

HOUSE BILL REPORT

HB 1529

As Reported by House Committee On:
Judiciary

Title: An act relating to the disclosure of certain information when screening tenants.

Brief Description: Concerning the disclosure of certain information when screening tenants.

Sponsors: Representatives Stanford, Jinkins, McCoy, Riccelli, Fitzgibbon, Reykdal, Pollet, Orwall and Roberts.

Brief History:

Committee Activity:

Judiciary: 2/14/13, 2/21/13 [DPS].

Brief Summary of Substitute Bill

- Prohibits a tenant screening service provider from disclosing:
 - a tenant's, applicant's, or household member's status as a victim of domestic violence, sexual assault, or stalking; or
 - that a tenant or applicant has previously terminated a rental agreement pursuant to the provision that allows a victim of domestic violence, sexual assault, or stalking to do so.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Pedersen, Chair; Hansen, Vice Chair; O'Ban, Assistant Ranking Minority Member; Goodman, Jinkins, Kirby, Orwall and Roberts.

Minority Report: Do not pass. Signed by 5 members: Representatives Rodne, Ranking Minority Member; Hope, Klippert, Nealey and Shea.

Staff: Cece Clynch (786-7195).

Background:

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.

The Residential Landlord-Tenant Act (RLTA) regulates the relationship between tenants and landlords. The RLTA sets forth requirements, duties, rights, and remedies with respect to the landlord-tenant relationship.

The RLTA specifically allows a tenant to terminate a rental agreement without further obligation under the tenancy agreement if the tenant or a household member is a victim of a crime of domestic violence, sexual assault, or stalking and if:

- the tenant or household member has a valid order of protection or has reported the domestic violence, sexual assault, or stalking to a "qualified third party" who has a written record of the report; and
- the request to terminate was made within 90 days of the reported act or event that led to the protection order or report to a qualified third party.

"Qualified third party" means law enforcement, health professionals, court employees, licensed mental health professionals or counselors, trained advocates for crime victim/witness programs, or clergy.

Under the RLTA, a landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement with a person based on that person's or a household member's status as a victim of domestic violence, sexual assault, or stalking or based on the person having previously terminated a rental agreement pursuant to the above provision that allows a victim of domestic violence, sexual assault, or stalking to do so. A landlord who refuses to enter into a rental agreement under these circumstances may be liable to the tenant in a civil action for damages.

For purposes of the RLTA provisions regarding victims of domestic violence, sexual assault, and stalking, "tenant screening service provider" means any nongovernmental agency that provides, for a fee, background information on prospective tenants to landlords.

Summary of Substitute Bill:

A tenant screening service provider may not disclose:

- a tenant's, applicant's, or household member's status as a victim of domestic violence, sexual assault, or stalking; or
- that a tenant or applicant has previously terminated a rental agreement pursuant to the provision that allows a victim of domestic violence, sexual assault, or stalking to do so.

A tenant screening service provider who violates these disclosure provisions may be liable to the tenant or applicant in a civil action for damages sustained by the tenant or applicant. The prevailing party in such an action may recover court costs and reasonable attorneys' fees.

Substitute Bill Compared to Original Bill:

Provisions that limited or prohibited disclosures by tenant screening companies, regarding outcomes in prior unlawful detainer actions are stricken. Related provisions that established a civil cause of action for such violations are also removed.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill addresses some of the problems that tenants have encountered. While landlords do have a need for relevant, accurate information, there is also a need for fairness to tenants. Things may show up on reports that may not be the tenant's fault. This is degrading and leads to an inability to secure housing. Unlawful detainer actions create a black mark on the tenant's record. Tenants fear the threat of having an unlawful detainer action filed against them because of this stigma and sometimes forego their rights in order to avoid that unlawful detainer action. It is unacceptable that attorneys feel compelled to advise tenants to forego their rights in order to avoid this black mark on their record. Tenants with such a black mark on their record may make application for many different rental units, pay the associated application fees, and yet be denied over and over again. Thousands of calls have been fielded each year from tenants unable to secure rental housing for such reasons. For instance, one woman who left a lease early due to domestic violence had to move into a shelter, then with the help of an advocate she made multiple applications for new housing only to have all denied. One landlord wanted to charge an additional \$950 fee. She spent a year without housing. Another woman had an eviction suit dismissed but spent three years homeless because of the false information that was out there. When a landlord refused to repair a dwelling unit as required by law, the tenant pursued the matter, the landlord declared the lease void and filed an unlawful detainer action. Even though the judge dismissed the unlawful detainer, the tenant ended up having to pay a larger deposit due to this rental history. Most landlords just skip renting to any tenants that have anything questionable on their record. All eviction suits are reported the same on reports. Even if the tenant prevails, it just says "eviction" and the tenant is made to wear the scarlet letter. Landlords do need to know about risks that tenants might pose to their property, other tenants, and their income. Housing access is critical for victims of domestic violence. The information that they had to leave a tenancy due to domestic violence should not be used to deny a subsequent tenancy. Some victims end up staying with their abusers because of a lack of housing availability. While one intermediate California court held similar language unconstitutional, that was a single court that was an outlier and other California court opinions disagree. While there is a court sealing process, it is basically impossible to utilize. There was a recent case in which an eviction settled, the trial court ordered redaction, there was an appeal, and the Court of Appeals ruled that absent extraordinary circumstances records cannot be sealed.

(Opposed) The first section of the bill regarding victims of domestic violence is supported, but there is a request that the tenant screening provider be required to have knowledge that the prior tenancy was terminated under the domestic violence provisions. The second section is opposed, and has been for several years. Unlawful detainer actions are filed in good faith and very few result in favor of the tenant. For those tenants that do prevail, they can take advantage of provisions that already allow the court to seal the file. Credit reports are protected First Amendment activity and portions of this bill may run afoul of this constitutional provision. A case in California held that almost identical language to this bill was unconstitutional on its face as violative of the First Amendment.

Persons Testifying: (In support) Representative Stanford, prime sponsor; Maureen Roat, King County Bar Association, Housing Justice Project; Kira Zylstra, Solid Ground; Jonathan Grant, Tenants Union of Washington; Michele Thomas, Washington Low Income Housing Alliance; Naomi Joiner, Making a Difference in Community; Linda Olsen, Washington State Coalition Against Domestic Violence; and Eric Dunn, Northwest Justice Project.

(Opposed) Joe Pucket, Washington Multi Housing Association; Terri Hotred, Rental Housing Association; and Chester Baldwin, Washington Apartment Association.

Persons Signed In To Testify But Not Testifying: None.