

# SENATE BILL REPORT

## SB 5376

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As of February 11, 2015

**Title:** An act relating to the reporting of eviction records.

**Brief Description:** Concerning the disclosure of certain eviction records in certain reports.

**Sponsors:** Senators Habib, Miloscia, Darneille, Jayapal, Hobbs, Kohl-Welles, Keiser, Frockt and Chase.

**Brief History:**

**Committee Activity:** Financial Institutions & Insurance: 2/11/15.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Staff:** Shani Bauer (786-7468)

**Background:** The Residential Landlord-Tenant Act. The Residential Landlord-Tenant Act (RLTA) regulates the rights and duties of landlords and tenants in residential rental housing. Landlords may screen and evaluate potential tenants either by conducting their own searches of public records or by using consumer reporting agencies that provide consumer reports for use in tenant screening.

Consumer Reporting Agencies. Consumer reporting agencies engage in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties. Consumer reporting agencies may create reports for a number of purposes, including for employment and credit transactions. Consumer reporting agencies may also create reports about prospective tenants at the request of landlords.

Consumer reporting agencies are regulated by both state and federal law. Under Washington's Fair Credit Reporting Act, consumer reporting agencies may only furnish a consumer report under specific circumstances, and are prohibited from making a consumer report containing certain information. Prohibited information includes the following:

- bankruptcies from more than ten years ago;
- suits and judgments from more than seven years ago or until the statute of limitation has expired, whichever is longer;
- paid tax liens from more than seven years ago;
- accounts placed for collection more than seven years ago;

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- arrest, indictment, or conviction of an adult for a crime that, from the date of disposition, release, or parole, is from more than seven years ago;
- juvenile records; and
- any other adverse item of information that antedates the report by more than seven years.

**Summary of Bill:** A consumer reporting agency may not report an eviction record in any consumer report or tenant screening report and a landlord may not refuse to renew or enter into a rental agreement with a prospective tenant based on an eviction record, if the eviction had one of the following end results:

- The eviction suit did not result in a judgment finding the tenant liable for unlawful detainer;
- The tenant was restored to tenancy; or
- The judgment reflects a residual amount of rent left owed after the defendant substantially prevailed.

A person injured as a result of reporting a prohibited eviction record on a tenant screening report or from a landlord's refusal to renew or enter into a rental agreement based on a prohibited eviction record may bring a civil action to recover actual damages sustained, court costs, and reasonable attorneys' fees.

**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: If a person was subject to eviction by a landlord and then prevailed in some manner, they should not be treated the same as an actual eviction where you did something wrong. On the other hand, it is understandable that landlords want to know precisely who may be at an elevated risk. This bill will fix a longstanding issue with tenant screening reports. This bill applies to tenants who won, those who paid a satisfaction, or those who were wrapped up in an owner's foreclosure action. These tenants will have the same exact record as a person who cooked meth in their apartment. It is important to recognize that a tenant usually goes to court without representation. On the other hand, landlords almost always have representation. There is an inherent power difference. This bill is not about court records. It regulates the way tenant screening companies report on information. One tenant was a party to a wrongful eviction action. She had representation and ended up receiving \$10,000 in relocation assistance and 45 days to move. Little did she know this would leave her with an eviction record. Time after time she was denied a place to rent and was only eventually able to find a home through a friend. The house has since sold and she will shortly have to start the process all over again. Another person came home to an eviction notice because his rent was placed in the wrong slot. The rent was paid and eviction dismissed. Two years later when he went to move he discovered that he had an eviction record even though it was dismissed. He was

able to find a place to rent only after his property manager called to assure the new owner that it was a misunderstanding.

CON: The idea that a tenant should not be penalized for the dismissal of an eviction action is laudable. Most landlords don't want to take cases to court and lose. It is not good business practice. A tenant has five days after an eviction to pay rent and prevail on an unlawful detainer. This bill would treat that circumstance as if the tenant prevailed. It would be better to allow a judge to make the decision as to whether the case should be reported as an eviction. Many unlawful detainer actions do not go to judgment and are settled before that time because of the expense and not because they don't have merit. Sometimes a landlord may even pay the tenant to leave so they can get their property back. The fact that an eviction was filed is valuable to landlords even though the case settled.

**Persons Testifying:** PRO: Michele Thomas, WA Low Income Housing Alliance; Susan Watchie-Olden, Matt Hickey, citizens.

CON: Chester Baldwin, WA Rental Owners Assn.; Kyle Woodring, Rental Housing Assn.; Joseph Puckett, WA Multi-Families Assn.