
Judiciary Committee

HB 1266

Title: An act relating to modifying the landlord-tenant act and other related provisions.

Brief Description: Modifying the landlord-tenant act and other related provisions.

Sponsors: Representatives Pedersen, Rodne, Warnick, Kenney and Kelley.

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| <p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Makes a variety of changes to many aspects of the Residential Landlord-Tenant Act. |
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Hearing Date: 1/27/11

Staff: Edie Adams (786-7180).

Background:

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, and remedies for violations of the act.

The RLTA also addresses a wide variety of issues relating to the landlord-tenant relationship. Some of these issues include:

- Duties of the landlord to maintain the premises in reasonably good repair and remedy defective conditions within specified timelines, and tenant's remedies when a landlord fails to remedy defective conditions as required;
- Duties of tenants to pay rent, not damage the dwelling or allow a nuisance, and not engage in drug activity or criminal activity on the premises, and remedies for a landlord when the tenant fails to comply with those duties, including standards for eviction of tenants;

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- Prohibited provisions in rental agreements, such as a provision that the tenant agrees to forgo the rights and remedies of the RLTA, and prohibited practices by landlords, such as distress for rent;
- The landlord's right of access to the dwelling unit, upon prior notice, to inspect, make necessary repairs or improvements, and exhibit the unit to prospective tenants or others;
- Procedures and remedies available to a landlord when a tenant has abandoned the tenancy or is subject to eviction for violations of the RLTA; and
- Requirements with respect to the collection and retention of security deposits, nonrefundable fees, and fees or deposits to hold a dwelling unit or secure a tenancy.

Summary of Bill:

Numerous provisions of the Residential Landlord-Tenant Act are revised and updated.

Long-Arm Jurisdiction Over Out of State Owners.

District courts are given authority to issue service of process out of state in actions filed in the small claims department if the action is brought under the RLTA. A provision is added to the RLTA governing jurisdiction over owners who reside outside the state. An owner who resides outside of the state and who violates a provision of the RLTA is deemed to have submitted himself or herself to the jurisdiction of the state and personal service of process may be made on the owner with the same force and effect as personal service within the state. In actions brought in small claims court, the notice of claim may be served out of state in the same manner as if served in the state except that the date on which the party is required to appear must not be less than 60 days from the date of service.

Tenant Remedies for Defective Condition.

Changes are made to provisions governing a tenant's rights when a landlord fails to remedy a defective condition within required time frames after written notice from the tenant. The notice a tenant must send to the landlord containing a good faith estimate of needed repairs is amended to allow use of first-class mail, rather than certified mail. The amount the tenant may deduct from rent in order to carry out repairs is increased from no more than one month's rent to no more than two month's rent. In the case of defective conditions that a landlord must commence to remedy within 10 days, the time period a tenant must wait in order to commence repairs after providing the landlord with a written estimate is reduced to two days, rather than five days, after the landlord receives the estimate, but in no case sooner than ten days after notice of the defective condition. The value of needed repairs that may be completed by the tenant and deducted from the rent is increased from one-half month's rent to one-month's rent.

Landlord Entry.

More specific notice requirements are established for landlord entry into a tenant's dwelling unit. The notice must be in writing and specify the date or dates of entry and either the exact time of entry or a period of time during which entry will occur, including the earliest and latest possible

times of entry. The notice must also include a telephone number for the tenant to call and communicate an objection or request to reschedule the entry.

Fees or Deposits to Hold a Unit or Secure a Tenancy.

When a landlord requires a fee or deposit to hold a dwelling unit or secure that a prospective tenant will move into a dwelling unit, the landlord may not withhold a portion of the fee or deposit if the dwelling unit fails a tenant-based rental assistance program inspection by a qualified inspector. A landlord may elect to no longer hold a unit for a tenant if the inspection does not occur within 10 days from the date the fee or deposit is collected. The landlord must promptly return the fee or deposit after being notified that the unit failed the inspection or after the landlord notifies the tenant that the unit will no longer be held. The penalty for a violation of provisions relating to fees or deposits to hold a unit or secure a tenancy is changed from \$100 to two times the fee or deposit.

Security Deposits.

A landlord who collects a security deposit without providing a written checklist describing the condition of the dwelling unit at the commencement of the tenancy is liable for the amount of the deposit, and the prevailing party in an action may recover costs and reasonable attorneys' fees. A tenant may request one free replacement copy of the written checklist.

Provisions are added to address return of the security deposit to a tenant when the tenant's dwelling unit is foreclosed upon and the deposit is not transferred to the successor after the foreclosure sale. In this circumstance, the foreclosed-upon owner must provide a full refund to the tenant immediately after the foreclosure sale. A foreclosed-upon owner who fails to either transfer the deposit to the successor or refund it to the tenant is liable for damages up to two times the amount of the deposit.

Abandoned Property.

The dollar limit for when a landlord can sell the property of a tenant who has abandoned the tenancy after seven-day notice, rather than 45-day notice, is raised from \$50 to \$250. Likewise, for property of a tenant that remains on the premises after the tenant's eviction, the dollar limit for when a landlord may sell the property with seven-day notice, rather than 30-day notice, is raised from \$100 to \$250.

Damages for Certain Prohibited Actions.

The damages that may be awarded to a tenant when a landlord engages in certain unlawful practices are increased. Statutory damages of up to \$500 and costs of suit are added to the remedies a tenant may recover if a landlord includes prohibited provisions in a rental agreement. The statutory damages a tenant may recover when a landlord intentionally and wrongfully takes and detains a tenant's property are increased from \$100 to \$500 dollars for each day the tenant is deprived of the property, up to a maximum of \$5,000.

Other Changes.

When there is a change in the landlord, the requirement that the tenant be notified by certified mail is removed and instead the tenant must be notified in writing either by personally delivering the notice to the tenant, or by mailing the notice to the tenant and posting it on the premises.

The types of criminal activity resulting in arrest that allow a landlord to proceed directly to an unlawful detainer action against the tenant are expanded to include physical assaults and the use of a firearm or other deadly weapon.

A landlord must provide each tenant who signs a lease agreement with an executed copy of the rental agreement and a tenant is entitled to one free replacement copy. In addition, a landlord must provide a receipt for all tenant payments made in cash.

If a landlord charges a nonrefundable fee without providing the tenant with a written rental agreement, the landlord is liable for the amount of any fees collected as nonrefundable fees. Any fee that is not designated in the rental agreement as a nonrefundable fee must be treated as a refundable fee.

When the court issues a writ of restitution after alternative service allowed under the RLTA, and the defendant posts a bond to stay execution of the writ, the court must consider the rent claimed and other factors the court deems relevant in determining the amount of the bond.

The definition of landlord is amended to clarify that it includes an agent, resident manager, or property manager designated by the landlord.

A number of provisions of the RLTA are revised for clarification and to remove unnecessary language.

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.