
HOUSE BILL 2642

State of Washington 62nd Legislature 2012 Regular Session

By Representatives Stanford, Kagi, Orwall, Hasegawa, Fitzgibbon,
Jenkins, and Santos

Read first time 01/19/12. Referred to Committee on Judiciary.

1 AN ACT Relating to the fair tenant screening act; amending RCW
2 59.18.030, 59.18.257, and 19.182.110; and creating a new section.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that residential
5 landlords frequently use tenant screening reports in evaluating and
6 selecting tenants for their rental properties. These tenant screening
7 reports purchased from tenant screening companies may contain
8 misleading, incomplete, or inaccurate information, such as information
9 relating to eviction or other court records. It is challenging for
10 tenants to dispute errors until after they apply for housing and are
11 turned down, at which point lodging disputes are seldom worthwhile.
12 The costs of tenant screening reports are paid by applicants.
13 Applicants who apply for housing with multiple housing providers pay
14 repeated screening fees for successive reports containing essentially
15 the same information.

16 **Sec. 2.** RCW 59.18.030 and 2011 c 132 s 1 are each amended to read
17 as follows:

18 As used in this chapter:

1 (1) "Certificate of inspection" means an unsworn statement,
2 declaration, verification, or certificate made in accordance with the
3 requirements of RCW 9A.72.085 by a qualified inspector that states that
4 the landlord has not failed to fulfill any substantial obligation
5 imposed under RCW 59.18.060 that endangers or impairs the health or
6 safety of a tenant, including (a) structural members that are of
7 insufficient size or strength to carry imposed loads with safety, (b)
8 exposure of the occupants to the weather, (c) plumbing and sanitation
9 defects that directly expose the occupants to the risk of illness or
10 injury, (d) not providing facilities adequate to supply heat and water
11 and hot water as reasonably required by the tenant, (e) providing
12 heating or ventilation systems that are not functional or are
13 hazardous, (f) defective, hazardous, or missing electrical wiring or
14 electrical service, (g) defective or hazardous exits that increase the
15 risk of injury to occupants, and (h) conditions that increase the risk
16 of fire.

17 (2) "Distressed home" has the same meaning as in RCW 61.34.020.

18 (3) "Distressed home conveyance" has the same meaning as in RCW
19 61.34.020.

20 (4) "Distressed home purchaser" has the same meaning as in RCW
21 61.34.020.

22 (5) "Dwelling unit" is a structure or that part of a structure
23 which is used as a home, residence, or sleeping place by one person or
24 by two or more persons maintaining a common household, including but
25 not limited to single-family residences and units of multiplexes,
26 apartment buildings, and mobile homes.

27 (6) "Gang" means a group that: (a) Consists of three or more
28 persons; (b) has identifiable leadership or an identifiable name, sign,
29 or symbol; and (c) on an ongoing basis, regularly conspires and acts in
30 concert mainly for criminal purposes.

31 (7) "Gang-related activity" means any activity that occurs within
32 the gang or advances a gang purpose.

33 (8) "In danger of foreclosure" means any of the following:

34 (a) The homeowner has defaulted on the mortgage and, under the
35 terms of the mortgage, the mortgagee has the right to accelerate full
36 payment of the mortgage and repossess, sell, or cause to be sold the
37 property;

- 1 (b) The homeowner is at least thirty days delinquent on any loan
2 that is secured by the property; or
- 3 (c) The homeowner has a good faith belief that he or she is likely
4 to default on the mortgage within the upcoming four months due to a
5 lack of funds, and the homeowner has reported this belief to:
- 6 (i) The mortgagee;
- 7 (ii) A person licensed or required to be licensed under chapter
8 19.134 RCW;
- 9 (iii) A person licensed or required to be licensed under chapter
10 19.146 RCW;
- 11 (iv) A person licensed or required to be licensed under chapter
12 18.85 RCW;
- 13 (v) An attorney-at-law;
- 14 (vi) A mortgage counselor or other credit counselor licensed or
15 certified by any federal, state, or local agency; or
- 16 (vii) Any other party to a distressed property conveyance.
- 17 (9) "Landlord" means the owner, lessor, or sublessor of the
18 dwelling unit or the property of which it is a part, and in addition
19 means any person designated as representative of the owner, lessor, or
20 sublessor including, but not limited to, an agent, a resident manager,
21 or a designated property manager.
- 22 (10) "Mortgage" is used in the general sense and includes all
23 instruments, including deeds of trust, that are used to secure an
24 obligation by an interest in real property.
- 25 (11) "Owner" means one or more persons, jointly or severally, in
26 whom is vested:
- 27 (a) All or any part of the legal title to property; or
- 28 (b) All or part of the beneficial ownership, and a right to present
29 use and enjoyment of the property.
- 30 (12) "Person" means an individual, group of individuals,
31 corporation, government, or governmental agency, business trust,
32 estate, trust, partnership, or association, two or more persons having
33 a joint or common interest, or any other legal or commercial entity.
- 34 (13) "Premises" means a dwelling unit, appurtenances thereto,
35 grounds, and facilities held out for the use of tenants generally and
36 any other area or facility which is held out for use by the tenant.
- 37 (14) "Property" or "rental property" means all dwelling units on a

1 contiguous quantity of land managed by the same landlord as a single,
2 rental complex.

3 (15) "Qualified inspector" means a United States department of
4 housing and urban development certified inspector; a Washington state
5 licensed home inspector; an American society of home inspectors
6 certified inspector; a private inspector certified by the national
7 association of housing and redevelopment officials, the American
8 association of code enforcement, or other comparable professional
9 association as approved by the local municipality; a municipal code
10 enforcement officer; a Washington licensed structural engineer; or a
11 Washington licensed architect.

12 (16) "Reasonable attorneys' fees," where authorized in this
13 chapter, means an amount to be determined including the following
14 factors: The time and labor required, the novelty and difficulty of
15 the questions involved, the skill requisite to perform the legal
16 service properly, the fee customarily charged in the locality for
17 similar legal services, the amount involved and the results obtained,
18 and the experience, reputation and ability of the lawyer or lawyers
19 performing the services.

20 (17) "Rental agreement" means all agreements which establish or
21 modify the terms, conditions, rules, regulations, or any other
22 provisions concerning the use and occupancy of a dwelling unit.

23 (18) A "single-family residence" is a structure maintained and used
24 as a single dwelling unit. Notwithstanding that a dwelling unit shares
25 one or more walls with another dwelling unit, it shall be deemed a
26 single-family residence if it has direct access to a street and shares
27 neither heating facilities nor hot water equipment, nor any other
28 essential facility or service, with any other dwelling unit.

29 (19) A "tenant" is any person who is entitled to occupy a dwelling
30 unit primarily for living or dwelling purposes under a rental
31 agreement.

32 (20) "Tenant screening" means seeking or obtaining a consumer
33 report about a prospective tenant or using the consumer report in
34 deciding whether to make or accept an offer for residential rental
35 property to or from a prospective tenant.

36 (21) "Tenant screening report" means a written, oral, or other
37 communication of information by a screening service bearing on a
38 prospective tenant's creditworthiness, credit standing, credit

1 capacity, character, general reputation, personal characteristics, or
2 mode of living that is prepared, transmitted, accessed, used, or
3 expected to be used or collected for tenant screening purposes.

4 (22) "Screening service" means any person who, for monetary fees or
5 dues, or on a cooperative nonprofit basis, regularly engages in the
6 business of assembling or evaluating information on individuals for the
7 purpose of furnishing tenant screening reports to third parties, and
8 who uses any means or facility of commerce for the purpose of preparing
9 or furnishing tenant screening reports. "Screening service" does not
10 include a person who obtains a tenant screening report and provides the
11 report or information contained in it to a subsidiary or affiliate of
12 the person.

13 (23) "Prospective landlord" means a landlord or a person who
14 advertises, solicits, offers, or otherwise holds a dwelling unit out as
15 available for rent.

16 (24) "Prospective tenant" means a tenant or a person who has
17 applied for residential housing that is governed under this chapter.

18 (25) "Eviction suit" means a civil action for unlawful detainer,
19 forcible detainer, ejectment, or other claim in which the plaintiff
20 seeks to gain or recover possession of residential real property from
21 one or more defendants.

22 (26)(a) "Qualified victim protection records" means:

23 (i) Records or information concerning any judicial or
24 administrative proceeding in which the person about whom the records or
25 information pertains sought to obtain an order of protection from
26 domestic violence, sexual assault, stalking, harassment, or other
27 violent crime, including any petition or action for a protection order
28 under chapter 9A.46, 10.14, 10.99, 26.09, 26.26, or 26.50 RCW, or any
29 other law;

30 (ii) Records or information concerning any judicial or
31 administrative proceeding in which the person about whom the records or
32 information pertains exercised or attempted to exercise a right or
33 obtain a benefit available specifically or exclusively to victims of
34 violence, such as, but not limited to, the early termination of a
35 rental agreement under RCW 59.18.575;

36 (iii) Records or information indicating that the person about whom
37 the records or information pertains asserted that a claim or defense

1 was available to the person in a judicial or administrative proceeding
2 by reason of the person's status as a victim of violence, such as in a
3 proceeding under chapter 49.60 RCW; and

4 (iv) Any other records or information indicating that the person
5 about whom the records or information pertains is a victim of domestic
6 violence, sexual assault, or stalking, or is protected by a court
7 order.

8 (b) "Qualified victim protection records" does not include records
9 or information tending to indicate that the person about whom the
10 records or information pertains was a perpetrator of sexual assault,
11 harassment, or violent crime.

12 (27) "Portable tenant screening report" means a tenant screening
13 report that is comprehensive, current, and reusable. For the purposes
14 of this subsection:

15 (a) A portable tenant screening report is comprehensive if it
16 contains or summarizes the prospective tenant's credit history,
17 criminal background, if any, and past involvement in eviction suits, if
18 any, and is prepared in accordance with methods meeting credit
19 reporting industry standards.

20 (b) A portable tenant screening report is current if transmitted to
21 a prospective landlord no more than thirty days after it is assembled
22 or prepared by the screening service.

23 (c) A portable tenant screening report is reusable if the screening
24 service that prepares the report collects a single, lump sum fee for
25 the report around the time the report is first prepared or transmitted,
26 and shares the report with any prospective landlord to whom the
27 prospective tenant applies for housing so long as the report remains
28 current.

29 **Sec. 3.** RCW 59.18.257 and 1991 c 194 s 3 are each amended to read
30 as follows:

31 (1)(a) If a prospective landlord uses a ((tenant)) screening
32 service, ((then the landlord may only charge for the costs incurred for
33 using the tenant screening service under this section.)) and prior to
34 obtaining a tenant screening report about a prospective tenant, the
35 prospective landlord shall first notify the prospective tenant in
36 writing of the following:

37 (i) What criteria may result in denial of the application;

1 (ii) The name and address of the screening service that will be
2 used;

3 (iii) What types of information will be accessed to conduct the
4 tenant screening; and

5 (iv) The prospective tenant's rights to obtain a free copy of the
6 tenant screening report in the event of a denial or other adverse
7 action, and to dispute the accuracy of information appearing in the
8 tenant screening report.

9 (b)(i) The landlord may charge a prospective tenant for using the
10 tenant screening service only if:

11 (A) A portable tenant screening report concerning the prospective
12 tenant is not available to the landlord free of charge; and

13 (B) The landlord uses the charge to purchase a portable tenant
14 screening report concerning the prospective tenant.

15 (ii) The department of commerce shall consult with screening
16 services, residential landlords, residential tenants, and other
17 interested persons to determine what methods of credit reporting
18 constitute the industry standards with respect to portable tenant
19 screening reports. The department of commerce shall report its
20 findings to the legislature and recommend legislation establishing such
21 industry standards by December 1, 2012.

22 (c) If a prospective landlord takes an adverse action with respect
23 to a prospective tenant that is based, in whole or in part, on
24 information contained in a tenant screening report, the prospective
25 landlord shall provide a written notice of the adverse action to the
26 prospective tenant that states the reasons for the adverse action and
27 contains the name, address, and telephone number of the screening
28 service that furnished the tenant screening report that contributed to
29 the adverse action.

30 (2)(a) If a landlord conducts his or her own screening of tenants,
31 ((then)) the landlord may charge his or her actual costs in obtaining
32 the background information, but the amount may not exceed the customary
33 costs charged by a screening service in the general area. The
34 prospective landlord's actual costs include costs incurred for long
35 distance phone calls and for time spent calling landlords, employers,
36 and financial institutions.

37 ((+2)) (b) A landlord may not charge a prospective tenant for the
38 cost of obtaining background information under this section unless the

1 landlord first notifies the prospective tenant in writing of (~~what a~~
2 ~~tenant screening entails, the prospective tenant's rights to dispute~~
3 ~~the accuracy of information provided by the tenant screening service or~~
4 ~~provided by the entities listed on the tenant application who will be~~)
5 the following:

6 (i) What criteria may result in denial of the application;

7 (ii) What types of information will be accessed to conduct the
8 tenant screening; and

9 (iii) The prospective tenant's right to dispute the accuracy of
10 information provided by the entities contacted for information
11 concerning the tenant(~~, and the name and address of the tenant~~
12 ~~screening service used by the landlord)).~~

13 ~~((3) Nothing in this section requires a landlord to disclose~~
14 ~~information to a prospective tenant that was obtained from a tenant~~
15 ~~screening service or from entities listed on the tenant application~~
16 ~~which is not required under the federal fair credit reporting act, 15~~
17 ~~U.S.C. Sec. 1681 et seq.~~

18 ~~(4))~~ (c) If a prospective landlord takes an adverse action with
19 respect to a prospective tenant that is not based on information
20 obtained from a tenant screening report, the prospective landlord shall
21 provide a written notice of the adverse action to the prospective
22 tenant that states the reasons for the adverse action.

23 (3)(a) A screening service shall not, if requested by a consumer,
24 fail to generate and transmit to the consumer a tenant screening report
25 regarding that consumer. The form and contents of the tenant screening
26 report must be identical or substantially similar to the tenant
27 screening report that the screening service would generate and transmit
28 to a prospective landlord regarding the consumer, and must be
29 transmitted to the consumer in substantially the same time and manner
30 as the screening service would transmit such a report to a prospective
31 landlord. The screening service shall provide the report free of
32 charge, unless the screening service has provided a tenant screening
33 report to that same consumer within the preceding twelve months, in
34 which case the screening service may charge a fee not exceeding the
35 charge that the screening service would customarily charge a
36 prospective landlord for generating and transmitting a tenant screening
37 report. The amount of any charge must be disclosed to the consumer
38 before furnishing the information.

1 (b) A tenant screening report may not contain any of the following
2 items of information about a prospective tenant:

3 (i) Eviction suits that did not result in a judgment or other
4 adjudication finding that the prospective tenant was a responsible
5 party. For purposes of this subsection, a person is deemed to have
6 been a responsible party only if:

7 (A) A judgment or other order was entered in the eviction suit
8 finding that the person was guilty of unlawful detainer or otherwise in
9 unlawful possession of the premises;

10 (B) The person's right to possession of the premises to which the
11 eviction suit related had not been terminated by a foreclosure sale
12 within ninety days of when the eviction suit was filed; and

13 (C) The judgment or order has not been vacated, expunged, sealed,
14 or similarly impaired;

15 (ii) Qualified victim protection records; or

16 (iii) Other information prohibited from disclosure under RCW
17 19.182.040.

18 (4) Any landlord or prospective landlord who violates this section
19 may be liable to the prospective tenant for an amount not to exceed one
20 hundred dollars. The prevailing party may also recover court costs and
21 reasonable attorneys' fees.

22 (5) Any screening service that violates this section is liable to
23 the prospective tenant in the amount of his or her actual damages and
24 costs of the action together with reasonable attorneys' fees as
25 determined by the court. A screening service that willfully fails to
26 comply with any requirement imposed under this section is liable to the
27 prospective tenant in the amount of one thousand dollars for each
28 willful violation.

29 (6) This section does not limit a prospective tenant's rights or
30 the duties of a screening service as otherwise provided in chapter
31 19.182 RCW.

32 **Sec. 4.** RCW 19.182.110 and 1993 c 476 s 13 are each amended to
33 read as follows:

34 If a person takes an adverse action with respect to a consumer that
35 is based, in whole or in part, on information contained in a consumer
36 report, the person shall:

1 (1) Provide written notice of the adverse action to the consumer,
2 except verbal notice may be given by a person in an adverse action
3 involving a business regulated by the Washington utilities and
4 transportation commission (~~(or involving an application for the rental~~
5 ~~or leasing of residential real estate)~~) if such verbal notice does not
6 impair a consumer's ability to obtain a credit report without charge
7 under RCW 19.182.100(2); and

8 (2) Provide the consumer with the name, address, and telephone
9 number of the consumer reporting agency that furnished the report to
10 the person.

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