
Civil Rights & Judiciary Committee

HB 1656

Brief Description: Protecting tenants in residential tenancies.

Sponsors: Representatives Macri, Jinkins, Shewmake, Robinson, Doglio, Ryu, Morgan, Goodman, Cody, Orwall, Slatter, Thai, Reeves, Appleton, Dolan, Bergquist, Peterson, Pollet, Gregerson, Frame and Davis.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Amends the Residential Landlord-Tenant Act in a variety of ways, including specifying what constitutes cause for eviction.
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Hearing Date: 2/6/19

Staff: Cece Clynch (786-7195).

Background:

Residential Landlord Tenant Act.

The Residential Landlord-Tenant Act (RLTA) regulates the relationship between residential landlords and tenants, and includes provisions regarding the duties of tenants and landlords and remedies for violations of those duties. A "tenant" is defined as any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement. Subject to a few exceptions spelled out in statute, the rental of a dwelling unit for living purposes is generally covered under the RLTA. One of the specified exceptions is occupancy by an employee of a landlord whose right to occupy is conditioned upon employment in or about the premises.

Damage or Security Deposits.

Landlords often collect deposits and fees and other amounts prior to, or at the outset of, a tenancy. One such deposit is a damage or security deposit, the purpose of which is to cover any damage caused to the property by the tenant, in excess of wear resulting from ordinary use. There are no statutory restrictions upon the amount of such a deposit, but the RLTA does require

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that the amount be placed in a trust account. Any interest earned generally belongs to the landlord.

Within 21 days after the termination of the rental agreement and vacation of the premises, or after abandonment by the tenant, the landlord must give a full and specific statement of the basis for retaining any of the deposit and pay any refund due the tenant. No portion of any deposit shall be withheld on account of wear resulting from ordinary use of the premises. A landlord complies with this requirement if the required statement or payment, or both, are delivered to the tenant personally or deposited in the mail within 21 days.

Failure to provide the statement and refund within the time specified subjects the landlord to liability to the tenant for the full amount of the deposit and the landlord is prohibited, in any action brought by the tenant to recover the deposit, from asserting any claim or raising a defense for retaining any of the deposit unless the landlord shows that circumstances beyond his or her control prevented compliance or that the tenant abandoned the premises. The court may award up to two times the amount of the deposit for intentional refusal by the landlord to provide the statement or refund due.

Duration and Termination of Tenancy.

A tenancy for a specified time, sometimes also called a lease, is deemed terminated at the end of the specified period. A tenant who terminates a lease prior to the end of the lease period is liable for rent until the end of the period, although the landlord is required to mitigate his or her damages by attempting to re-rent the unit at a fair rental price.

Alternatively, premises may be rented for an indefinite time, from period to period or month to month. Such a tenancy is automatically renewed for another period until terminated by either the landlord or the tenant by giving at least 20 days' written notice prior to the end of any of the months or periods of tenancy.

Enforcement Remedies and Unlawful Detainer.

The RLTA specifies the remedies available to a tenant for a landlord's violation of his or her duties. Generally the tenant must provide the landlord with written notice and a reasonable opportunity to fix or comply with the duty, the timeframe for which varies depending upon the type of problem. If the landlord does not perform, the RLTA specifies a tenant's remedies, but generally the tenant must be current in rent before exercising any remedies. Damages may be awarded to a tenant when a landlord engages in certain unlawful practices. If a landlord includes prohibited provisions in a rental agreement, the tenant may recover statutory damages of up to \$500 together with costs of suit.

Eviction pursuant to an unlawful detainer action is a remedy a landlord may pursue against a tenant in unlawful detainer status. The definition of "unlawful detainer" applicable under the RLTA, as well as with respect to other tenancies not governed by the RLTA, is found in a chapter separate from the RLTA, chapter 59.12 RCW. A tenant is in unlawful detainer status when he or she:

- holds over after the expiration of the specified term for which it is let to him or her. When real property is leased for a specified term or period, the tenancy shall be terminated without notice at the expiration of the specified term or period.

- continues in possession of premises leased for an indefinite period, such as month to month, after the end of any month or period when the landlord, more than 20 days prior to the end of the month or period, served notice requiring the tenant to quit the premises at the end of the month or period.
- continues in possession after a default in rent, and after a three-day notice to pay rent or vacate has been served, without complying with the duty to pay.
- continues in possession after failing to comply with a duty of tenancy other than to pay rent, and after a 10-day notice to comply or vacate has been served, without complying with the duty.
- permits waste upon the premises, or carries on an unlawful business, or maintains a nuisance and remains in possession after the service of a three-day notice to quit the premises.
- enters upon the premises without permission and without having color of title and refuses to leave after a three-day notice. Such a person may also be subject to criminal laws.
- commits or permits any gang-related activity as prohibited by the RLTA.

If the tenant is in unlawful detainer status, a landlord may bring a court action to evict the tenant. A landlord prevailing in an unlawful detainer action is entitled to a judgment for restitution of the premises together with damages and rent found due. The prevailing party in an unlawful detainer action may be awarded costs and reasonable attorneys' fees. The landlord may not physically force the tenant off the property, but must rely on the sheriff to do that.

Summary of Bill:

A number of changes are made to the Residential Landlord-Tenant Act (RLTA).

Residential Landlord-Tenant Act Coverage and Prohibitions.

The definition of "tenant" is amended to include any occupant who has coresided with the tenant for six months or more prior to the tenant vacating the property.

The exception under the RLTA for occupancy by an employee of a landlord whose right to occupy is conditioned upon employment in or about the premises is stricken.

Language in the RLTA that provides that a tenancy for a specified time is deemed terminated at the end of the specified time is stricken. Upon expiration and absent an agreement to renew a rental agreement, such a tenancy shall be construed to be a tenancy from month-to-month and subject to the protections of the RLTA.

"Rent" or "rental amount" is defined to mean consideration for use and occupancy of the premises. These terms do not include charges for costs incurred due to late fees, damages, utilities, deposits, legal costs, or other fees, including attorneys' fees. A landlord must first apply any payment made by a tenant toward rent, before applying any payment toward these other costs. Continued tenancy or relief from forfeiture may not be conditioned on a tenant's payment or satisfaction of any monetary amount other than rent. However, this does not foreclose a landlord from pursuing other lawful remedies to collect these other costs.

A landlord is prohibited from unreasonably restricting the ability of a tenant to have an immediate family member or members reside with the tenant. However, nothing in this

provision shall be construed as invalidating or impairing federal, state, or local laws with respect to occupancy.

If a landlord deliberately includes statutorily prohibited provisions in a rental agreement, the landlord is liable for actual damages sustained by the tenant, statutory damages not to exceed one month's rent or treble actual damages (rather than not to exceed \$500), as well as costs of suit and reasonable attorneys' fees.

Cause under the Residential Landlord-Tenant Act.

A new section is added to the RLTA which provides that a landlord may not evict or terminate a tenancy absent cause, and specifies that the following are the only reasons that constitute cause under the RLTA:

- The tenant continues in possession, after a default in the payment of rent and after a 21-day written notice requiring payment of the rent or surrender of the detained premises has been served, without complying with the duty to pay, provided that the property is in compliance with local codes.
- The tenant continues, after 30-days' written notice to cease, to substantially violate a material term of the rental agreement, other than one for monetary damages.
- The tenant continues to commit, after three-days' written notice to cease, an ongoing, substantial interference with the use and enjoyment of the premises.
- The tenant continues in possession after the owner of a residential building with three units or less in good faith seeks possession so that the owner or his or her immediate family may occupy the unit as that person's principal residence and no substantially equivalent unit is vacant and available in the same building to house the owner or his or her family. The owner must provide at least 90 days' advance written notice to vacate. This provision may not be exercised against any tenant 60 years of age or older or who is a person with a disability, unless the owner makes available a comparable dwelling to the tenant. A rebuttable presumption arises that the owner did not act in good faith if the owner or his or her immediate family fail to occupy the unit as a principal residence for at least 60 consecutive days during the 90 days immediately after the tenant vacated the unit.
- The tenant continues in possession after the owner elects to withdraw the premises from the rental market, including to pursue a condominium conversion, and after the owner has provided at least 120 days' advance written notice.
- The tenant continues in possession of the premises after the landlord has provided 120 days' written notice of plans to substantially rehabilitate or demolish the dwelling. A notice provided for this cause must include approvals and plans from the local jurisdiction.
- The tenant continues in possession, after the landlord has served 30 days' advance written notice that the premises have been certified or condemned as uninhabitable by a local agency, that continued habitation of the premises would subject the landlord to civil or criminal penalties, and that it is economically unfeasible to restore the premises to a habitable condition. If the terms of the local agency's order do not allow for 30 days' notice, the landlord must provide as much advance written notice as is possible and still comply with the order.

A person violating this provision shall be held liable in a civil action up to four and one-half times the monthly rent of the property at issue, as well as for court costs and reasonable attorneys' fees.

Damage or Security Deposits.

Together with the specific statement of the basis for retaining part or all of a damage or security deposit, the landlord must include copies of estimates received or invoices paid to substantiate damage charges. Any damages not substantiated by third-party documentation may not be charged to the tenant.

No portion of any deposit may be withheld on account of "normal wear and tear" (rather than "wear") resulting from ordinary use of the premises. "Normal wear and tear resulting from ordinary use of the premises" means deterioration that results from the intended use of a dwelling unit, including breakage or malfunction due to age or deteriorated condition. Such wear doesn't include deterioration that results from negligence, carelessness, accident, or abuse of the unit, fixtures, equipment, or other tangible personal property of the landlord by the tenant or the tenant's guests.

The court must award up to two times the amount of the deposit for the intentional refusal of the landlord to provide the required statement, documentation, or refund due.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.