlord-tenant law did not preempt local ordinances, the court allowed the failure of the landlord to register to be used by the tenant as a defense against an unlawful detainer action. The court did not specifically address the other "just cause" aspects of the Seattle ordinance, but presumably they are valid under the court's ruling.

Summary of Bill: The state preempts the field of landlord-tenant regulation with respect to local ordinances not in place as of January 1, 1997. Local jurisdictions are expressly prohibited from enacting ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law. Local ordinances that provide defenses to unlawful detainer actions are also expressly prohibited.

Preemption does not apply to local laws dealing with the physical safety of tenants.

EFFECT OF SENATE AMENDMENT(S): The Senate amendment makes two changes. First, the date after which local ordinances are not to conflict with the act is changed from January 1, 1997 to January 1, 1999. Second, additional provisions in local ordinances are exempted from state preemption. Those provisions include ordinances designed to protect against discrimination on the basis of ancestry, gender, national origin, marital status, creed, color, age, parental status, participation in federal housing programs, political ideology, or the presence of a disability. Local ordinances dealing with houseboats are also exempted.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill promotes statewide consistency. The state law is a carefully balanced and fair law. Seattle's ordinance hurts tenants by driving up the cost of housing. Lenders are reluctant to invest in Seattle residential rentals. Problem tenants use the ordinance to avoid their obligations.

Testimony Against: Local control is important. Fifty-eight percent of the state's population lives in cities, and the citizens want control of their own lives. People in Seattle expect the protection of their ordinances. Market conditions vary from city to city, and one state law cannot fairly treat all situations.

Testified: Representative Schoesler, prime sponsor; Wes Uhlman, Seattle-King County Apartment Association (pro); Ken Opp, Vancouver Apartment Association (pro); Harry Obedin, NARM (Snohomish Chapter) (pro); Terri Bosler, Thurston County Rental Owners' Association and Manufactured Housing Association (pro, with suggestions); Mark Gjurasic, Washington Apartment Association (pro); Patty Van Den Broek, Washington Apartment Association (pro); Doug Neyhart, Seattle-King County Apartment Association (pro); Elsa Young, citizen (pro); Kathy Gerke, Association of Washington Cities (con); Mike Doubleday, city of Seattle (con); Milton Ghivizzani, Rainier Legal Clinic (con); Joe Read, landlord (con); Majken Ryherd Keira, Washington Low Income Housing Congress (con); and Judith Frolich, Washington State Association of Counties (neutral, with concerns).