

# FINAL BILL REPORT

## E2SHB 2578

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Synopsis as Enacted

**Brief Description:** Ensuring housing options.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Riccelli, Kirby, Macri, Peterson, Appleton, McBride, Frame, Doglio, Stanford, Goodman, Senn, Gregerson, Wylie, Sawyer, Kloba, Santos, Ormsby, Robinson and Bergquist).

**House Committee on Judiciary**  
**House Committee on Appropriations**  
**Senate Committee on Financial Institutions & Insurance**

### **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. Information gathered 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.

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 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.

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*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.*

### Landlord Mitigation.

The 2016 Supplemental Capital Budget included a \$125,000 appropriation to the Department of Commerce for the Rapid Housing Improvement Program, together with 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 an applicant's source of income.

Reimbursement is 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 must 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 were reappropriated in 2017.

### **Summary:**

#### Residential Landlord-Tenant Act.

A new section is added to the Residential Landlord-Tenant Act, prohibiting a landlord from taking any of the following actions based on the source of income of an otherwise eligible prospective or current tenant (tenant):

- refusing to rent or lease the property, unless the tenant's source of income is conditioned on the real property passing inspection, the written estimate of the cost of improvements is more than \$1500, and the landlord has not received moneys from the Landlord Mitigation Program Account (Account) to make the improvements;
- 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 engage 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 inspection or rental when the dwelling unit is available for inspection or rental.

Additionally, a landlord may not 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 a preference, limitation, or requirement based on 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 determined in a civil action to be in violation of these prohibitions and requirements is liable for four and one-half 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 low-income tenants using a housing subsidy program may be reimbursed for certain types of claims:

- "Private market rental unit" means any unit available for rent that is owned by an individual or entity, but does not include housing acquired or constructed by a public housing agency.
- "Low income" means income that does not exceed 80 percent of the median income for the standard metropolitan statistical area in which the private market rental unit is located.
- "Housing subsidy program" means a housing voucher as established under federal law or other housing subsidy program including, but not limited to, valid short-term or long-term federal, state, or local government, private nonprofit, or other assistance program in which the tenant's rent is paid either partially or completely by the program directly to the landlord.

The following types of claims are eligible for reimbursement under the Program:

1. up to \$1,000 for improvements identified as necessary in an inspection by the tenant's source of income. In order to be eligible, a landlord must pay the first \$500 for improvements, and rent to the tenant whose source of income was conditioned on passing the inspection. Reimbursement may include up to 14 days of lost rental income;
2. reimbursement for damages as reflected in a court judgment against the tenant;
3. reimbursement for damages established by means of specified documentation presented to Commerce. The rental property must have been inspected by the tenant and the landlord or the landlord's agent at the commencement of the tenancy and a written move-in inspection report prepared and signed by both; the landlord must have made the repairs and must submit a claim on the commerce-designated form, signed under penalty of perjury, together with before- and after-repair photographs, copies of repair receipts, and other documentation or information as Commerce may request; and
4. reimbursement for unpaid rent and utilities to the extent that Commerce is satisfied by the evidence.

Commerce must make reasonable efforts to review claims within 10 business days of receipt. In reviewing a claim, Commerce must confirm that the claim involves a private market rental unit rented to a low-income tenant using a housing subsidy program. Commerce may inspect the property and records related to a claim and may make use of a third-party inspector as needed to investigate fraud.

Claims must total at least \$500. Claims may exceed \$5,000, but reimbursement may not exceed that cap. Reimbursements are to be made on a first-come, first-served basis, to the extent of available funds. Commerce must make best efforts to notify a tenant of the amount and reason for reimbursement.

A landlord in receipt of reimbursement from the Program is prohibited from taking legal action against the tenant for damages attributable to the same tenancy, or from pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment against the tenant for damages attributable to the same tenancy. If a landlord is denied reimbursement from Commerce, he or she may seek a court judgment for the damages and, if successful, may resubmit a claim for damages supported by the judgment.

Commerce must establish a website that advertises the Program. By January 1, 2021, Commerce must submit a report to the appropriate committees of the Legislature regarding the effectiveness of the Program and recommend modifications. In preparing the report, Commerce must convene and solicit input from certain stakeholders.

Landlord Mitigation Program Account.

The Landlord Mitigation Program Account is created in the custody of the State Treasurer. Administrative costs associated with the Program may not exceed 10 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 from the Rapid Housing Improvement Program may be used to implement the new Landlord Mitigation Program.

The \$10 affordable housing-for-all surcharge which is charged by county auditors for each document recorded is raised to \$13. Of the remaining funds after county administrative and distribution costs, 40 percent of the revenue generated through the surcharge must be transmitted to the State Treasurer for deposit as follows:

- The portion of the funds attributable to the original \$10 of the surcharge must continue to be deposited into the affordable housing-for-all account.
- The portion of the funds attributable to the additional \$3 of the surcharge must be deposited into the Account.

All of the remaining funds generated by the entire surcharge will continue to be retained by the county and be deposited into a fund that must be used by the county and its cities and towns for eligible housing activities.

**Votes on Final Passage:**

House	61	37	
Senate	36	13	(Senate amended)
House	67	31	(House concurred)

**Effective:** June 7, 2018

September 30, 2018 (Section 1)