

HOUSE BILL REPORT

HB 1223

As Reported By House Committee On:
Law & Justice

Title: An act relating to landlord-tenant relations.

Brief Description: Addressing the public nuisance activities of tenants.

Sponsors: Representatives Carrell, Zellinsky, Talcott, Hickel, Thompson and Conway.

Brief History:

Committee Activity:

Law & Justice: 2/4/97, 2/27/97 [DPS].

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: Trudes Hutcheson (786-7384).

Background: The Residential Landlord-Tenant Act establishes various duties of landlords and tenants and provides remedies when those duties are not met. For example, the tenant has a duty to, among other things, keep the premises clean, not intentionally destroy the dwelling, not permit a nuisance or commit waste, and not engage in any drug-related activity.

If the tenant does not comply with any of the statutory duties and the failure to comply substantially affects the health and safety of the tenant or others, the landlord must give the tenant written notice of the noncompliance and allow the tenant 30 days in which to comply. Under certain circumstances, such as when the tenant is engaged in drug-related activity, the landlord need not provide written notice of noncompliance and wait 30 days. Instead, the landlord may terminate the tenancy and proceed directly to an unlawful detainer action. An unlawful detainer action allows the

landlord to evict the tenant and regain possession of the property if the tenant does not vacate the property after being served with a notice to vacate.

Disorderly conduct involves intentionally disrupting any lawful assembly or meeting of people or using abusive language that intentionally creates a risk of assault. Malicious mischief generally includes causing physical damage to property. Reckless endangerment involves recklessly engaging in conduct that creates a risk of injury or death to another.

Summary of Substitute Bill: The tenant has a duty not to engage in gang-related activity that renders a considerable number of people insecure in life or the use of property, or that injures or endangers the safety or health of a considerable number of people. Gang-related activity— is defined as activity occurring within an ongoing organization, association, or group of three or more persons, and can reasonably be described as being a public disturbance, disorderly conduct, malicious mischief, or reckless endangerment. In determining whether gang-related activity is occurring, the court should consider the totality of the circumstances, including factors such as whether there have been numerous complaints, incident reports to police, property damage, and arrests.

The landlord may terminate the tenancy for gang-related activity and proceed directly to an unlawful detainer action. The landlord is not liable for bringing an unlawful detainer action if he or she acted in good faith.

Any person whose life, safety, health, or use of property is being injured or endangered by the gang-related activity may give the landlord a notice and demand that the landlord commence an unlawful detainer action. A copy of the notice and demand must be given to the tenant as well. Within 10 days from the time the notice and demand are served, the landlord must begin investigating to determine if gang-related activity is occurring and inform the person of the investigation.

The person may petition a court to have the tenancy terminated under the following circumstances: (a) if the landlord fails to take any action within 10 days of the notice and demand; (b) if the landlord believes there is no gang-related activity; or (c) if, after the landlord's attempt to stop the activity, the tenant fails to comply within a reasonable time.

The prevailing party in the action will recover reasonable attorney's fees. However, regardless of which party prevails, the court must order the landlord to pay costs and reasonable attorney's fees to the injured person if the landlord failed to conduct any investigation.

Substitute Bill Compared to Original Bill: The original bill imposed a duty on the tenant not to engage in activity that is considered a criminal public nuisance. The

original bill allowed the landlord to commence unlawful detainer proceedings, and allowed any person to petition a court to terminate a tenant's tenancy if the tenant's noncompliance substantially affected the safety of the neighborhood.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: Allowing landlords to bring an unlawful detainer action against a tenant engaging in adverse activity will help maintain safe neighborhoods. Because there is already a lack of housing for low-income tenants, it is especially important to keep the existing low-income communities a safe place to live. The bill as written may not get to the whole problem.

Testimony Against: None.

Testified: Representative Carrell, prime sponsor; Mark Paulsen, Washington Landlord Association (pro); Teresa Bosler, Manufactured Housing Communities of Washington and Thurston County Rental Owners Association (pro); and Majken Ryherd Keira (pro, with concerns).