

SENATE BILL REPORT

SHB 2501

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 28, 1992

Brief Description: Authorizing landlords' claims on tenants' property.

SPONSORS: House Committee on Housing (originally sponsored by Representatives Wineberry, Ballard, Ogden, Mitchell, P. Johnson, Franklin, D. Sommers, Winsley, Paris, Van Luven, Bowman, Brough and Wynne)

HOUSE COMMITTEE ON HOUSING

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, M. Kreidler, Madsen, Newhouse, Rasmussen, and A. Smith.

Staff: Ben Barnes (786-7465)

Hearing Dates: February 25, 1992; February 28, 1992

BACKGROUND:

All moneys, negotiable instruments, securities, or other tangible or intangible property that is furnished or intended to be furnished in exchange for a controlled substance, or acquired in whole or in part with proceeds traceable to exchanges of controlled substances, or that is used or intended to be used to facilitate a violation of the law pertaining to controlled substances, is subject to seizure by law enforcement officers or authorized inspectors. All property rights in items seized in this manner are forfeited by the owner.

When property is seized and forfeited, the law enforcement agency that seized the property may retain it for official use or sell that property which is not required to be destroyed by law and which is not harmful to the public. The proceeds from the sale of all forfeited property, and all moneys that are forfeited, must be used for paying the expenses of conducting the investigation leading to the seizure; the expenses of the proceedings for forfeiture and sale; the expenses of seizure, maintenance of custody, and advertising; the costs of the prosecuting attorney; and court costs.

If there is any money remaining after the expenses associated with the seizure are paid, and the property that was forfeited was personal property, then 75 percent of the proceeds are deposited into the general fund of the seizing agency and 25

percent of the proceeds are deposited into the state public safety and education account.

The money deposited into the general fund of the seizing agency may only be used for the expansion or improvement of law enforcement services, which includes the creation of reward funds to help in the conviction of people who violate controlled substances laws. Money deposited into the public safety and education account is used for traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, winter recreation parking, and the state Game Program.

If the forfeited property is subject to a valid security interest, and the secured party was unaware of the illegal activity when the security interest was created, then the forfeited property is still subject to the security interest. There is no provision to allow landlords to recover for damages to the apartment from the proceeds of seized and forfeited property.

SUMMARY:

A forfeiture of money, negotiable instruments, securities, or other tangible or intangible property is subject to a claim by a landlord for damage to the property caused by a law enforcement officer or by the tenant. The damage must be related to a violation of the laws pertaining to uniform controlled substances, prescription drugs, or imitation controlled substances. The claim by the landlord must be filed with the law enforcement agency who seized the property within 30 days after the seizure.

The landlord cannot recover on a claim for property damage if the landlord knew about the illegal drug activity by the tenant. The landlord must first use the tenant's damage deposit to repair any damage caused by the tenant before asserting a claim against the seized property.

The landlord may recover on an asserted claim for damages only after the seized property has been sold, and all costs related to the investigation, seizure, and prosecution of the tenant have been paid.

Appropriation: none

Revenue: none

Fiscal Note: available

SUMMARY OF PROPOSED SENATE AMENDMENT:

Specific guidelines and a procedure are established for a landlord to recover for damages to a tenant's residence caused by a law enforcement officer executing a search on the premises.

TESTIMONY FOR:

The proposed amendment strikes a better balance between the interests of landlords and law enforcement.

TESTIMONY AGAINST:

The proposed bill is unnecessary and confusing. The tenant automatically forfeits his or her right in property seized in violation of the Uniform Controlled Substances Act.

TESTIFIED: Cheryl Carlson, City of Tacoma (con); Mike Patrick, Washington State Council of Police Officers (pro)