

SENATE BILL REPORT

E2SHB 2578

As Passed Senate - Amended, March 1, 2018

Title: An act relating to ensuring housing options.

Brief Description: Ensuring housing options.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Riccelli, Kirby, Macri, Peterson, Appleton, McBride, Frame, Doglio, Stanford, Goodman, Senn, Gregerson, Wylie, Sawyer, Kloba, Santos, Ormsby, Robinson and Bergquist).

Brief History: Passed House: 2/09/18, 61-37.

Committee Activity: Financial Institutions & Insurance: 2/15/18, 2/20/18 [DPA, DNP].

Floor Activity:

Passed Senate - Amended: 3/01/18, 36-13.

Brief Summary of Bill (As Amended by Senate)

- Prohibits landlords from refusing to rent property, expel tenants, discriminate, or discourage a rental to a tenant based on their source of income.
- Creates a landlord mitigation program in the Department of Commerce (Commerce) allowing landlords to seek reimbursement for repairs of documented damages to qualifying rental units, necessary repairs due to an inspection, and unpaid rent and utilities.
- Authorizes a \$3 increase to a surcharge on document recording fees with a portion of the new surcharge deposited into the Landlord Mitigation Account.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass as amended.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Hobbs and Kuderer.

Minority Report: Do not pass.

Signed by Senators Angel, Ranking Member; Fortunato.

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.

Staff: Jeff Olsen (786-7428)

Background: The Residential Landlord-Tenant Act regulates the creation of residential tenancies and the relationship between landlords and tenants of residential dwelling units.

Laws Against Discrimination. Under Washington's laws against discrimination, a landlord may not discriminate against a prospective or current tenant with regard to sex; marital status; sexual orientation; race; creed; color; national origin; families with children status; honorably discharged veteran status; the presence of any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a disability.

Source of Income Discrimination. In Washington, several jurisdictions including Seattle, King County, Redmond, Kirkland, Bellevue, and Vancouver have ordinances which prohibit a landlord from discriminating against a tenant who receives a Section 8 subsidy.

Document Recording Fee. County auditors in Washington State collect funds called a document recording fee that is charged to documents such as deeds. Washington currently has three separate document recording fees—all funds support programs that address homelessness. The funds generated from the Affordable Housing for All Surcharge is split between counties and the state with the state retaining approximately 40 percent of the total.

Landlord Mitigation. The 2016 Supplemental Capital Budget included a \$125,000 appropriation to the Commerce for the Rapid Housing Improvement Program, including a proviso for landlord mitigation for the cost of damages that may be caused to private market units rented to housing choice voucher holders in jurisdictions that prohibit denying tenancy based solely on the applicant's source of income. Reimbursement was allowed only for amounts related to property damage, unpaid rent, and other damages caused as a result of the tenant's occupancy. To be eligible, damages had to exceed normal wear and tear and be in excess of \$500, but not more than \$5,000 per tenancy. In order to be eligible, a landlord must first obtain a judgment against the tenant and submit the claim within one year of that judgment.

Summary of Amended Bill: A new section is added to the Residential Landlord Tenant Act prohibiting a landlord from taking certain actions based on the source of income of an otherwise eligible prospective tenant or current tenant, including:

- refusing to lease or rent any real property unless the tenant's source of income is conditioned on real property passing inspection and the estimate of improvements is greater than \$1,500;
- expelling the tenant;
- making any distinction, discrimination, or restriction in the price, terms, conditions, fees, or privileges; or
- attempting to discourage the rental.

A landlord may not publish or display communications or notices relating to the rental of real property that indicates any source of income. Source of income is defined to include benefits or subsidy programs including housing assistance, public assistance, emergency rental assistance, veterans benefits, social security, supplemental security income or other

retirement programs, and other programs administered by any federal, state, local, or nonprofit entity. Source of income does not include income derived in an illegal manner.

If a landlord requires that a tenant have a certain threshold level of income, any source of income in the form of a rent voucher or subsidy must be subtracted from the total of the monthly rent prior to calculating if the income criteria have been met. A person violating the section shall be held liable in a civil action for up to four and one-half times the monthly rent, as well as court costs and reasonable attorneys' fees.

A Landlord Mitigation Program (Program) and Landlord Mitigation Program Account (Account) are created in Commerce. The Program offers landlords of private market rental units rented to tenants using a housing subsidy program reimbursement for damages, up to \$1,000 for eligible repairs, up to 14 days of lost rental income, unpaid rent and utilities, and reimbursement for damages reflected in a judgment obtained against the tenant. Before a damage claim is eligible for reimbursement from the Account, a landlord must first make repairs and then apply for reimbursement. A landlord making a claim must sign a statement attesting to the receipt of a judgment or damages caused by a tenant and authorizing the Commerce to inspect property and records to verify a claim. Damages from a tenancy must total at least \$500 to be eligible for reimbursement from the program, and claims may not exceed \$5,000 per tenancy. A landlord who receives reimbursement from the Program is prohibited from taking legal action against the tenant and pursuing collection for damages attributable to the same tenancy.

Commerce must make reasonable efforts to review claims within ten business days of receipt. In reviewing a claim, Commerce must confirm that the claim involves a private market rental unit rented to a low-income tenant whose source of income meets the definition above. Commerce may inspect the property and records related to a claim and may make use of a third-party inspector as needed to investigate fraud.

The \$10 affordable housing-for-all surcharge which is charged by county auditors for each document recorded is raised to \$13. Of the remaining funds after county administrative and distribution costs, approximately 40 percent of the revenue generated through the surcharge must be transmitted to the State Treasurer for deposit as follows:

- the portion of the funds attributable to the original \$10 of the surcharge must continue to be deposited into the affordable housing-for-all account; and
- the portion of the funds attributable to the additional \$3 of the surcharge must be deposited into the Account.

Commerce must submit a report to the appropriate committees of the Legislature on the effectiveness of the Program and recommended modifications by January 1, 2021.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed, except for Section 1 which takes effect on September 30, 2018.

Staff Summary of Public Testimony on Bill as Amended by Committee: PRO: There is an affordable housing crisis in Washington, and this bill helps to put more renters into rental units by assisting landlords with issues related to renting to subsidized housing tenants. The bill creates a win-win for landlords, tenants, and communities. The changes in the bill make the mitigation fund work and addresses issues to improve implementation.

OTHER: The bill should be modified to allow a prevailing party to be awarded attorney fees.

Persons Testifying: PRO: Representative Marcus Riccelli, Prime Sponsor; Kyle Woodring, Rental Housing Association; Michele Thomas, Washington Low Income Housing Alliance.

OTHER: Kathryn Hedrick, Washington Multi-Family Housing Association.

Persons Signed In To Testify But Not Testifying: No one.