

SENATE BILL REPORT

SB 6459

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, February 3, 2010

Title: An act relating to the inspection of rental properties.

Brief Description: Concerning the inspection of rental properties.

Sponsors: Senators Hobbs, Berkey, Marr and Schoesler.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/19/10, 2/02/10, 2/03/10 [DPS, DNP, w/oRec].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 6459 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin and Schoesler.

Minority Report: Do not pass.

Signed by Senator McDermott.

Minority Report: That it be referred without recommendation.

Signed by Senators Benton, Ranking Minority Member; Parlette.

Staff: Alison Mendiola (786-7483)

Background: The Residential Landlord-Tenant Act (RLTA) establishes the rights and duties of landlords and tenants.

Remedies for Defective Conditions. If a rental unit has a defective condition, the tenant is to notify the landlord in writing and the RLTA provides a timeline as to how long a landlord has to respond to a tenant's complaint. For example:

1. a landlord has 24 hours to respond to issues involving hot or cold water, heat, electricity, or issues considered imminently hazardous to life;
2. a landlord has 72 hours to respond to issues involving the refrigerator, range or oven, or major plumbing fixture; and
3. not more than ten days to respond to all other issues.

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.

If the landlord fails to remedy the condition, the tenant has a choice of remedies as provided for under the RLTA, including terminating the tenancy.

Tenant Complained Based System. Under the RLTA, a tenant may request that the local government inspect the unit for defective conditions. However, the tenant must first notify the landlord of the problems and if the landlord fails to remedy the condition, then the tenant may request that the local government inspect the unit for that specific condition. The local government is to inspect the unit to verify whether the conditions exists and if it endangers the tenant's health or safety. The landlord may not prohibit entry for the inspection or retaliate against the tenant for filing such a complaint.

Search Warrant Authority. Under the RLTA, upon a showing of probable cause that a criminal fire code violation exists in the dwelling unit, a court of competent jurisdiction must issue a search warrant to the fire official. The RLTA does not provide for administrative search warrant authority and local governments may only be granted such authority by statute.

City of Pasco. State law does not prohibit jurisdictions from adopting local mandatory rental housing inspection programs. To date, the City of Pasco is the only city to have adopted a local mandatory rental housing inspection program. This program requires landlords to hire inspectors to do building code inspections in order to receive a business license. The enacting ordinance was challenged in court and upheld by the State Supreme Court. Since the landlord, not the city, chooses who can inspect the unit and when the inspection can be done, it was determined that the program does not violate state or federal constitutional protections from unreasonable searches or invasions of privacy.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Recommended Substitute): Local municipalities may require that landlords provide a certificate of inspection as a business license condition, although a local municipality does not need to have a business license or registration program in order to require that landlords provide a certificate of inspection.

Certificate of Inspection. A certificate of inspection is a statement by a qualified inspector (local or third-party inspector) that the property has been inspected and has not failed to fulfill any substantial obligation imposed by RCW 59.18.060 that substantially endangers or impairs the health or safety of a tenant, including: (1) structural members that are of insufficient size or strength to carry imposed loads with safety, (2) exposure of the occupants to the weather, (3) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (4) not providing facilities to supply adequate water and hot water, (5) heating or ventilation systems that are not functional or are hazardous, (6) defective, hazardous, or missing electrical wiring or electrical service, (7) defective or inadequate exits that increase the risk of injury to occupants, or (8) conditions that increase the risk of fire.

Certificates of inspection may only be required once every three years. The following properties are exempt from inspection: properties that have received a certificate of occupancy within the last four years, and properties that have been inspected by a

government agency or other qualified inspector within 24 months of receiving a notice of inspection that provide proof of that inspection.

Multi-family properties are inspected by a sampling based on the size of the project or the owner may elect to provide a certificate of inspection for all the units.

After the effective date of this bill, no local jurisdiction may enact legislation requiring a certificate of inspection unless it complies with these requirements. This does not preclude amendments to local ordinances adopted prior to the effect date of this bill.

Notice. Following the notice provisions provided for under the RLTA, the landlord must provide written notice to the tenant when an inspection is going to be conducted. The written notice must include the date, approximate time of inspection, who will be conducting the inspection, and the fact the tenant has the right to be present during the inspection and ask the inspector for proof of identification.

Penalties. A penalty for noncompliance may be assessed by the local municipality. Any person who knowingly submits or assists in the submission of a falsified certificate of inspection, or knowingly submits falsified information upon which a certificate of inspection is issued is guilty of a gross misdemeanor and must be punished by a fine of not more than \$5,000.

Civil Search Warrant Authority. A civil search warrant may be issued by a judge of a superior court or a court of limited jurisdiction to a code enforcement official for the purpose of allowing the inspection of any specified premises to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance.

The warrant may only be issued if sufficient evidence has been set forth by affidavit evidence of probable cause to believe that a violation of a state or local law, regulation, or ordinance regarding rental housing substantially endangers the health or safety of the tenant or adjoining neighbors.

The warrant must include the name of the agency and building official requesting the warrant, the names of the officials authorized to conduct the inspection, a description of the premises and items to be inspected, and a brief description of the purpose of the inspection. The warrant is valid for up to ten days and any inspection made under the warrant may only be made between 8:00 a.m. and 7:00 p.m. during the week, with some exceptions.

Any person who willfully refuses to permit inspection, obstructs inspection, or aids in the obstruction of the property authorized by the warrant can be found in contempt of court and may be subject to a civil penalty imposed by local ordinance.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Substitute As Passed Committee): The definition of certificate of inspection has technical changes. A rental property inspected by a government agency that has had an inspection in the last 24 months can be exempted from an inspection by a local municipality. If a rental property owner chooses to inspect a sampling of units, the owner must send written notice of the inspection to all units that some will be

chosen for an inspection and if the unit is in need of any repairs, the renter should request those repairs as provided for under the Residential Landlord-Tenant Act. A penalty for property owner's non-compliance may be assessed by the local municipality. A search warrant may be issued to inspect specific property based on probable cause that unsafe conditions exist and may be issued even if a local municipality has adopted a rental inspection program. The judge is to allow the owner and tenant to support or defend against the issuance of a search warrant; a person who refuses to permit an inspection authorized by a warrant is subject to being found in contempt of court and may be subject to a civil penalty imposed by local ordinance.

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 Proposed Substitute As Heard in Committee:

PRO: For a long time cities have tried different ways to address local substandard housing issues. In the early 1990s a Seattle program was found unconstitutional while the City of Pasco's rental inspection program was recently upheld by the State Supreme Court. This bill will also help tenants by taking additional steps to address substandard housing.

OTHER: The bill would create sideboards as to what a city can require of landlords in terms of implementing a rental inspection program while also granting cities the authority to get an administrative search warrant to address problem housing. The goal is to provide good quality rental housing.

Persons Testifying: **PRO:** Senator Hobbs, prime sponsor; Julie Johnson, Rental Housing Association; Joe Puckett, Washington Multifamily Housing Association; Terry Kohl, Washington Apartment Association; Greg Provenzano, Columbia Legal Services.

OTHER: Candice Bock, Association of Washington Cities; Briahna Taylor, City of Pasco; Doug Levy, City of Everett.