

HOUSE BILL REPORT

SHB 1593

As Passed Legislature

Title: An act relating to expanding the landlord mitigation program to alleviate the financial burden on victims attempting to flee domestic violence, sexual assault, unlawful harassment, or stalking.

Brief Description: Expanding the landlord mitigation program to alleviate the financial burden on victims attempting to flee domestic violence, sexual assault, unlawful harassment, or stalking.

Sponsors: House Committee on Housing, Human Services & Veterans (originally sponsored by Representatives Leavitt, Riccelli, Ryu, Taylor, Shewmake, Chopp, Wylie, Fitzgibbon, Caldier, Wicks, Barkis, Simmons, Duerr, Ramel, Eslick, Graham, Valdez, Gregerson, Bateman, Bronoske, Davis, Fey, Gilday, Macri, Peterson, Rule, Santos, Slatter, Bergquist, Tharinger, Kloba, Pollet, Griffey, Dolan, Ormsby, Chambers, Young, Hackney and Frame).

Brief History:

Committee Activity:

Housing, Human Services & Veterans: 1/11/22, 1/20/22 [DPS].

Floor Activity:

Passed House: 2/8/22, 96-0.

Passed Senate: 3/4/22, 48-0.

Passed Legislature.

Brief Summary of Substitute Bill

- Expands the Landlord Mitigation Program to allow landlords' claims for damages to residential rental property when a tenant-victim of domestic violence, sexual assault, unlawful harassment, or stalking terminates the tenancy and certain other conditions are met.

HOUSE COMMITTEE ON HOUSING, HUMAN SERVICES & VETERANS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Peterson, Chair; Taylor, Vice Chair; Caldier, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Donaghy and Leavitt.

Staff: Serena Dolly (786-7150).

Background:

Residential Landlord-Tenant Act.

The Residential Landlord-Tenant Act (RLTA) regulates the relationship between landlords and tenants and includes provisions regarding the duties of tenants and landlords, remedies for violations of those duties, and prohibited actions.

Damage Deposits.

Landlords often collect a damage or security deposit, the purpose of which is to cover any damage caused to the property by the tenant, in excess of normal wear and tear resulting from ordinary use. The RLTA requires that the deposit be placed in a trust account. Any interest earned generally belongs to the landlord.

Within 21 days after the termination of the rental agreement and vacation of the premises, or after abandonment by the tenant, the landlord must give a full and specific statement of the basis for retaining any of the deposit and pay any refund due the tenant. No portion of any deposit may be withheld on account of normal wear and tear. If damages exceed the amount of the damage deposit, the landlord may proceed against the tenant to recover those sums.

Termination by Tenant.

A tenant who terminates a tenancy of a specified time, sometimes called 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, a dwelling unit may be rented for an indefinite time, from month to month or period to period. Such a tenancy is automatically renewed for another month or period until terminated by the landlord for causes specified under the RLTA or by the tenant by giving at least 20 days written notice prior to the end of any of the months or periods of tenancy.

A tenant may terminate a tenancy without further obligation under a rental agreement if the tenant notifies the landlord in writing that he or she or a household member is a victim of a crime of domestic violence, sexual assault, unlawful harassment, or stalking and if:

- the tenant or household member has a valid order of protection or has reported the domestic violence, sexual assault, or stalking to a "qualified third party" who has provided a written record of the report;
- the tenant makes the protection order or written record available to the landlord; and

- the request to terminate is made within 90 days of the reported act or event that led to the protection order or report.

"Qualified third party" means law enforcement, health professionals, court employees, licensed mental health professionals or counselors, trained advocates for crime victim or witness programs, or clergy. A written record that a report was made to a qualified third party is satisfied by a document signed by the third party that includes specified information or completion of a form that substantially complies with the form set out in the RLTA. The name of the alleged perpetrator must be provided to the qualified third party, but the perpetrator's name may not be included on the record of the report that is provided to the tenant or household member. The qualified third party must retain a copy of the record of a report and must note the name of the alleged perpetrator on the retained copy.

A tenant who terminates a rental agreement under these circumstances is liable for payment of rent for the month in which he or she quits the premises but is not responsible for the payment of rent for any future months. In addition, the tenant is entitled to a full refund of the deposit notwithstanding any lease provision that allows for forfeiture of a deposit for early termination. However, the tenant remains responsible for any damage caused to the property in excess of normal wear and tear, and the landlord may retain some or all of the damage deposit to cover that damage as with any other tenancy.

Landlord Mitigation Program.

The Landlord Mitigation Program (Program) allows landlords to seek reimbursement for unpaid rent, damages, and other costs by submitting a claim to the Department of Commerce for certain rentals to low-income tenants, unlawful detainer judgments, and unpaid rent due on or after March 1, 2020.

Renting Private Units to Low-Income Tenants.

A landlord may seek reimbursement from the Program for claims related to renting private market rental units to low-income tenants. The Program allows up to \$1,000 in reimbursement to landlords for potentially required move-in upgrades, up to 14 days of lost rental income, and up to \$5,000 in any unpaid rent and utilities and qualifying damages caused by a tenant during the tenancy. Any landlord that has screened, approved, and offered rental housing to any applicant that will be using any form of housing subsidy program is eligible to submit a claim, except for properties operated by housing authorities.

Unlawful Detainer Judgments.

A landlord also may file a reimbursement claim from the Program in unlawful detainer cases where judicial discretion is exercised and there is an unpaid judgment for rent, late fees, attorneys' fees, and costs, including any unpaid portion of the judgment after the tenant defaults on a court ordered-payment plan. The court may issue an order finding that the landlord is eligible to receive reimbursement from the Program if the court finds that the tenant is low-income, limited resourced, or experiencing hardship.

Unpaid Rent Beginning March 1, 2020.

A landlord also may seek reimbursement under the Program for up to \$15,000 of any unpaid rent that accrued between March 1, 2020, and six months following the expiration of the Governor's eviction moratorium, when the tenant is low-income, resource-limited, or experiencing hardship and has voluntarily vacated or abandoned the tenancy. A landlord is not eligible if the tenancy was terminated due to an unlawful detainer action based on nonpayment of rent. A landlord is also eligible to file a reimbursement claim for up to \$15,000 for any remaining rent after the tenant defaults on a repayment plan as long as the tenancy has not been terminated at the time of reimbursement. After reimbursement under either type of claim, the landlord may not take legal action or pursue a collection action against the tenant for damages or seek any remaining unpaid rent accrued between March 1, 2020, and six months following expiration of the Governor's eviction moratorium.

Landlord Mitigation Program Account.

Claims to the Program are reimbursed through the Landlord Mitigation Program Account (Account). Claims related to the renting of private market rental units to low-income tenants using a housing subsidy program are prioritized for funding before other types of claims. The Account may include transfers and appropriations by the Legislature, repayments, private contributions, and other sources, but is primarily funded by a portion of the surcharges collected by each county auditor when certain documents are recorded.

Summary of Substitute Bill:

The Program is expanded to allow landlords' claims up to \$5,000 for damages to rental property when:

- the tenant has terminated his or her tenancy pursuant to the provision in the RLTA, which allows tenants who are victims of domestic violence, sexual assault, unlawful harassment, or stalking to terminate;
- the property has sustained damage beyond normal wear and tear;
- the landlord has, within 21 days of termination:
 - provided the tenant with a statement regarding the basis for retaining any of the damage deposit; and
 - rather than retaining any of the damage deposit for those damages, returned the full damage deposit to the tenant; and
- the landlord has agreed not to proceed against the tenant to recover sums exceeding the amount of the damage deposit.

The Department of Commerce (Commerce) must provide a form on its website for landlords to apply for reimbursement. In reviewing a claim and determining eligibility, Commerce must receive acceptable documentation that the claim involves a tenancy that was terminated pursuant to the RLTA section concerning victims of domestic violence, sexual assault, unlawful harassment, or stalking, and that all other Program requirements have been met.

Any claim for reimbursement is not an entitlement. If, at any time, funds do not exist in the Account to reimburse claims that have been submitted under this new provision, Commerce must create a waitlist for claims and distribute funds in the order the claims are received. Payment of any claims on the waitlist must be made only from the Account. Commerce is not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds 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 pursuing collection or authorizing another entity to pursue collection on the landlord's behalf.

The form set forth in the RLTA and utilized by a qualified third party as the record of the report of domestic violence, sexual assault, unlawful harassment, or stalking is amended to require the qualified third party to verify that he or she has informed the tenant about the Program and Commerce's form for reimbursement.

The RLTA is also amended to prohibit a landlord who seeks reimbursement for damages from the Program under these circumstances from retaining any portion of the tenant's deposit or proceeding against the tenant to recover sums exceeding the amount of the tenant's deposit for damage to the property.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except section 5, relating to landlord mitigation for a tenancy terminated by a victim of certain crimes, which takes effect on July 1, 2022.

Staff Summary of Public Testimony:

(In support) This bill is about protecting the most vulnerable people in the state. Domestic violence increased during the pandemic. Too many victims face the terrible choice between staying with an abuser or having no place to live. Abusers often limit a victim's access to money. Domestic violence victims often are left with damage to their apartments caused by their abusers, which may impact their credit if they cannot pay charges. Housing is a necessary component for exiting a domestic violence situation. It takes a survivor an average of seven attempts to leave an abuser, and finances and credit are a large part of why victims stay. Allowing a survivor to retain the rental deposit helps a survivor start over.

(Opposed) None.

Persons Testifying: Representative Mari Leavitt, prime sponsor; Abi McLane, Crystal

Judson Family Justice Center; Cristina Mateo, Washington Build Back Black Alliance; Sarah Kendall, Washington State Coalition Against Domestic Violence; Angela Dannenbring, Domestic Abuse Women's Network; and Gina Finley, Turning Pointe.

Persons Signed In To Testify But Not Testifying: None.