

# HOUSE BILL REPORT

## SSB 6459

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**As Reported by House Committee On:**  
Judiciary

**Title:** An act relating to the inspection of rental properties.

**Brief Description:** Concerning the inspection of rental properties.

**Sponsors:** Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs, Berkey, Marr and Schoesler).

**Brief History:**

**Committee Activity:**

Judiciary: 2/18/10, 2/22/10 [DPA].

**Brief Summary of Substitute Bill  
(As Amended by House)**

- Allows local municipalities to require landlords to provide a certificate of inspection of their rental property.
- Permits the issuance of a search warrant for the purpose of allowing a code enforcement official to inspect any specified premises to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance.
- Creates penalties for non-compliance, falsifying information in a certificate of inspection, and obstructing an inspection pursuant to a search warrant.

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### HOUSE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended. Signed by 10 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

**Staff:** Courtney Barnes (786-7194).

**Background:**

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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 Residential Landlord-Tenant Act (RLTA) establishes the rights and duties of landlords and tenants.

#### Remedies for Defective Conditions.

If a rental unit has a defective condition, the tenant must notify the landlord in writing. The RLTA provides a timeline for how long a landlord has to respond to a tenant's complaint. If the landlord fails to remedy the condition, the tenant has a choice of remedies under the RLTA, including terminating the tenancy or requesting a local government to inspect the unit.

#### Entry of a Rental Unit by a Landlord.

Under the RLTA, a tenant is prohibited from unreasonably withholding consent to allow a landlord to enter the premises, provided the landlord's entry is consistent with one of the purposes authorized by statute. The purposes for which a landlord may enter the premises include:

- inspections;
- completing necessary or agreed repairs, alterations, or improvements;
- supplying necessary or agreed services; or
- exhibiting the premises for authorized purposes.

#### Search Warrant Authority.

Under the RLTA, fire officials may seek a search warrant if tenants or landlords deny the fire official the right to search dwelling units and common areas. A court must issue a search warrant if it finds that there is probable cause, specific to the dwelling unit or common area, of a criminal fire code violation. Under case law, administrative search warrants must be supported by an authorizing statute or court rule or by allegations of a criminal violation supported by probable cause.

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### **Summary of Amended Bill:**

#### Certificate of Inspection.

Local municipalities may require landlords to provide a certificate of inspection as a business license condition. A local municipality does not need to have a business license or registration program in order to require landlords to provide a certificate of inspection. A "certificate of inspection" is defined. A local municipality may only require a certificate of inspection on a rental property once every three years. When certain conditions are met, rental properties may be exempt from inspection requirements.

Generally, multi-unit rental properties are inspected by a sampling based on the number of units, or the property owner may elect to have all of the units inspected. If a rental property is asked to provide a certificate of inspection for a sample of units and a selected unit fails an initial inspection, the local municipality may require all of the units to provide a certificate of

inspection. A local municipality may also require all of the units to provide a certificate of inspection if a rental property has had conditions that endanger or impair the health or safety of a tenant reported since the last required inspection.

#### Appeals.

If a rental property owner does not agree with the findings of an inspection performed by a local municipality, the local municipality is required to offer an appeals process.

#### Notice to Tenants.

A landlord must provide written notice of his or her intent to enter an individual unit for the purposes of providing a local municipality with a certificate of inspection. The notice must indicate: (1) the date and approximate time of the inspection; (2) the company or person performing the inspection; and (3) that the tenant has the right to see the inspector's identification before the inspector enters the individual unit. Upon request, a copy of the notice must be provided to the inspector on the day of inspection.

#### Penalties.

A penalty for non-compliance may be assessed by the local municipality. Any person who knowingly submits or assists in the submission of a falsified certificate of inspection, or knowingly submits falsified information upon which a certificate of inspection is issued, is guilty of a gross misdemeanor and must be punished by a fine of not more than \$5,000.

#### Search Warrant Authority.

A search warrant may be issued by a judge for the purpose of allowing a code enforcement official to inspect any specified dwelling unit and premises to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance. The search warrant may only be issued if sufficient evidence has been set forth by affidavit or declaration establishing probable cause for the inspection. Provisions are created to address the information that must be contained in the warrant and when an inspection to a warrant may be conducted.

Any person who willfully refuses to permit inspection, obstructs inspection, or aids in the obstruction of property authorized by the warrant is subject to remedial and punitive sanctions for contempt of court and may be subject to a civil penalty imposed by local ordinance.

#### Other.

After the effective date of this bill, a local municipality may not enact an ordinance requiring a certificate of inspection unless it complies with the requirements for inspection created by the bill.

#### **Amended Bill Compared to Substitute Bill:**

The amended bill modifies the definition of "certificate of inspection." The amended bill removes the term "substantially" in provisions relating to conditions that substantially endanger or impair the health or safety of a tenant. The amended bill permits a local municipality to notify a landlord that until a certificate of inspection is provided, it is unlawful to rent or to allow a tenant to continue to occupy a unit. The amended bill adds a provision prohibiting a landlord from threatening or taking retaliatory action against a tenant who permits a code enforcement officer to inspect his or her dwelling unit. The amended bill modifies the statement required in an affidavit for a search warrant for an inspection. Changes made by the substitute bill are restructured in the amended bill for clarity.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Amended 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) The bill is a product of a work group that met during the interim. The bill provides predictability for landlords, flexibility for cities, and protection for tenants. Under the bill, cities will have the authority to get civil search warrants for property inspection, which is not available under current law. The bill provides cities with a targeted means to go after rental property that is substandard. Substandard housing is a serious problem. The bill provides local governments with a tool to bring substandard housing into compliance. The city of Pasco has an inspection program that has been upheld by the courts. This program will not be affected by the bill. The bill will allow more local municipalities to adopt inspection programs by providing municipalities with clear direction. There is no requirement to adopt a program under the bill. The bill places modest restrictions on the authority of local governments. There are some limitations on how frequently a property may be inspected by a local municipality. The bill creates a uniform structure for all inspection programs, which would benefit those who have rental property owners who have property in more than one city.

(Opposed) The interim work group made significant progress, but an agreement on the bill could not be reached. Currently, the city of Pasco is the only city that has adopted a rental inspection program. The restrictions created by the bill are unnecessary. The search warrant authority is important, but this authority should not be connected with a rental inspection program. The bill does not provide enough flexibility for cities to adopt their own programs. Different jurisdictions need different tools to address housing concerns unique to an individual community. The bill would operate to discourage cities from adopting programs that are similar to the city of Pasco's inspection program. Local municipalities should not be constrained to the narrow parameters contained in the bill. The inspection provisions in the bill are narrowly drafted and would permit a certificate of inspection to be issued even when illegal or hazardous housing conditions exist. The search warrant provision is a flawed tool.

The procedural requirements to get and execute a search warrant are burdensome and take too much time, especially when dangerous conditions exist.

**Persons Testifying:** (In support) Senator Hobbs, prime sponsor; Julie Johnson, Rental Housing Association of Puget Sound; Joe Puckett, Washington Multi-Family Housing Association; Greg Provenzano, Columbia Legal Services; Brian Mize, Snohomish County Apartment Operators Association and Washington Apartment Operators Association; and Robert McConnell.

(Opposed) Candice Bock, Association of Washington Cities; Brianna Taylor, City of Pasco; Kathy Stetson, City of Tukwila; and Karen White, City of Seattle.

**Persons Signed In To Testify But Not Testifying:** None.