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**SENATE BILL 5123**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Frockt, Kohl-Welles, Mullet, Pedersen, Jayapal, Darneille, McCoy, Conway, and Keiser

AN ACT Relating to tenant screening; amending RCW 59.18.257; reenacting and amending RCW 59.18.030; creating a new section; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that residential landlords frequently use tenant screening reports in evaluating and selecting tenants for their rental properties. The costs of tenant screening are passed on to applicants in the form of screening fees that applicants pay with each application for housing, although successive reports contain largely the same information. Applicants may make multiple applications for housing to secure a place to live, significantly increasing their financial burden. The high and repeated cost of tenant screening reports are a barrier to housing for all applicants, especially applicants with low or fixed incomes. The legislature recognizes the importance of landlords receiving current and thorough information on prospective tenants, including the necessary information to determine if that applicant would make a suitable renter. When an applicant can provide a prospective landlord a comprehensive tenant screening report produced within the last thirty days, this significantly reduces an applicant's cost while also providing landlords with the information they need. Therefore, the legislature finds and declares comprehensive tenant screening reports are a necessary and fair solution for both applicants and landlords.

**Sec.**  RCW 59.18.030 and 2012 c 41 s 2 are each reenacted and amended to read as follows:

As used in this chapter:

(1) "Certificate of inspection" means an unsworn statement, declaration, verification, or certificate made in accordance with the requirements of RCW 9A.72.085 by a qualified inspector that states that the landlord has not failed to fulfill any substantial obligation imposed under RCW 59.18.060 that endangers or impairs the health or safety of a tenant, including (a) structural members that are of insufficient size or strength to carry imposed loads with safety, (b) exposure of the occupants to the weather, (c) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (d) not providing facilities adequate to supply heat and water and hot water as reasonably required by the tenant, (e) providing heating or ventilation systems that are not functional or are hazardous, (f) defective, hazardous, or missing electrical wiring or electrical service, (g) defective or hazardous exits that increase the risk of injury to occupants, and (h) conditions that increase the risk of fire.

(2) "Distressed home" has the same meaning as in RCW 61.34.020.

(3) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(4) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

(5) "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences and units of multiplexes, apartment buildings, and mobile homes.

(6) "Gang" means a group that: (a) Consists of three or more persons; (b) has identifiable leadership or an identifiable name, sign, or symbol; and (c) on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes.

(7) "Gang-related activity" means any activity that occurs within the gang or advances a gang purpose.

(8) "In danger of foreclosure" means any of the following:

(a) The homeowner has defaulted on the mortgage and, under the terms of the mortgage, the mortgagee has the right to accelerate full payment of the mortgage and repossess, sell, or cause to be sold the property;

(b) The homeowner is at least thirty days delinquent on any loan that is secured by the property; or

(c) The homeowner has a good faith belief that he or she is likely to default on the mortgage within the upcoming four months due to a lack of funds, and the homeowner has reported this belief to:

(i) The mortgagee;

(ii) A person licensed or required to be licensed under chapter 19.134 RCW;

(iii) A person licensed or required to be licensed under chapter 19.146 RCW;

(iv) A person licensed or required to be licensed under chapter 18.85 RCW;

(v) An attorney-at-law;

(vi) A mortgage counselor or other credit counselor licensed or certified by any federal, state, or local agency; or

(vii) Any other party to a distressed property conveyance.

(9) "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(10) "Mortgage" is used in the general sense and includes all instruments, including deeds of trust, that are used to secure an obligation by an interest in real property.

(11) "Owner" means one or more persons, jointly or severally, in whom is vested:

(a) All or any part of the legal title to property; or

(b) All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

(12) "Person" means an individual, group of individuals, corporation, government, or governmental agency, business trust, estate, trust, partnership, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(13) "Premises" means a dwelling unit, appurtenances thereto, grounds, and facilities held out for the use of tenants generally and any other area or facility which is held out for use by the tenant.

(14) "Property" or "rental property" means all dwelling units on a contiguous quantity of land managed by the same landlord as a single, rental complex.

(15) "Prospective landlord" means a landlord or a person who advertises, solicits, offers, or otherwise holds a dwelling unit out as available for rent.

(16) "Prospective tenant" means a tenant or a person who has applied for residential housing that is governed under this chapter.

(17) "Qualified inspector" means a United States department of housing and urban development certified inspector; a Washington state licensed home inspector; an American society of home inspectors certified inspector; a private inspector certified by the national association of housing and redevelopment officials, the American association of code enforcement, or other comparable professional association as approved by the local municipality; a municipal code enforcement officer; a Washington licensed structural engineer; or a Washington licensed architect.

(18) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

(19) "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

(20) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

(21) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

(22) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

(23) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service. A tenant screening report must include tenant screening service contact information in or on the report.

(24) "Comprehensive screening report" means a tenant screening report that contains all of the following: (a) A consumer report concerning the prospective tenant prepared by a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined in 15 U.S.C. Sec. 1681A(p); (b) a consumer report that includes consumer reporting agency contact information in or on the report from which a prospective landlord may obtain, at no charge, requested verifications of the prospective tenant's name and the most recent screening date; (c) a report containing the prospective tenant's criminal history and a sex offender search; (d) a report containing the prospective tenant's eviction history; (e) a report containing the prospective tenant's employment verification; and (f) a report containing the prospective tenant's previous address history, if not included in the report from a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis as described in (a) of this subsection.

(25) "Criminal history" means a report containing or summarizing the contents of any records of the prospective tenant's arrest, indictment, criminal conviction, or other adjudication of a crime, including registration or duty to register as a sex offender with any state, if any, obtained after a search for such records in every state where the prospective tenant has reported living in the seven years preceding the report date.

(26) "Eviction history" means a report containing or summarizing the contents of any records of eviction suits or judicial foreclosure actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search for such records in every state where the prospective tenant has reported living in the seven years preceding the report date.

**Sec.**  RCW 59.18.257 and 2012 c 41 s 3 are each amended to read as follows:

(1)(a) Prior to obtaining any information about a prospective tenant, the prospective landlord shall first notify the prospective tenant in writing, or by posting, of the following:

(i) What types of information will be accessed to conduct the tenant screening;

(ii) What criteria may result in denial of the application; and

(iii) If a consumer report is used, the name and address of the consumer reporting agency and the prospective tenant's rights to obtain a free copy of the consumer report in the event of a denial or other adverse action, and to dispute the accuracy of information appearing in the consumer report.

(b)(i) The landlord may charge a prospective tenant for costs incurred in obtaining a tenant screening report only if the prospective landlord provides the information as required in (a) of this subsection, unless a comprehensive tenant screening report regarding the prospective tenant, prepared within thirty days of the application date, is made available to the prospective landlord by a consumer reporting agency. If a consumer reporting agency provides access to a comprehensive tenant screening report, a prospective landlord may still obtain another tenant screening report but may not charge the prospective tenant for the subsequent report. A prospective landlord shall not treat a prospective tenant for whom a comprehensive tenant screening report is available any less favorably solely because a consumer reporting agency provides access to a comprehensive screening report.

(ii) If a prospective landlord conducts his or her own screening of tenants, the prospective landlord may charge his or her actual costs in obtaining the background information only if the prospective landlord provides the information as required in (a) of this subsection. The amount charged may not exceed the customary costs charged by a screening service in the general area. The prospective landlord's actual costs include costs incurred for long distance phone calls and for time spent calling landlords, employers, and financial institutions.

(c) If a prospective landlord takes an adverse action, the prospective landlord shall provide a written notice of the adverse action to the prospective tenant that states the reasons for the adverse action. The adverse action notice must contain the following information in a substantially similar format, including additional information as may be required under chapter 19.182 RCW:

"ADVERSE ACTION NOTICE

Name

Address

City/State/Zip Code

This notice is to inform you that your application has been:

..... Rejected

..... Approved with conditions:

..... Residency requires an increased deposit

..... Residency requires a qualified guarantor

..... Residency requires last month's rent

..... Residency requires an increased monthly rent of $........

..... Other:

Adverse action on your application was based on the following:

..... Information contained in a consumer report (The prospective landlord must include the name, address, and phone number of the consumer reporting agency that furnished the consumer report that contributed to the adverse action.)

..... The consumer credit report did not contain sufficient information

..... Information received from previous rental history or reference

..... Information received in a criminal record

..... Information received in a civil record

..... Information received from an employment verification

Dated this ..... day of ........, 20....

Agent/Owner Signature"

(2) Any landlord or prospective landlord who violates this section may be liable to the prospective tenant for an amount not to exceed one hundred dollars. The prevailing party may also recover court costs and reasonable attorneys' fees.

(3) ((~~A stakeholder work group comprised of landlords, tenant advocates, and representatives of consumer reporting and tenant screening companies shall convene for the purposes of addressing the issues of tenant screening including, but not limited to: A tenant's cost of obtaining a tenant screening report; the portability of tenant screening reports; criteria used to evaluate a prospective tenant's background, including which court records may or may not be considered; and the regulation of tenant screening services. Specific recommendations on these issues are due to the legislature by December 1, 2012.~~

~~(4)~~)) This section does not limit a prospective tenant's rights or the duties of a screening service as otherwise provided in chapter 19.182 RCW.

NEW SECTION. **Sec.**  This act takes effect November 1, 2016.

**--- END ---**