

# SENATE BILL REPORT

## SB 5538

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As of February 10, 2015

**Title:** An act relating to disposing property in the leased premises of a deceased tenant.

**Brief Description:** Creating procedures for disposing property in the leased premises of a deceased tenant.

**Sponsors:** Senators Angel and Sheldon.

**Brief History:**

**Committee Activity:** Financial Institutions & Insurance: 2/05/15.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

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

**Background:** The Residential Landlord Tenant Act (RLTA) governs the relationship between the renter of residential property (the tenant) and the property owner or the property owner's agent (the landlord). The RLTA outlines the specific duties of the landlord and the tenant and establishes procedures for each party to enforce their rights.

The RLTA does not explicitly address what procedures a landlord should follow in the case of the tenant's death. In general it is believed that under a month-to-month tenancy, notice of the tenant's death acts as a 30-day notice and signals the end of the lease. Under a longer term lease, the deceased tenant's estate would continue to be legally responsible for rental payments until the lease expires.

The law is also silent on what the landlord should do with respect to a tenant's property. The RLTA provides a procedure for landlords to follow in handling a tenant's personal property in the event that the tenant abandons the tenancy. Upon determination that the tenancy has been abandoned, and an accompanying default in the payment of rent, the landlord may take immediate possession of the tenant's personal property and store the property in a reasonably secure place. The landlord must make reasonable efforts to notify the tenant of the location where the property is stored, and of any impending sale. If the tenant does not come forward to claim the property within 45 days of notice, the landlord may sell or dispose of the property. The landlord may apply the proceeds against monies due to the landlord by the tenant. The landlord must hold any excess income for the benefit of the tenant for one year, after which the balance is property of the landlord.

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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.*

The Uniform Residential Landlord and Tenant Act was codified by the Uniform Law Commission (ULC) in 1972 and subsequently adopted in 21 states, including Washington. In 2012 the ULC began meeting to address new developments affecting residential landlord and tenant law and to codify the best current practices in a revised act. The ULC anticipates the act will be ready for approval mid-July of this year and the final version will be available for distribution in the fall.

**Summary of Bill:** The RLTA provides procedures on how a landlord must dispose of a tenant's property in the event of a tenant's death.

Upon written request by a landlord or on the tenant's own initiative, a tenant may:

- provide the landlord with contact information of a designated person in the event of the tenant's death; and
- sign a statement allowing the designated person, upon the tenant's death, to access the tenant's unit and property and to accept the tenant's security deposit for the benefit of the estate.

The designated person is appointed for two years, and subject to reappointment.

In the event of a tenant's death where the tenant was the sole occupant, the landlord must personally deliver or send written notice to any designated representative, any person identified as the emergency contact by the tenant, and to the deceased tenant at the address of the leased premises. The notice must state that the designated representative has 14 days from the date the notice was mailed to remove the tenant's property or make other arrangements. Failure to remove the property or make acceptable arrangements will terminate the tenancy and allow the landlord to remove the tenant's property and store it in a reasonable secure place. If a request is made within the 14-day period, the landlord must turn over possession of the tenant's property to the designated person and refund any unearned rent and deposits to the designated representative or other person lawfully entitled to the funds. Any person who removes property from the premises must create and sign an inventory of the removed property. If the landlord placed the property in storage, the landlord must send a second written notice to any designated person, any person identified as an emergency contact, and to the deceased tenant at the address of the leased premises. The notice must advise the recipients that the landlord may sell or dispose of the property after 30 days if the landlord is not contacted by anyone claiming the right to lawful possession.

If the tenant does not have a designated person or no representative of the deceased tenant's estate provides written notice to the landlord of an intent to administer the deceased tenant's estate within 45 days of the tenant's death, the landlord may not be held responsible for the removal and disposition of the deceased tenant's property.

A landlord who knowingly violates this section is liable to the deceased tenant's estate for actual damages. A landlord who complies with this section is relieved from liability with regard to the tenant's property.

**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: This is an issue that needs to be fixed. A son or daughter typically may come to the landlord wanting to get the deceased tenant's property. After releasing the property, another sibling will want the property and the landlord ends up getting sued. Landlords are not looking to take people's things or make money, they are just looking for some legal certainty as to what to do with people's belongings. Landlords are committed to participating in the stakeholder process to attempt to resolve the issues in the bill. The abandonment statute does not work because a landlord would have to allege that the person intentionally abandoned property. This is not true and technically dishonest.

CON: Tenant groups are amenable to working with stakeholders to find a solution. The probate question is very difficult. The small estate process does not allow a successor to take possession of property for 40 days. If a tenant has paid rent, the lease continues so long as rent is paid. A landlord should have the same duties in selling or disposing of property as provided in the abandonment statute. The vast majority of estates are not of great value. The abandonment process works well and provides liability protection for landlord. This bill has lots of liability traps for the landlord.

**Persons Testifying:** PRO: Senator Angel, prime sponsor; Chester Baldwin, WA Rental Owner's Assn.; Kyle Woodring, WA Multi Family Housing Assn.

CON: Bruce Neas, Columbia Legal Services; Tim Seth, WA Landlord Assn.