

HOUSE BILL REPORT

EHB 1694

As Amended by the Senate

Title: An act relating to allowing tenants to pay certain sums in installments.

Brief Description: Allowing tenants to pay certain sums in installments.

Sponsors: Representatives Morgan, Macri, Riccelli, Goodman, Jenkins, Cody, Stonier, Robinson, Appleton, Pollet, Gregerson and Frame.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/5/19, 2/15/19 [DP].

Floor Activity:

Passed House: 2/17/20, 54-44.

Senate Amended.

Passed Senate: 3/3/20, 30-17.

Brief Summary of Engrossed Bill

- Requires landlords to permit tenants to pay deposits, nonrefundable fees, and last month's rent in installments, subject to exceptions and general parameters regarding the number and timing of the installments.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Jenkins, Chair; Thai, Vice Chair; Goodman, Hansen, Kilduff, Kirby, Orwall, Valdez and Walen.

Minority Report: Do not pass. Signed by 4 members: Representatives Dufault, Assistant Ranking Minority Member; Klippert, Shea and Ybarra.

Minority Report: Without recommendation. Signed by 2 members: Representatives Irwin, Ranking Minority Member; Graham.

Staff: Cece Clynch (786-7195).

Background:

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.

The Residential Landlord-Tenant Act (RLTA) regulates the relationship between residential landlords and tenants, and includes provisions regarding the duties of tenants and landlords, remedies for violations of those duties, and definitions. Subject to a few exceptions spelled out in statute, the rental of a dwelling unit for living purposes is generally covered under the RLTA. "Dwelling unit" is a structure or that part of a structure which is used as a home, residence, or sleeping place.

Landlords often collect deposits and fees and other amounts prior to, or at the outset of, a tenancy:

- Tenant screening fee: The RLTA includes provisions governing the amount that may be charged and the information that must be provided to the tenant.
- Holding deposit or fee to hold the dwelling unit after the tenant has been offered the unit. If the tenant moves in, the landlord must credit the fee or deposit to the first month's rent or the security deposit.
- Damage or security deposit: The purpose of such a deposit is to cover any damage caused to the property by the tenant, in excess of normal wear and tear. Under the RLTA, deposits must be placed in a trust account. Any interest earned generally belongs to the landlord.
- Nonrefundable fee: This may include a cleaning fee; if that is the case, the landlord may not also charge the tenant for normal cleaning.
- First and last month's rent.

A tenancy may be for a specified time, such as one year. Alternatively, premises may be rented for an indefinite time, from period to period or month to month.

Summary of Engrossed Bill:

Upon written request from a tenant, a landlord must generally permit the tenant to pay any deposits, nonrefundable fees, and last month's rent in installments, as follows:

- In all cases where premises are rented for a specified time that is three months or longer, the tenant may elect to pay in three consecutive and equal monthly installments, beginning at the inception of the tenancy.
- In all other cases, the tenant may elect to pay in two consecutive and equal monthly installments, beginning at the inception of the tenancy.

A landlord may not impose any fee, charge any interest, or otherwise impose a cost on a tenant because the tenant elects to pay in installments. Installment payments are due at the same time as rent is due. All installment schedules must be in writing and signed by the landlord and the tenant.

A landlord is not required to permit a tenant to pay in installments if the total amount of the deposits and nonrefundable fees do not exceed 25 percent of the first full month's rent and payment of the last month's rent is not required at the inception of the tenancy. Fees or deposits to hold a dwelling unit or secure that the tenant will move into the unit are not considered a deposit or nonrefundable fee for purposes of this section concerning installment payments.

EFFECT OF SENATE AMENDMENT(S):

The Senate striking amendment retains the entirety of Engrossed House Bill (EHB) 1694.

The Senate striking amendment adds the following provisions:

The Senate amendment provides that a landlord may not request a fee or deposit to hold a dwelling unit or secure that the prospective tenant will move into a dwelling unit in excess of 25 percent of the first month's rent. (Per EHB 1694 sec. 1(4)(a), these holding fees/deposits are *not* considered a deposit or nonrefundable fee for purposes of the bill's installment payment requirements.)

The Senate amendment adds a penalty provision which provides that, beginning January 1, 2021, any landlord who refuses to permit a tenant to pay any deposits/nonrefundable fees/last month's rent in installments upon the tenant's written request per the terms of EHB 1694 sec. 1(1) is subject to a statutory penalty of one month's rent plus reasonable attorneys' fees, payable to the tenant.

The Senate amendment provides that in any application seeking relief pursuant to RCW 59.18.283(3) (which permits a landlord to treat a default in payment on an installment payment plan for nonrefundable fees/deposits as rent owing and therefore a proper subject of an unlawful detainer action), the court shall issue a finding as to whether the tenant is low-income, limited resourced, or experiencing hardship to determine if the landlord would be eligible for reimbursement from the Landlord Mitigation Program (LMP).

- In making this finding, the court may include an inquiry into the tenant's income relative to area median income, household composition, extenuating circumstances, or other factors and may rely on written declarations/oral testimony.
- After making a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order:
 - finding landlord eligibility and that the landlord may apply to the LMP; and
 - directing the clerk to remit, w/o further order of the court, any future payments made by the tenant in order to reimburse the LMP.
- Upon payment of the remaining or total amount of the judgment to the landlord from the LMP, the judgment is satisfied, and the landlord shall file a satisfaction with the court.

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.

Staff Summary of Public Testimony:

(In support) Washington has an affordable housing and homelessness crisis that affects every corner of the state. The Tacoma City Council passed a rental housing code. Among its protections is a provision like this bill, which allows installment payments. This bill will provide that same provision to people all across the state. The amounts required of tenants for deposits and fees can be prohibitive. This bill is about equity and putting a stop to good

families going homeless. If there are concerns, the sponsor is open to working with other members. While every part of the state is touched by this crisis, not all people are impacted equally by it. The City of Tacoma reports that more than 1,600 people are homeless at any given time; 48 percent of those people are people of color. Rents have increased by 39 percent and home values have nearly doubled, yet household incomes have only increased by 20 percent. People who rent are more likely to be overburdened by housing costs and at greater risk for displacement. This was seen this last year in Tacoma when tenants of one complex were displaced. Many of these tenants were people on fixed incomes and people with disabilities. This particular incident shined a bright light on the challenges faced by renters from vulnerable populations when they are unexpectedly displaced in this housing market. The amounts required to get into a rental unit can be as much as \$5,000. Over 90 percent of tenants in a survey said that high move-in costs were a barrier. Landlords cannot touch deposits until the end of a tenancy anyway, and the last month's rent is for the last month, so landlords do not need to collect the entire amount at the beginning of a tenancy. Tenants currently are only entitled to 20 days' notice to move. It can be prohibitive to come up with these deposits and installments in that short amount of time. One man on a limited fixed income received notice that he had to move from his home of 38 years. He had to part with many of his possessions in order to make the move. The rent for the new place represented a 100 percent increase from what he had been paying. In addition, there was a large deposit required and other expenses.

(Opposed) Landlords should not be treated like banks. This bill will cause landlords to get out of the business. One organization with a membership of about 7,000 has already lost hundreds of member landlords over the last couple of years. When landlords have tried something similar to what this bill proposes, it has not worked because the tenants were unable to continue to pay. Tenants should be assisted, but not in this way.

Persons Testifying: (In support) Representative Morgan, prime sponsor; Xochitl Maykovich, Washington Community Action Network; Michele Thomas, Washington Low Income Housing Alliance; and Joseph Atkinson.

(Opposed) Chester Baldwin, Washington Landlord Association; and Jim Henderson and Lyle Crews, National Association of Rental Property Managers.

Persons Signed In To Testify But Not Testifying: Kyle Woodring; Jim Henderson; Linda Mickey; and Robert Mickey.