

SENATE BILL REPORT

SB 5218

As Reported by Senate Committee On:
Financial Institutions & Insurance, February 12, 2015

Title: An act relating to unlawful detainer actions for at-will tenancies.

Brief Description: Expanding the definition of unlawful detainer to include a provision governing at-will tenancies. [**Revised for 1st Substitute:** Concerning unlawful detainer actions for at-will tenancies.]

Sponsors: Senators Hobbs and Benton.

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/28/15, 2/12/15 [DPS].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5218 be substituted therefor, and the substitute bill do pass.

Signed by Senators Benton, Chair; Angel, Vice Chair; Mullet, Ranking Minority Member; Darneille, Fain, Hobbs, Litzow and Roach.

Staff: Shani Bauer (786-7468)

Background: Unlawful detainer is the process for evicting a residential tenant. The process is generally as follows:

- The landlord serves a tenant with, most commonly, a three-day pay or vacate or a ten-day comply or vacate notice;
- If after three or ten days the tenant is still in the rental unit either without paying rent or failing to comply with the terms of the notice, the landlord will have a neutral third party deliver the Summons and Complaint. This document does not need to be filed with the court. These documents will include a reply deadline. If the tenant fails to reply, the tenant will automatically lose the eviction;
- Show Cause Hearing: this is a notice of appearance date. This hearing is an opportunity for the tenant to raise any defenses to the eviction. The judge makes a ruling at this point. If the tenant prevails, the case is dismissed. If a tenant loses, they will be issued a judgment in the amount of money owed which may include rent, court costs, attorneys' fees, and other fees; and

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- **Writ of Restitution:** if a tenant loses, the sheriff will also issue a writ of restitution which is notice of when the sheriff is coming to oversee the tenant's removal from the property, if the tenant has not already vacated.

Summary of Bill (Recommended Substitute): An at-will tenant may be sued for an unlawful detainer. A person who occupies real property with the consent of the owner but without a specific rental amount or designated period of tenancy on an at-will basis may be evicted if they fail to leave the premises after 20-days' notice, in writing, served as provided for in statute. An at-will tenant is entitled to a show-cause hearing as provided in the Residential Landlord Tenant Act.

This does not apply to housing for agricultural employees when provided in conjunction with employment.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE (Recommended Substitute): Provisions are removed from RCW 59.12.030 and placed in a distinct section as a tenant at-will is not a tenant of real property as defined. The notice period is decreased from 30 days to 20 days. Housing for agricultural employees while provided in conjunction with that employment are exempt from an at-will tenant unlawful detainer action. An at-will tenant is entitled to a show-cause hearing to raise defenses to the eviction.

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 on Original Bill: PRO: A person in an at-will tenancy currently must be removed via an ejectment action. Under this process, it takes 12–18 months to remove someone. This arises most in the context where a family member lets another move into their house, or a house they own, rent free. At some point they are asked to move and the person refuses. The owner must go through a lengthy ejectment process to get them out of the house.

CON: This bill allows a person to file an unlawful detainer against a tenant at will without filing an ejectment action. Essentially an at-will tenant lives on the premises without paying rent. This situation generally occurs when a person is given a place to stay as part of the person's employment. The landlord can always structure an arrangement up front so it is not a tenancy at will. There is a need to deal with some situations but this statute is too broad and there are unintended consequences. Further, the 30-day notice requirement is confusing. The notice should be 20 days to be consistent with other landlord-tenant provisions.

Persons Testifying: PRO: Chester Baldwin, Mobile Home Communities of WA; Joseph Puckett, WA Multifamily Housing Assn.

CON: Gregory Provenzano, Columbia Legal Services; Tim Seth, President, WA Landlord Assn.