

HOUSE BILL REPORT

SHB 2537

As Passed House:
February 13, 2014

Title: An act relating to tenant screening.

Brief Description: Concerning tenant screening.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Robinson, Appleton, Jinkins, Stanford, Riccelli, Pollet and Santos).

Brief History:

Committee Activity:

Judiciary: 1/31/14, 2/5/14 [DPS].

Floor Activity:

Passed House: 2/13/14, 53-45.

Brief Summary of Substitute Bill

- Provides that a landlord may still obtain, but may not charge for the cost of obtaining, a subsequent tenant screening report if a comprehensive screening report prepared within 30 days of the application date is made available to the landlord by a consumer reporting agency.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Jinkins, Chair; Hansen, Vice Chair; Goodman, Kirby, Orwall, Roberts and Walkinshaw.

Minority Report: Do not pass. Signed by 6 members: Representatives Rodne, Ranking Minority Member; Nealey, Assistant Ranking Minority Member; Haler, Klippert, Muri 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.

"Tenant screening" under the RLTA means using a consumer report or other information about a prospective tenant in determining whether to rent to the tenant. A "tenant screening report" means a consumer report as defined under the Fair Credit Reporting Act and any other information collected by a tenant screening service.

Landlords may engage in tenant screening to evaluate potential tenants, either by conducting their own searches of public records or by using a tenant screening service to obtain a report on a tenant. Prior to screening, a prospective landlord must notify a prospective tenant about the:

- kind of information that will be accessed;
- criteria that may result in denial of the application; and
- name and address of the consumer reporting agency, if any is used, along with notice to the prospective tenant of his or her right, in the event of an adverse action, to a free copy of the consumer report and the opportunity to dispute the report's information.

A landlord may charge a prospective tenant for the cost of obtaining a tenant screening report. If the landlord conducts his or her own screening, the prospective landlord may charge for actual costs in obtaining the background information as long as the amount charged does not exceed the customary costs charged by a screening service in the area. In either case, the landlord may only assess such a charge if the landlord provides the prospective tenant with the requisite prior notice outlined above.

Adverse action must be reported to a prospective tenant in a written form that substantially complies with the statutory form. This writing must disclose the basis for the adverse action, including whether it was based on information received from:

- consumer credit reports;
- criminal records;
- previous rental history or references; and/or
- civil records.

The above requirements were enacted into law in 2012 with passage of Substitute Senate Bill 6315. Another section of that bill called for the convening of a stakeholder work group comprised of landlords, tenant advocates, and representatives of consumer reporting and tenant screening companies for purposes of addressing issues related to tenant screening including, but not limited to: tenants' costs of obtaining reports; the portability of reports; criteria for evaluating prospective tenants; and the regulation of tenant screening services. Recommendations from this work group were due to the Legislature by December 1, 2012.

Summary of Substitute Bill:

A landlord remains authorized to charge a prospective tenant for the cost of obtaining a tenant screening report (assuming that the requisite prior notice is provided) *unless* a comprehensive screening report prepared within 30 days of the application date is made available to the landlord by a consumer reporting agency. If a consumer reporting agency

provides a comprehensive screening report, the landlord may still obtain another tenant screening report but may not charge the prospective tenant for the subsequent report.

"Comprehensive screening report," and terms included in that definition, are defined as follows:

- "Comprehensive screening report" means a tenant screening report that contains all of the following:
 - a consumer report prepared by a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined in the federal Fair Credit Reporting Act;
 - a consumer report that includes consumer reporting agency contact information in or on the report from which a prospective landlord may obtain, at no charge, requested verifications of the prospective tenant's name and the most recent screening date;
 - a report containing the prospective tenant's criminal history, a sex offender search, and a search of the United States Designated Nationals and Blocked Persons list;
 - a report containing the prospective tenant's eviction history;
 - a report containing the prospective tenant's employment verification; and
 - a report containing the prospective tenant's previous address history, if not included already in the report from the consumer reporting agency.
- "Criminal history" means a report containing or summarizing the contents of any records of arrest, indictment, criminal conviction, or other adjudication of a crime, including registration or duty to register as a sex offender, if any, obtained after a search for such records in every state where the prospective tenant has reported living in the seven years preceding the report date.
- "Eviction history" means a report containing or summarizing the contents of any records of eviction suits, or judicial foreclosure actions, obtained after a search for such records in every state where the prospective tenant has reported living in the seven years preceding the report date.

The language creating the stakeholder work group, and requiring recommendations, is stricken.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: 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 is another mechanism to assist people in securing safe housing. The costs of the tenant screening reports adds to the overall cost of achieving housing. It is already a challenge to come up with first and last months' rent and a deposit. One man was living in a shelter, saving up money to rent a place. He had saved up enough money for first and last months' rent plus the deposit but then, every time he applied to rent a place, he had to

pay for another screening report. It took him two additional months to finally rent a place because he had to save more money in order to pay for the reports. Another man lost a \$36,000 per year job, became homeless, and his life deteriorated to the point that he was living in a car and an abandoned house and became depressed. Ultimately, he was approved for a program that would assist him but it took him one and one-half months to find a place. There are online products that are secure that can be used to provide landlords the information that they need. A prospective tenant can provide the landlord with his or her password and then the landlord can view the report. The definition of "comprehensive screening report" should be comprehensive enough to provide landlords with the information they need but, if not, there is a willingness to work with the landlords on this. This will spur competition in the tenant screening industry. Low-income persons are being forced to pay \$30 to \$40 for each report, and sometimes have to do this eight to 10 times before they find a place to rent. These fees add up and are very difficult for people to pay. As an organization that both assists people trying to find housing, and owns rental units, it is recognized that having to pay over and over for screening reports hurts low-income people. The organization is aware of one example where a woman had to pay for eight different reports, each one of which could only be used one time. It is also recognized that landlords do have to obtain certain information and this bill will enable them to do so. A veteran parent and graduate of drug court, with over 20 months of sobriety, knows of the struggle to find affordable housing. Before he was able to find a place, he had paid over \$500 in fees which caused him to fall behind on his light bill. A mother of six was forced to move her children out of their school district in order to find housing because she had to find places to apply to that did not charge screening fees and those were not available in the school district area. This is urgently needed. The tenant can ask that the report be forwarded to prospective landlords. There are protections against fraud.

This is a contentious issue among landlords. This organization has offered some compromising language that can be incorporated. The bill could be supported with the addition of language to the effect that, at no charge, affected screening companies must post contact information on screening reports, and promptly cooperate with the landlord with respect to requested verifications of applicant name and latest previous screening date.

(Opposed) This is flawed despite the good intentions. Federal law requires the landlord to be credentialed. There is also concern with the definition of "comprehensive screening report" in that it does not include employment or former landlord information and it does not indicate whether it is a state or federal criminal background search. There has been no work between landlords and tenants on this. Frequently, criminal records searches do not find what a tenant screening company does. Other tenants in a building or complex do not want tenants with criminal backgrounds to be allowed to rent. There is a lot of housing available that does not require screening fees to be paid. The only people who have to pay screening fees several times are people who have backgrounds that disqualify them as tenants. These reports can be manipulated.

Persons Testifying: (In support) Representative Robinson, prime sponsor; Thomas Green; Kirk McClain; Nick Federici, Washington Low Income Housing Alliance; Seth Dawson, Washington State Community Action Partnership; Joy Scott, Solid Ground; Liz Mills, Young Women's Christian Association of Seattle; Jason Bragg; Lela Bynum; Jonathan Grant, Tenants Union of Washington; and Tim Seth, Washington Landlord Association.

(Opposed) Joe Puckett, Washington Multi-Family Housing Association; and John Near and Rebekah Near, Orca Information Company.

Persons Signed In To Testify But Not Testifying: None.