

SENATE BILL REPORT

SB 6143

As Passed Senate, February 14, 2014

Title: An act relating to tenant remedies upon landlord's failure to perform duties.

Brief Description: Clarifying tenant remedies upon landlord's failure to perform duties.

Sponsors: Senators Padden and Sheldon.

Brief History:

Committee Activity: Law & Justice: 1/22/14, 2/03/14 [DP, DNP].

Passed Senate: 2/14/14, 26-21.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pearson and Roach.

Minority Report: Do not pass.

Signed by Senators Kline, Ranking Member; Darneille and Pedersen.

Staff: Aldo Melchiori (786-7439)

Background: The Residential Landlord Tenant Act imposes on landlords a general duty to keep the premises fit for human habitation at all times during the tenancy, and gives tenants a way of compelling landlords to remedy certain unsafe conditions in leased residential premises. Upon written notice, the landlord must take action to remedy the defective condition within one to ten days, based on the type of risk to the tenant. Tenants pursuing action within the statutory scheme remain in the tenancy while the landlord carries out the needed repairs. If the landlord fails to carry out repairs within the allotted timeframe, the tenant then has the option to terminate the rental agreement and quit the premises.

In *Landis & Landis Construction v. Nation* (2012), the Washington State Court of Appeals identified three legal theories under which a tenant could premise an action: the Act, the rental agreement, or the common law. The court held that the Act did not supersede common law remedies and preserved other tenant remedies against a landlord. Specifically, the court found that the statutory notice and remedy process is provided to the tenant "in addition to pursuit of remedies otherwise provided him or her by law." The court found that one common law theory available was the implied warranty of habitability.

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.

Summary of Bill: The remedies provided by the Residential Landlord Tenant Act supersede those provided under an implied warranty of habitability. This applies to all causes of action brought after the effective date of the act, regardless of when the cause of action arose.

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: The Landlord Tenant Act has been the law of the land for 40 years until this court decision. It is not a question of whether the Act applies; it does. The question is what remedies are available to the tenant. Landlords should be given the chance to remedy defects before the tenant walks away. Tenants can use implied consent as an excuse to get out of leases that they simply changed their mind about. The common law is usually superseded by legislative acts and, in this case, the Landlord Tenant Act clearly was meant to provide the remedy for defects and the process for curing them.

CON: The Landlord Tenant Act itself does not supersede the common law remedies. There is no evidence that tenants take advantage of this. Twenty-two states have both a statutory and common law remedy. The bill would protect a landlord's negligent and irresponsible acts to the detriment of tenants. This provides an incentive for landlords to remain unknowing about possible defects. The warranty of uninhabitability only applies in cases when the premises are uninhabitable.

Persons Testifying: PRO: Senator Padden, prime sponsor; Phil Talmadge, Rental Housing Assn.; Kathryn Hedrich, WA Multifamily Housing Assn.; Doug Neyhart, Rental Housing Assn.; Chet Baldwin, WA Apartment Assn.

CON: Greg Provenzano, Columbia Legal Services; Jacob Wicks, King County Bar Assn.; Sarah Coffey, Solid Ground.