

SENATE BILL REPORT

ESHB 1223

As Reported By Senate Committee On:
Law & Justice, February 25, 1998

Title: An act relating to landlord-tenant relations.

Brief Description: Addressing the public nuisance activities of tenants.

Sponsors: House Committee on Law & Justice (originally sponsored by Representatives Carrell, Zellinsky, Talcott, Hickel, Thompson and Conway).

Brief History:

Committee Activity: Law & Justice: 3/26/97, 4/3/97 [DP]; 2/18/98, 2/25/98 [DPA].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Kline, Long and Zarelli.

Staff: Harry Steinmetz (786-7421)

Background: Under the Residential Landlord-Tenant Act, 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 if the tenant does not vacate the property after being served with a notice to vacate.

Summary of Amended Bill: The tenant has a duty not to engage in any gang-related activity that renders people in at least two or more dwelling units or residences insecure with respect to their lives or the use of their property, or that injures or endangers the safety or health of people in at least two or more dwelling units or residences. Gang-related activity— means activity that occurs in a group (a) that consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes. "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

In determining whether gang-related activity is occurring, the court should consider the totality of the circumstances, including factors such as whether there has been a significant

number of complaints, incident reports to police, property damage, arrests and the tenant's criminal history. The court must find corroborating evidence from a source other than the person who has petitioned the court before it can issue the order terminating the tenancy.

The landlord may terminate the tenancy for gang-related activity and proceed directly to an unlawful detainer action. The landlord must comply with the notice requirement of all other unlawful detainer actions. 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 also be given to the tenant. Within ten 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.

Any person with legal standing and who resides in, works in or owns property in the same multi-family building, apartment complex or within a one block radius may petition a court to have the tenancy terminated under the following circumstances: (a) if the landlord fails to take any action within ten 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 shall recover reasonable attorney's fees and the court may impose sanctions on a person who brought more than one action against the tenant with the intent to harass. However, regardless of which party prevails, the court must order the landlord to pay costs and reasonable attorney's fees to the petitioning person if the landlord failed to conduct any investigation.

Amended Bill Compared to Original Bill: The definition of gangs is changed. The private action can be brought by an individual with legal standing and living in the same multi-family unit, apartment complex or within a one block radius. The court is required to find independent corroboration before issuing the order terminating the tenancy. The landlord is required serve a three-day notice on the tenant before commencing unlawful detainer action based on gang-related activity. The court may award sanctions when the action is brought more than once with the intent to harass.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The intent of this bill is to address the narrow situation in which gang-related activity is ongoing in a rental unit and adversely affects neighbors. It allows community involvement in solving some problems related to criminal street gang activity.

Testimony Against: None.

Testified: Representative Carrell, prime sponsor (pro).