

SENATE BILL REPORT

SB 5425

As Passed Senate, March 12, 2013

Title: An act relating to the entering of monetary judgments against defendants under the residential and manufactured/mobile home landlord-tenant acts.

Brief Description: Concerning the entering of monetary judgments against defendants under the residential and manufactured/mobile home landlord-tenant acts.

Sponsors: Senators Benton and Roach.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/07/13, 2/21/13 [DP, DNP].

Passed Senate: 3/12/13, 28-21.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass.

Signed by Senators Hobbs, Chair; Benton, Ranking Member; Fain and Roach.

Minority Report: Do not pass.

Signed by Senators Mullet, Vice Chair; Hatfield and Nelson.

Staff: Alison Mendiola (786-7483)

Background: The Residential Landlord-Tenant Act (RLTA) regulates residential tenancies and the relationship between landlords and tenants of residential dwelling units. The RLTA establishes rights and duties of both tenants and landlords, procedures for the parties to enforce their rights, and remedies for violations of the RLTA.

Landlord duties include such things as the duty to maintain the premises in reasonably good repair and remedy defective conditions within specified timelines. Tenant duties include the duty to pay rent, not damage the dwelling or allow a nuisance, and not engage in drug activity or criminal activity on the premises. The RLTA covers a wide variety of other issues governing the landlord-tenant relationship, including: prohibited provisions in rental agreements and prohibited practices by landlords; the landlord's right of access to the dwelling unit; procedures and remedies available to a landlord when a tenant has abandoned the tenancy or is subject to eviction for violations of the RLTA; and requirements with

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respect to the collection and retention of security deposits, nonrefundable fees, and fees or deposits to hold a dwelling unit or secure a tenancy.

Manufactured/mobile home communities are governed by the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA). The MHLTA outlines the rights and responsibilities of manufactured/mobile home landlords and tenants.

Under both the RLTA and the MHLTA when the landlord, after the exercise of due diligence, is unable to personally serve a summons on the defendant the court may authorize an alternative means of service, such as posting notice on the premises or mailing to the tenant's last known address by first class and certified mail. However, when service is completed this way, the court's jurisdiction is limited to restoring possession of the premises to the landlord and no money judgment may be entered against the tenant until jurisdiction is obtained.

Summary of Bill: If a tenant is served in an alternative way, such as by posting or mail, consent, the entering of a general appearance, or the filing of a responsive document by a tenant establishes personal jurisdiction over the tenant and a money judgment may be entered against the tenant.

Appropriation: None.

Fiscal Note: Not requested.

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: When a tenant is served by posting, the landlord can only get back the premises, even if the person appears in court. This forces the landlord to file a second suit for a money judgment. This is an issue of judicial economy. This would not apply to situations where the tenant has vacated and does not know. If a tenant answers, then the tenant is aware of the lawsuit, so personal jurisdiction should be obtained. If the landlord prevails, then the tenant owes attorneys' fees and costs.

CON: The court is very clear on this issue, if a landlord provides alternative service, then the landlord is limited in remedies. In this case, the landlords are proposing the ability to get a money judgment with alternate service. The tenant might not know about the lawsuit and never have their day in court. This bill would create an incentive for tenants to remain in possession of the premises longer and contest the suit as opposed to just moving out which is what they do now. If tenants stay longer, that is not any better for the landlords.

Persons Testifying: PRO: Chester Baldwin, Rob Trickler, WA Apartment Assn.; Kyle Wooding, Rental Housing Assn. of WA.

CON: Greg Provenzano, Columbia Legal Services; Jonathon Grant, Tenant's Union of WA State.