

HOUSE BILL REPORT

HB 2453

As Reported by House Committee On:
Civil Rights & Judiciary

Title: An act relating to providing protections to residential tenants.

Brief Description: Providing protections to residential tenants.

Sponsors: Representatives Macri, Thai, Lekanoff, Gregerson, Robinson, Ryu, Frame, Kloba, Peterson, Santos, Bergquist, J. Johnson, Davis and Pollet.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/24/20, 2/7/20 [DPS].

Brief Summary of Substitute Bill

- Specifies exclusive causes for eviction, refusal to renew, and termination of residential tenancies, with an exception, and makes other changes to rights and remedies.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kilduff, Chair; Thai, Vice Chair; Goodman, Hansen, Kirby, Orwall, Peterson, Valdez and Walen.

Minority Report: Do not pass. Signed by 6 members: Representatives Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Graham, Klippert, Rude and Ybarra.

Staff: Cece Clynch (786-7195).

Background:

Residential Landlord-Tenant Act.

The Residential Landlord-Tenant Act (RLTA) regulates the relationship between residential landlords and tenants, and includes provisions regarding the duties of tenants and landlords

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and remedies for violations of those duties. With some statutory exceptions, the rental of a dwelling unit for living purposes is generally covered under the RLTA.

Duration and Termination of Tenancy.

A tenancy for a specified time, sometimes also called a lease, is deemed terminated at the end of the specified period. A tenant who terminates a lease prior to the end of the lease period is liable for rent until the end of the period, although the landlord is required to mitigate his or her damages by attempting to re-rent the unit at a fair rental price.

Alternatively, premises may be rented for an indefinite time, from period to period, or month to month. Such a tenancy is automatically renewed for another period until terminated by either the landlord or the tenant by giving at least 20 days' written notice prior to the end of any of the months or periods of tenancy. Landlords planning a change of use or demolition or substantial renovation must provide 120 days' notice.

Enforcement Remedies.

The RLTA specifies the remedies available to a tenant for a landlord's violation of his or her duties. Generally the tenant must provide the landlord with written notice and a reasonable opportunity to fix or comply with the duty, the timeframe for which varies depending upon the type of problem. If a landlord includes prohibited provisions in a rental agreement, the tenant may recover statutory damages of up to \$500 together with costs of suit.

If the tenant is in unlawful detainer status, a landlord may bring a court action to evict the tenant. A tenant is in unlawful detainer status when he or she:

- holds over after the expiration of the specified term for which it is let to him or her. When real property is leased for a specified term or period, the tenancy is deemed terminated without notice at the expiration of the specified term or period;
- continues in possession of premises leased for an indefinite period, such as month-to-month, after the end of any month or period when the landlord, more than 20 days prior to the end of the month or period, served notice requiring the tenant to quit the premises at the end of the month or period;
- continues in possession after a default in rent, and after a 14-day notice to pay rent or vacate has been served, without complying with the duty to pay;
- continues in possession after failing to comply with a duty of tenancy (other than to pay rent) and after a 10-day notice to comply or vacate has been served, without complying;
- permits waste upon the premises, or carries on an unlawful business, or maintains a nuisance and remains in possession after the service of a three-day notice to quit the premises;
- enters upon the premises without permission and without having color of title and refuses to leave after a three-day notice. Such a person may also be subject to criminal laws; or
- commits or permits any gang-related activity as prohibited by the RLTA.

Summary of Substitute Bill:

Eviction, Refusal to Renew, and Termination of Tenancy.

Where premises are rented for a specified time, by express or implied contract, during the initial term of one year or less, the tenancy may be terminated at the end of the specified time upon 60 days' prior written notice. With respect to other tenancies (expressly including periodic tenancies, the second year of a tenancy pursuant to an initial term of more than one year, a second or subsequent term that follows an initial term of whatever duration, or a periodic tenancy that follows an initial term of whatever duration) a landlord may not evict a tenant, refuse to continue the tenancy, or terminate a tenancy except for the following enumerated causes:

1. failure to pay rent (14-day notice);
2. substantial breach of a material program requirement of subsidized housing, material term of rental agreement, or tenant obligation imposed by law (10-day notice);
3. committing or permitting waste or nuisance, unlawful activity that affects the use and enjoyment of the premises, or other substantial or repeated and unreasonable interference with the use and enjoyment of the premises (three-day notice);
4. owner, in good faith, seeks possession so that the owner or his or her immediate family may occupy the unit as the principal residence and no substantially equivalent unit is vacant and available (90-day notice);
5. owner elects to withdraw the premises from the rental market (120-day notice);
6. condominium conversion (notice per the terms of the Condominium Act or the Washington Uniform Common Interest Ownership Act);
7. premises to be demolished, substantially rehabilitated, or change of use (notice per specific Residential Landlord-Tenant Act (RLTA) provision);
8. premises are condemned by a local agency (30-day notice, or less if continued habitation would subject the landlord to criminal or civil penalties);
9. service of notice to quit or vacate by the owner or lessor with whom the tenant shares the dwelling unit or access to a common kitchen or bathroom area (20-day notice);
10. rental agreement has expired, the landlord proffers a new rental agreement at least 30 days and no more than 90 days prior to the expiration, and the tenant does not sign;
11. chronic, harmful, and unjustified failure to pay rent (20-day notice);
12. transitional housing program expires, the tenant ages out of a program, or the tenant has completed a program and is no longer eligible (30-day notice);
13. intentional and knowing misrepresentation of material information on the tenant's application (30-day notice); and
14. other good cause which constitutes a legitimate economic or business reason not covered above (60-day notice).

Notices must identify the facts and circumstances that support the cause or causes with specificity. With respect to any incidents alleged, and to the extent known and available to the landlord at the time the notice is issued, the landlord must identify the evidence he or she will rely upon; however, the landlord is allowed to present other evidence regarding the allegations within the notice where the evidence was unknown or unavailable at the time the notice was issued. The landlord is not required to present all the evidence within the notice or to press all of the causes alleged in the notice.

Occupants.

Where a tenant has permanently vacated for a reason other than termination by the landlord, any remaining occupants who had co-resided with the tenant prior to and up to the time the

tenant permanently vacated must immediately apply or reapply as a prospective tenant in order to continue to reside in the dwelling unit and must meet the same screening, background, and financial criteria as would any other prospective tenant. In the event that the occupant fails to immediately apply or the application is denied for failure to meet the criteria, the landlord may commence an unlawful detainer action under this chapter.

These new provisions regarding occupants are not applicable to subsidized housing.

Enforcement Remedies.

Landlords acting in bad faith in violation of the section specifying exclusive causes and the landlord's responsibilities with respect to occupants shall be held liable in a civil action up to 4.5 times the monthly rent together with court costs and reasonable attorneys' fees. The existing statutory damages available for inclusion in the rental agreement of a prohibited provision is increased from \$500 to twice the monthly rent.

Conforming Sections and Definitions.

Other sections are amended to reflect the new section spelling out the only causes cognizable under the RLTA:

- Language in the RLTA is stricken which allows a landlord to terminate a periodic or monthly tenancy with 20-days' notice.
- Language in the RLTA is stricken which provides that where premises are rented for a specified time the tenancy shall be deemed terminated at the end of the specified time.
- The definition of "unlawful detainer" found in a chapter separate from the RLTA, chapter 59.12 RCW, and which is applicable to tenancies under the RLTA as well as other tenancies, is amended to refer to this new section.

The terms "immediate family," "subsidized housing," and "transitional housing" are defined in the RLTA.

Substitute Bill Compared to Original Bill:

The substitute bill retains the underlying bill with the following changes, additions, and deletions:

- provides an exception to the cause requirement by specifying that where premises are rented for a specified time, during an initial term of one year or less, the tenancy may be terminated at the end of the specified time upon 60 days' prior written notice;
- revises language with respect to the several causes;
- amends language with respect to occupants and requires an occupant who had coresided with a tenant prior to and up to the tenant's vacation immediately apply or reapply as a prospective tenant and meet the same screening criteria as the other prospective tenants;
- restores current law by striking, in its entirety, the section that amended the Foreclosure Fairness Act to provide that protections afforded to a tenant or an occupant pursuant to the Residential Landlord-Tenant Act survive a nonjudicial foreclosure sale;
- restores current law with respect to actions which are alleged to be retaliatory or in reprisal for a tenant's reporting to a governmental agency;

- changes the penalty for including a prohibited provision in a rental agreement from three and one-half times the monthly rent to twice that; and
 - amends the new definition of "immediate family" to also include state registered domestic partners (rather than all domestic partners) and foster children.
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Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) Currently, a landlord may evict a tenant without providing any reason. This bill will require that landlords have a reason. One of these reasons is "other good cause." While not always the case, too often evictions are retaliatory. In this tight rental market in cities all over the state, persons of color, the elderly and disabled, and those with low incomes are most affected. This bill will help reduce the chance that bias will lead to homelessness. Oregon and California already have similar provisions, as do multiple cities in Washington. The bill also closes the fixed term lease loophole that was created with a Court of Appeals' decision in 2000, and which made Seattle and Burien the only places in the country with just cause laws on the books where a landlord may require a tenant to move out at the end of a lease without citing any reason. There is an eviction insurance product available to landlords for as low as \$9 per month. This committee moved a similar bill to this one last year, House Bill 1656. The bill before the committee this year is more focused and is the product of more input.

No-cause termination drives victims of domestic violence and persons with disabilities into homelessness. One lawyer has observed victims of domestic violence receive 20-day notices after the police have responded to calls. Another client with disabilities recently received a 20-day notice to vacate when all he needed to change his behavior was reasonable accommodation and a change in his medications. A recent observation of a court calendar of unlawful detainer cases revealed four or five cases where tenants were evicted into homelessness.

Moving a family of six from a home that they had been renting for two years following the service of a 20-day notice was very difficult for one family. A 70-year-old, 20-year resident of Tacoma received a 20-day notice last year and still has not found a stable home that he can afford to rent. Instead, he has been couch-surfing. He was never one day late in paying rent and has no idea why he was evicted. Another tenant, with three children and a grandchild, received a 20-day notice after making a repair request of the landlord. The family had to split up in order to be housed. One tenant, who suffered injuries in a car wreck and as a consequence is on Social Security Disability Income, has been evicted twice after complaining about problems such as black mold. On short notice, and with such a low fixed

income, it is difficult to apply for a tenancy since it costs around \$45 for the background check.

There must be stability for all. Fixed-term leases should not be exempt from the just cause provisions. The bill adequately balances four interests: housing security for tenants; landlords' need to evict in some circumstances; other tenants' desire for a safe and secure place to live free of problem tenants; and tenants who might be considered financially weak or risky and need landlords to take a chance on them.

There has been a commitment made to strike the section which would change the law with respect to foreclosure. There is a willingness to talk and explore places where agreement can be reached.

(Opposed) This bill would impose some very burdensome requirements upon landlords, particularly on top of all of the changes that went into effect last July as a result of 2019 legislation. Most landlords are small landlords, with only one or two rental properties. This bill would be especially hard on them, such as one member of the Yakima Valley Landlords Association who is a barber. His shop is in a duplex which he owns, and he rents out the other unit. Another landlord is the daughter of a father who immigrated from Mexico. She grew up in a household where money was tight, has been on her own since the age of 19, spent 12 years as a tenant, and was finally able to purchase rental units of her own. Another Yakima landlord purchased an eight-unit rental property, and the whole family fixed it up. Many Hispanic families invest in this way, and this is the way they provide for their families and prepare for retirement.

When there are problems, landlords need legal tools that are fair and expeditious. This bill will not protect other renters, neighbors, or the employees of property managers. Instead, it will increase their safety concerns. Property management employees have received threats and had to call 911 because of problem tenants. Other tenant residents have given notice and moved due to these problem tenants. One landlord, a government worker and union member from a blue collar background, lives with her immigrant husband and children in a triplex. The changes regarding "occupants" are especially concerning after experiencing a situation with a tenant's abusive partner.

The changes to the law in this area have been costly and unnecessary. Each change results in fewer units being available. There is a need for balance in the laws. One 25-year landlord has developed close relationships with his tenants whom he values. His tenants stay an average of eight to 10 years. This bill presupposes that landlords like to terminate tenants. This is not true. Landlords ask tenants to leave when there is a very good reason.

Persons Testifying: (In support) Representative Macri, prime sponsor; Carrie Graf, Northwest Justice Project; Krystal Marx, Burien City Council; Chris Heer; Jule Wolfe; and Ashok Chandwaney.

(Opposed) Brandy Schwartz, Patti Hoendermis, and Tony Sloan, Yakima Valley Landlords Association; Chris Dobler, Dobler Property Management; Lyle Crew, National Association of Residential Property Managers; Erika Nava Sanchez, Selah Rental Association; Dan White, Washington Landlord Association; and Marilyn Yim, Rental Housing Association.

Persons Signed In To Testify But Not Testifying: Jay Atkinson, Tacoma Tenants Organizing Committee; Bruce Becker; Richard Benton, Washington Apartment Owners; Ronald Bunn; Freya Burgstaller, Paul Lombardi, Ted Roberts, and Rick Glenn, Yakima Valley Landlords Association; Don Cassad; Jason Clifford, National Association for Rights Protection and Advocacy; Curt Corvin, Elisa Lyles, Errin Reynolds, Charles Walle, and Mark Grimm, Washington Landlord Association; Stephanie Elguera, National Association of Rental Property Managers; Sarah Fried; Holly Furen, Lynnmac Commercial; Duncan Green; Felip Holbrook; Lori Hubbard and Robert Myers, Rental Housing Association of Washington; Mercy Kariuki-McGee; Cindy Larsen; Kerry Martin, Alliance Property Management; Noah Martin, Quaker Voice on Washington Public Policy; Bob Mattson; Xochitl Maykovich, Washington Community Action Network; Wathera Mbure; Shannon McCann, Federal Way Education Association; Marti Moore, Federal Way City Council; David Nagel; Dale Olson; Chelsy Parrish; Galina Perekopsky; Jerry Rheault; Shirley Rheault; Kevin Rose, Pickett Property Management; Brenda Rumball; Karen Rumball; Matthew Satter; Jane Totten; Robert Richmond; Amy Tower, Tenants Union of Washington; Neil Wilson; and Mary Wilkes, Excalibur Management Group, LLC.