

# SENATE BILL REPORT

## SB 5576

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As of January 10, 2022

**Title:** An act relating to addressing landlord-tenant relations by providing technical changes to eviction notice and summons forms and modifying certain eviction processes and programs.

**Brief Description:** Addressing landlord-tenant relations by providing technical changes to eviction notice and summons forms and modifying certain eviction processes and programs.

**Sponsors:** Senators Kuderer and Trudeau.

**Brief History:**

**Committee Activity:** Housing & Local Government: 1/11/22.

**Brief Summary of Bill**

- Updates the 14-day pay or vacate notice and eviction summons to improve readability.
- Clarifies that for rental arrears accrued through six months following the end of the Governor's state of emergency proclamation, a 14-day pay or vacate notice may not be issued until expiration of 14 days after a repayment plan is offered and the tenant fails to accept the offer.
- Requires courts to accommodate virtual representation by legal counsel appointed for indigent tenants, as well as virtual participation for tenants, upon request.
- Authorizes landlords to use an alternative form to satisfy the additional notice requirement under the eviction resolution pilot program.
- Removes the prohibition on judicial discretion in eviction proceedings if a tenant receives three or more pay or vacate notices within the previous 12 months.

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### SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Brandon Popovac (786-7465)

**Background:** Residential-Landlord Tenant Act—Generally. The Residential Landlord-Tenant Act (RLTA) regulates the creation of residential tenancies and the relationship between landlords and tenants of residential dwelling units. The RLTA establishes rights and duties of both tenants and landlords, procedures for the parties to enforce their rights, how and when a tenancy expires or may be ended, and remedies for violations of the RLTA.

Several recently enacted legislative reforms cover a wide variety of issues governing the landlord-tenant relationship, including:

- providing a uniform 14-day notice to pay or vacate with an updated summons form for landlords to use when a tenant fails to pay rent;
- establishing how and when judges can exercise judicial discretion to stay a writ of restitution after judgment in cases involving non-payment of rent; and
- prohibiting access to such judicial discretion if a tenant is issued three 14-day notices to pay or vacate within the prior 12-month period.

For one year following expiration of the Governor's eviction moratorium 20-19.6 on June 30, 2021, if a tenant demonstrates an ability to pay to reinstate the tenancy through the tenancy preservation program, the prohibition on a tenant from seeking relief to reinstate the tenancy if they have been provided three or more pay or vacate notices within 12 months does not apply, and any reimbursement to the landlord under the tenancy preservation program may include up to three months of prospective rent to stabilize the tenancy as determined by the court.

Repayment Plans. If a tenant has remaining unpaid rent accrued between March 1, 2020, and six months following either expiration of the Governor's eviction moratorium 20-19.6 on June 30, 2021, or the end of the public health emergency as stated in Governor Proclamation 20-05, whichever is greater, the landlord must offer the tenant a reasonable schedule for repayment of the unpaid rent that does not exceed monthly payments equal to one-third of the monthly rental charges owed. If the tenant fails to accept the terms of a reasonable repayment plan within 14 days of the offer, the landlord may proceed with an unlawful detainer action subject to any requirements under the eviction resolution pilot program.

Eviction Resolution Pilot Program. On September 9, 2020, the Washington Supreme Court issued Order No. 25700-B-639 authorizing an eviction resolution program in the superior courts. Six counties were chosen to participate in this initial pilot. Each county eviction resolution pilot program (ERPP) operated in accordance with the court enabling order and a standing order of the local superior court.

In 2021, the Legislature instructed the Administrative Office of the Courts, subject to the availability of amounts appropriated, to contract with dispute resolution centers within or serving each county to establish a two-year, statewide court-based ERPP operated in

accordance with Washington Supreme Court Order No. 25700-B-639 and any standing judicial order of the individual superior court. The ERPP is used to facilitate the resolution of nonpayment of rent cases between a landlord and tenant before the landlord files an unlawful detainer action. Before filing an unlawful detainer action for nonpayment of rent, the landlord must provide a 14-day pay or vacate notice and an additional notice to the tenant informing them of the ERPP. The additional notice to the tenant must provide at least the following information regarding the ERPP:

- contact information for the local dispute resolution center ;
- contact information for the county's housing justice project or, if none, a statewide organization providing housing advocacy services for low-income residents;
- the following statement: "The Washington State Office of the Attorney General has this notice in multiple languages on its website. You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, you may find additional information to help you at <http://www.washingtonlawhelp.org>";
- the name and contact information of the landlord, the landlord's attorney, if any, and the tenant; and
- the following statement: "Failure to respond to this notice within 14 days may result in the filing of a summons and complaint for an unlawful detainer action with the court."

The Office of the Attorney General publishes and makes available to landlords on its website an ERPP notice and resource information document that includes rental assistance information.

Legal Representation of Indigent Tenants. Courts must appoint an attorney for an indigent tenant in any unlawful detainer proceeding subject to the availability of amounts appropriated. The provision of legal representation services must be prioritized in those counties in which the most evictions occur and to indigent tenants who are disproportionately at risk of eviction. "Indigent" is defined as any person receiving assistance from certain public and medical benefits programs, or with an annual income, after taxes, at 200 percent or below the federally established poverty level.

**Summary of Bill:** Repayment Plans. For unpaid rent between March 1, 2020, and six months following the end of the public health emergency as stated in Governor Proclamation 20-05, and subject to additional requirements under the ERPP, a landlord may proceed with an unlawful detainer action and issue a 14-day pay or vacate notice only upon expiration of 14 days after the repayment plan is offered and the tenant fails to accept the offer.

Eviction Resolution Pilot Program. Landlords may use an alternative notice form as produced by the Attorney General's Office and made available on its website to satisfy the additional notice requirement under the ERPP.

Legal Representation of Indigent Tenants. Courts with a pending unlawful detainer proceeding involving an indigent tenant defendant who is eligible for appointment of an attorney must, upon request, allow and facilitate virtual representation by the appointed attorney and virtual participation by the tenant.

Residential-Landlord Tenant Act—Generally. The uniform 14-day pay or vacate notice and eviction summons are updated with technical corrections and clarifying edits to improve accuracy and readability.

The prohibition on judicial discretion eligibility if a tenant receives three or more pay or vacate notices for failure to pay rent within the previous 12 months is eliminated. The moratorium on the judicial discretion prohibition and authorization for the court to award up to three months of prospective rent through the judicial discretion process until June 30, 2022, if the tenant demonstrates an ability to pay rental arrears to reinstate the tenancy through the tenancy preservation program, is eliminated.

**Appropriation:** None.

**Fiscal Note:** Requested on January 4, 2021.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.