

# SENATE BILL REPORT

## SB 6533

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As of March 7, 2008

**Title:** An act relating to discrimination based on lawful source of income.

**Brief Description:** Prohibiting discrimination based on lawful source of income.

**Sponsors:** Senators Kline, Fairley, Kohl-Welles, Weinstein, Kauffman and McDermott.

**Brief History:**

**Committee Activity:** Judiciary: 1/23/08.

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### SENATE COMMITTEE ON JUDICIARY

**Staff:** Dawn Noel (786-7472)

**Background:** Under the Washington Law Against Discrimination (WLAD), it is an unfair practice to discriminate in the rental of a dwelling based on sex, marital status, sexual orientation, race, creed, color, national origin, families with children status, honorably discharged veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a person with a disability.

Any person claiming to be aggrieved by an alleged unfair practice may file a complaint with the Human Rights Commission (Commission). If the Commission finds that reasonable cause exists that an unfair practice has been or is being committed, the Commission's staff must attempt to eliminate the unfair practice by conference, conciliation, or persuasion. If the parties do not reach agreement, the Commission must enter findings to that effect and request the appointment of an administrative law judge (ALJ) to hear the complaint.

If an ALJ determines that the respondent engaged in discrimination in the rental of a dwelling, the ALJ may award damages and injunctive relief. In addition, the ALJ may, to further the public interest, assess a civil penalty against the respondent up to 50,000 dollars depending on whether the respondent has committed any unfair practices in the past.

**Summary of Bill:** It is an unfair practice for any person to discriminate in the rental of a dwelling to, or refuse to negotiate or enter into a rental agreement with, a person because of the person's lawful source of income. "Lawful source of income" means verifiable legal income, including:

- income derived from employment;
- social security;
- supplemental security income;
- other retirement programs;

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- child support;
- alimony; and
- any federal, state, local government, or nonprofit-administered benefit or subsidy program, including rental assistance programs, public assistance, and general assistance programs.

If an ALJ finds that the respondent has engaged in this unfair practice, the ALJ is limited to providing the following relief. The ALJ must issue an order for appropriate relief, which may include actual damages and injunctive or other equitable relief. The order may, to further the public interest, assess certain civil penalties against the respondent, not to exceed 10,000 dollars, depending on whether the respondent has committed any unfair practices under this section in the past five to seven years. The civil penalties must be paid into the state treasury and credited to the general fund.

This section does not apply to transactions involving the sharing of a dwelling, or the rental or sublease of a portion of a dwelling, when the dwelling is occupied by the owner or sublesor. This section also does not limit the applicability of current laws relating to unfair practices in real estate transactions.

**Appropriation:** None.

**Fiscal Note:** Requested on January 19, 2008.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill is not based on whether one can afford the rent, but based on the source of income. This bill becomes all the more important in the wake of floods and the housing market crash as more people rely on public assistance to make ends meet. Federal and local housing authorities have made it easier to participate in the Section 8 housing voucher program. Section 8 tenants have difficulty securing housing, and many housing ads state that they won't take Section 8 applicants. This bill will help people lift themselves out of homelessness. Section 8 does not require a landlord to reduce a tenant's rent. Washington should be a leader in disallowing discrimination based on source of income.

CON: The Section 8 program makes onerous requirements on landlords. Landlords shouldn't be forced to accept these circumstances. Section 8 is a voluntary program. This bill would create conflicts between state and federal law. It creates another protected class, which will lead to more litigation. The evidence demonstrating that people are turned down due to their Section 8 participation is anecdotal; they offer no studies to support their claims. Some people are probably turned down for other reasons such as criminal backgrounds or heavy collections' histories. Landlords need to be able to protect themselves.

**Persons Testifying:** PRO: Senator Kline, prime sponsor; Representative Pettigrew, prime sponsor of companion bill (EHB 1956); Eric Dunn, Northwest Justice Project; Marc Brenman, Washington State Human Rights Commission; Ann Levine, citizen; Chris Jussero, Michele Thomas, Tenant's Union of Washington State; Zoe Bermet, landlord; Ben Gitenstein; Washington Low-Income Housing Alliance.

CON: Chris Benis, John Woodring, Doug Neyhart, Karen Kuever, Rental Housing Association; Mark Paulsen, Washington Apartment Association.