

HOUSE BILL ANALYSIS HB 2789

Title: An act relating to preserving federally assisted housing and minimizing the involuntary displacement of tenants residing in such housing.

Brief Description: Preserving federally assisted housing.

Sponsors: Representatives Regala, Van Luven, Veloria, Radcliff, D. Sommers, Edmonds, Kenney, O'Brien, Santos, Tokuda, Barlean, Dickerson, Keiser, Anderson, Conway, Stensen, Ogden, Cody, Lantz, Wood, Rockefeller, Skinner and McIntire.

Brief Summary of Bill

- Provides exemptions from the 12 month advance notification requirements for owners of federally assisted housing that enter into an agreement to continue the low-income use restrictions.
- Requires additional information in the 12 month advance notification that is sent to tenants, local governments, and the Department of Community, Trade, and Economic Development.
- Makes owners of federally assisted housing subject to statutory damages for failure to provide adequate notice to tenants and civil penalties for failure to comply a written notice to comply with the notification requirements.

HOUSE ECONOMIC DEVELOPMENT, HOUSING & TRADE COMMITTEE

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Background:

The State's Residential Landlord-Tenant Act requires owners of federally assisted multifamily rental housing developments to provide a written notification prior to the termination or prepayment of the federal assistance (direct loans, loan guarantees, mortgage insurance, or project-based rental subsidies). The notification to tenants and governmental bodies must be made 12 months before termination or prepayment of federal assistance provided through the U.S. Department of Housing and Urban Development or U.S. Department of Agriculture--Rural Development (formerly Farmers Home Administration). The owner is not prohibited from terminating a rental assistance contract or prepaying the federally assisted mortgage or loan.

The 12 month advance notice must be sent to each tenant, the clerk of the local

governing body where the housing development is located, and the state Department of Community, Trade, and Economic Development. The advance notice to the tenants must state the date of expiration or prepayment and the effects, if any, that the expiration or prepayment will have on the tenant's rent and other terms of their rental agreement. During the 12 month notification period, the owner of the affected housing development cannot: (i) evict or demand possession of the unit; (ii) increase the rent of the unit; or (iii) change the terms of the rental agreement of a federally assisted housing unit unless authorized by the federal assistance applicable to the project.

The owner of the federally assisted multifamily rental housing development is liable for damages suffered by tenants, plus reasonable attorney fees, as a result of not providing proper notification to tenants and governmental bodies.

Summary of Bill:

The state's Residential Landlord-Tenant Act, regarding the federally assisted housing notification of parties affected by the prepayment of the mortgage or loan or expiration or termination of the rental assistance contract are revised: (1) to provide exceptions to the 12 month advance notice, where the owner enters into an agreement to continue low-income use restrictions for a specified period of time; (2) to expand the contents required in the 12 month advance notification; (3) to prohibit tenant rent increases during the 12 month advance notice period; (4) to impose statutory damages for failure to provide notice to tenants and civil penalties for failure to comply with written notice to comply; (5) to require the Department of Community, Trade, and Economic Development to consult with interested stakeholders to develop information on rights, responsibilities, and options of owners and tenants; and (6) to make it an unfair practice to refuse to rent to a tenant, who resided in the housing development because the tenant must rely on tenant-based rental assistance or the owner does not want to participate in a government funded, tenant-based rental assistance program.

12 Month Advance Notification--Applicability

An owner of federally assisted housing is not required to give the 12 month advance notification on either the prepayment of a mortgage or loan or termination of a rental assistance contract if: (i) For prepayment of a subsidized mortgage or loan, the owner has entered into an agreement with a governmental agency to either continue existing or impose new low-income use restriction for a period of at least 20 years; or (ii) For expiration of a rental assistance contract, the owner has entered into an agreement to renew the rental assistance contract for a minimum of 5 years subject to available funds.

The owner must provide a copy of the agreement: (i) to the clerk of the local government where the housing development is located; (ii) to any public housing

agency that would be responsible for administering tenant-based rental assistance to tenants that would have been displaced; and (iii) to the Department of Community, Trade, and Economic Development. A copy of the agreement must be posted in a conspicuous place at the housing development.

12 Month Advance Notification--Owner's Duty

The parties required to receive the 12 month advance notification of possible prepayment of the mortgage or loan or expiration of the rental assistance contract is expanded to include public housing agencies that would be responsible for administering tenant-based rental assistance to tenant that would be displaced by the prepayment of the mortgage or loan or expiration of the rental assistance contract.

The owner of the federally assisted housing must provide a copy of the 12 month advance notification of possible prepayment of the mortgage or loan or expiration of the rental assistance contract to new tenants that move in after the notice has been given, but before the prepayment or expiration dates. The notice must be given before the execution of the rental agreement or payment of any deposits.

12 Month Advance Notification--Contents

The required contents in the 12 month advance notification is expanded to include: (1) whether the owner (i) intends to prepay the mortgage or loan or renew the rental assistance contract subject to available funding or (ii) is seeking additional financial incentives or higher rents as a condition of remaining in the federal program; (2) the owner's reason for their action; (3) the owner's plans for the housing development, including any timetables and deadlines for actions to be taken by the owner and any required governmental approvals; (4) the anticipated date of prepayment of the mortgage or loan or termination of the rental assistance contract; (5) the effect of the prepayment or termination on the tenants' rents and other terms of their rental agreement; and (6) a statement that the additional information will be provided on the local government, on the local public housing agency, and on the Department of Community, Trade, and Economic Development.

The required notice to the clerk of the local government where the housing development is located is revised to require information: (1) on the current rents and projected rent increases for each affected tenant, without disclosing the identities of individual tenants; and (2) the age, race, family size, and estimated incomes of applicants on the waiting list of the housing development, without disclosing the identities of individuals on the waiting list.

All owners of federally assisted housing must: (1) post a copy of any notices they send to the clerk of the local government where the housing development is located, the local public housing agency, and the Department of Community, Trade, and

Economic Development; and (2) provide copies, to a state or local government agency, of any feasibility or market analysis, or property inspection reports required by a federal agency.

12 Month Advance Notification--Failure to Comply/Penalties

A tenant of federally assisted housing is may recover statutory damages of not less than \$500, but not more than \$2,500 if the owner fails to provide the 12 month advance notification. An owner that fails to comply with a written demand to provide the required notification, may be subject to civil penalties of \$1,000 per month for each housing unit in the federally assisted housing development, up to a maximum of \$12,000 per unit. All civil penalties collected must be deposited into the Washington Housing Trust Fund.

Department of Community, Trade, and Economic Development--Responsibilities

The Department of Community, Trade, and Economic Development must: (i) consult with interested stakeholders and develop information on the legal rights, responsibilities, and options of owners and tenants when the owner of federally assisted housing prepays the mortgage or loan or terminates the rental assistance contract; and (ii) provide written information to owners of federally assisted housing to assist them in meeting the state's 12 month advance notification requirements.

Miscellaneous Provisions

An owner of federally assisted housing that prepays the mortgage or loan or whose rental assistance contract expires, but continues to operate the property as residential housing may not evict a tenant residing in the housing unit, except as authorized by the applicable federal assistance program.

It is considered an unfair practice for an owner who continues to rent housing units, to refuse to rent a housing unit to any tenant who resided in the housing unit while it was federally assisted housing because the tenant will have to rely on tenant-based rental assistance to pay for a portion of the rent or the owner does not wish to participate in a government funded tenant-based rental assistance program.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.