
Judiciary Committee

HB 2578

Title: An act relating to preserving and expanding rental housing options for persons whose source of income is derived from or includes sources other than employment.

Brief Description: Preserving and expanding rental housing options for persons whose source of income is derived from or includes sources other than employment.

Sponsors: Representatives Riccelli, Kirby, Macri, Peterson, Appleton, McBride, Frame, Doglio, Stanford, Goodman, Senn, Gregerson, Wylie, Sawyer, Kloba, Santos, Ormsby, Robinson and Bergquist.

Brief Summary of Bill

- Amends the Residential Landlord-Tenant Act to prohibit discrimination based on a tenant's source of income and creates a civil cause of action for violations.
- Creates the Landlord Mitigation Program and Account in the Department of Commerce from which landlords of private market rental units rented to tenants with certain sources of income may be reimbursed for damages.

Hearing Date: 1/23/18

Staff: Cece Clynch (786-7195).

Background:

Residential Landlord-Tenant Act.

The Residential Landlord-Tenant Act (RLTA) sets forth the rights and duties of residential landlords and tenants. Under the RLTA, landlords may screen and evaluate prospective tenants either by conducting their own search or by using companies that provide tenant screening reports. Gathered information may include details about a prospective tenant's credit, employment, criminal history, eviction history, and rental history. A landlord may use this information to determine whether a prospective tenant would make a suitable tenant.

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 RLTA prohibits a landlord from terminating a tenancy, failing to renew a tenancy, or refusing to enter into a rental agreement based on a tenant's, applicant's, or a household member's status as a victim of domestic violence, sexual assault, or stalking. A landlord who violates this prohibition may be liable to the tenant or applicant in a civil action for damages sustained by the tenant or applicant. The prevailing party may recover court costs and reasonable attorneys' fees.

Additionally, under the Washington Law Against Discrimination it is generally an unfair practice to discriminate against a prospective tenant based on race, creed, color, national origin, sex, marital status, sexual orientation, or any of the following:

- honorably discharged veteran or military status;
- families with children 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.

Landlord Mitigation.

The 2016 Supplemental Capital Budget included a \$125,000 appropriation to the Department of Commerce for the Rapid Housing Improvement Program, including a proviso for landlord mitigation for the cost of damages that may be caused to private market units rented to housing choice voucher holders in jurisdictions that prohibit denying tenancy based solely on the applicant's source of income.

Reimbursement was allowed only for amounts related to property damage, unpaid rent, and other damages caused as a result of the tenant's occupancy. To be eligible, damages had to exceed normal wear and tear and be in excess of \$500 but not more than \$5,000 per tenancy. In order to be eligible, a landlord must first obtain a judgment against the tenant and submit the claim within one year of that judgment.

The unspent monies have since been reappropriated.

Summary of Bill:

Residential Landlord-Tenant Act.

A landlord is prohibited from taking any of the following actions based on the source of income of an otherwise eligible prospective or current tenant (tenant):

- refusing to lease or rent real property, unless the tenant's source of income is conditioned on the property passing inspection, and the written estimate of the cost of improvements necessary to pass inspection is six times the monthly rent of the property ;
- expelling a tenant;
- making any distinction, discrimination, or restriction in the price, terms, conditions, or privileges relating to the rental, lease, or occupancy;
- attempting to discourage the rental or lease;
- assisting, inducing, inciting, or coercing another person to commit an act or engaging in a practice that violates this new section;
- coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of any right granted under this new section; and
- representing to a person that a dwelling unit is not available for rental when the dwelling unit is available for rental.

Additionally, a landlord may not, based on the source of income of a tenant, publish, circulate, issue, or display, or cause to be published, circulated, issued, or displayed, any communication, notice, advertisement, or sign of any kind relating to the rental or lease of real property that indicates any source of income.

"Source of income" includes benefits or subsidy programs including housing assistance, public assistance, emergency rental assistance, veterans benefits, Social Security, Supplemental Security Income or other retirement programs, and other programs administered by a federal, state, local, or nonprofit entity. The term does not include income derived in an illegal manner.

If a landlord requires a tenant to have a certain threshold level of income, any source of income in the form of a rent voucher or subsidy must be subtracted from the total of the monthly rent prior to calculating if the income criteria have been met.

A person in violation of these prohibitions and requirements shall be held liable in a civil action for four times the monthly rent of the real property, as well as court costs and reasonable attorneys' fees.

Landlord Mitigation Program.

Subject to the availability of funds for this purpose, a Landlord Mitigation Program (Program) is created in the Department of Commerce (Commerce) from which landlords of private market rental units rented to tenants whose source of income meets the definition above may be reimbursed for certain damages.

Damages eligible for reimbursement under the Program must be beyond normal wear and tear, and include, but are not limited to: such things as interior wall gouges and holes, broken windows, and damage to household fixtures such as disposal, toilet, and sink; and unpaid rent. They must total at least \$500 and, although damages may exceed \$5,000, reimbursement may not exceed \$5,000.

In order for a claim to be eligible, a landlord must first make the repairs before application for reimbursement. Copies of the following must be submitted with the application: move-in inspection; descriptions and documentation of the damages upon move-out, including before repair and after repair photographs; and copies of repair receipts for labor and materials.

Commerce must review properly submitted and complete claims within five business days of receipt. In reviewing a claim, Commerce must also confirm that the claim involves a private market rental unit rented to a tenant whose source of income meets the definition above.

A landlord in receipt of reimbursement from the Program is prohibited from taking legal action against the tenant for the same damages for which reimbursement was obtained, or from pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment against the tenant for such damages.

The Landlord Mitigation Program Account (Account) is created in the custody of the State Treasurer. Administrative costs associated with the Program may not exceed three percent of the annual funds available for the Program; reappropriations must not be included in the calculation of the annual funds available for determining the administrative cost.

In addition to the original purpose, the reappropriated moneys to the Rapid Housing Improvement Program may be used to implement the Landlord Mitigation Program.

By January 1, 2021, Commerce must submit a report to the appropriate committees of the Legislature regarding the effectiveness of the Program and recommended modifications.

Appropriation: None.

Fiscal Note: Requested on 1/17/18.

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