

Tenant Protections

2021 Legislative Session

2021
Legislative
Action

Overview

Policy

Budget

Overview

- ▶ Legislature adjourned April 25, 2021
- ▶ Focus on continued impacts of COVID pandemic
- ▶ Budget context
 - ▶ Budget revenue forecast got progressively better from 2020 Q2/Q3 forecast through 2021 Q1/Q2 forecast.
 - ▶ American Rescue Plan Act provided state with \$4.2B in relief funds
- ▶ Governor Eviction Moratorium
 - ▶ Originally issued March 12, 2020 (Proclamation 20-19)
 - ▶ Extended through June 30, 2021 (Proclamation 20-19.6)

E2SSB 5160: Addressing landlord-tenant relations by providing certain tenant protections during the public health emergency, providing for legal representation in eviction cases, establishing an eviction resolution pilot program for nonpayment of rent cases, and authorizing landlord access to certain rental assistance program

- ▶ Sponsors: Senators Kuderer, Lias, Conway, Das, Lovelett, Saldana and Wilson, C.
- ▶ Vote on final passage:
 - ▶ House: 72-26; Senate: 27-22.
- ▶ General provisions
 - ▶ Governor's eviction moratorium declared to end on June 30, 2021
 - ▶ For rent accrued between 3/1/2020 and December 31, 2021:
 - ▶ Landlord cannot report nonpayment or unlawful detainer action to prospective landlord;
 - ▶ Prospective landlord cannot take adverse action based on prospective tenant's nonpayment of rent;
 - ▶ Landlord cannot impose late fees or other charges for nonpayment of rent that became due during that period;
 - ▶ Landlord cannot deny, discourage, or otherwise make unavailable rental units based on tenant's medical history, including any prior or current COVID exposure or infection.
 - ▶ One year following expiration of eviction moratorium: Changes to the tenancy preservation program, and allows up to three months of prospective rent to be paid to the landlord to stabilize the tenancy.

E2SSB 5160 continued

► Repayment plans

- Requires landlords to offer tenants a reasonable schedule for repayment of unpaid rent accrued during the public health emergency; monthly payments cannot exceed one-third of the monthly rental charges owed.
- Repayment plan must cover only rent and not any legal fees, late fees, or other charges.
- Must allow for payment from any source of income, including assistance or subsidy programs.
- If tenant fails to accept terms within 14 days, or if tenant defaults on payment plan, landlord may proceed with an unlawful detainer action.
- During any unlawful detainer proceeding, court must consider tenant's circumstances, including any decreased income or increased expenses due to COVID, and the repayment plan terms.

► Landlord Mitigation Program

- Expands eligibility for claim reimbursement under landlord mitigation program to include unpaid rent that accrued between 3/1/2020 and 12/31/2021 in certain circumstances.

E2SSB 5160 continued

► Eviction Resolution Pilot Program

- Directs Administrative Office of the Court to contract with Dispute Resolution Centers to establish a two-year statewide eviction resolution pilot program to facilitate resolution of nonpayment of rent cases before the landlord files an unlawful detainer action.

► Indigent tenant right to counsel

- Requires court to appoint counsel for indigent tenants in any unlawful detainer proceeding; prioritization in those counties in which the most evictions occur at to indigent tenants who are disproportionately at risk of eviction.

E2SSB 5160 continued

- ▶ Landlord access to rental assistance programs
 - ▶ Directs Commerce to allow landlords an opportunity to apply to certain state rental assistance programs and directed Commerce to provide rental assistance directly to a landlord on behalf of certain indigent tenants (VETOED)
 - ▶ “While Section 12 attempts to provide direct financial relief to landlords as part of a larger legislative solution in E2SSB 5160, it creates an entitlement for landlords to receive rent assistance without a sufficient framework to prioritize resources to those landlords who have the greatest need. The estimated cost of Section 12 is \$2.4 billion, which is \$1.5 billion more than is currently appropriated by the state or awarded by the federal government. RCW 43.88.055 requires the Legislature to enact an operating budget that leaves a positive ending fund balance at the end of the fiscal biennium. Although the final budget will likely have a different ending fund balance than is reflected today, \$1.5 billion in additional costs could not be sustained by available fiscal resources. In order to ensure that the Legislature meets its statutory obligation to leave a positive ending fund balance at the end of the 2021-23 biennium, I am vetoing Section 12 of this bill at the request of legislative leadership.”
 - ▶ Directs \$7.5M of state fiscal recovery fund to be used as a landlord grant assistance program to provide grants to eligible landlords up to 80% of unpaid rental arrears. (VETOED)
 - ▶ “Section 13 is largely duplicative of an early action bill that I have already signed, ESHB 1368, which provides \$2 million in grant opportunities for eligible landlords. Because of this, Section 13 creates administrative problems for the department of commerce, and may also cause confusion for landlords. As a result, again at the request of legislative leadership, I am also vetoing Section 13.”

ESHB 1236: An act relating to protecting residential tenants from the beginning to end of their tenancies by penalizing the inclusion of unlawful lease provisions and limiting the reasons for eviction, refusal to continue, and termination.

- ▶ Specifies exclusive causes for eviction, refusal to renew, and ending a tenancy under the Residential Landlord-Tenant Act.
- ▶ Sponsors: Macri, Taylor, Dolan, Gregerson, Berry, Fitzgibbon, Frame, Simmons, Ramel, Bateman, J. Johnson, Hackney, Chopp, Thai, Peterson, Santos, Orwall, Ortiz-Self, Ryu, Wicks, Lekanoff, Slatter, Berg, Senn, Harris-Talley, Ormsby, and Pollet
- ▶ Vote on final passage
 - ▶ Senate: 28-21; House 54-44

ESHB 1236 continued

- ▶ Cause for a landlord to evict, refuse to continue a tenancy, or end a periodic tenancy:
 - ▶ failure to pay rent;
 - ▶ substantial breach of a material program requirement of subsidized housing, material term of rental agreement, or tenant obligation imposed by law that has not been remedied;
 - ▶ committing or permitting waste or nuisance, unlawful activity that affects the use and enjoyment of the premises, or other substantial or repeated interference with the use and enjoyment of the premises;
 - ▶ landlord, in good faith, seeks possession so that the owner or his or her immediate family may occupy the unit as the principal residence and no substantially equivalent unit is vacant and available;
 - ▶ owner elects to sell the premises, a single-family residence;
 - ▶ premises to be demolished, substantially rehabilitated, or change of use;
 - ▶ owner elects to withdraw the premises from the rental market to pursue a conversion;
 - ▶ premises are condemned by a local agency;

ESHB 1236 continued

- ▶ service of notice to quit or vacate by the owner or lessor with whom the tenant shares the dwelling unit or access to a common kitchen or bathroom area;
- ▶ transitional housing program expires, the tenant ages out of a program, or the tenant has completed a program and is no longer eligible;
- ▶ rental agreement has expired, the landlord proffers a new rental agreement at least 30 days prior to the expiration, and the tenant does not sign;
- ▶ intentional and knowing misrepresentation or omission of material information on the tenant's application that, had the misrepresentations or omissions not been made, would have caused the landlord to request additional information or take adverse action;
- ▶ other good cause which constitutes a legitimate economic or business reason;
- ▶ four or more violations of a substantial breach of a subsidized housing requirement, material term of the lease, or tenant obligation under law that were cured by the tenant within the previous 12-month period and the landlord provided a written notice for each violation;
- ▶ required to register as a sex offender during the tenancy, or failed to disclose a requirement to register as a sex offender when required in the rental application or otherwise known to the property owner at the beginning of the tenancy; and
- ▶ makes unwanted sexual advances or commits other acts of sexual harassment directed at the property owner, manager, employee, or another tenant based on race, gender, or protected status in violation of a lease term or covenant.

ESHB 1236 continued

► Enforcement Remedies:

- A landlord who removes a tenant or causes a tenant to be removed from a dwelling in violation of the provisions specifying enumerated causes is liable to the tenant for wrongful eviction and the greater of:
 - (1) the tenant's economic and noneconomic damages; or
 - (2) three times the monthly rent, as well as reasonable attorneys' fees and costs.
- The existing statutory damages available for inclusion in the rental agreement of prohibited provisions are increased from \$500 to two times the monthly rent.

E2SHB 1277: Providing for an additional revenue source for eviction prevention and housing stability services.

- ▶ Sponsors: Representatives Ormsby, Macri, Ramel, Bateman, Fitzgibbon, Ryu, Senn, Chopp, Berry, Peterson, Davis, Santos, Valdez, Hackney, Thai, Kloba, Sells, Frame, Gregerson, Johnson, J., Pollet, Harris-Talley, Stonier, Taylor and Wicks
- ▶ Imposes \$100 surcharge on recorded documents to fund housing services.
 - ▶ 20% of funds collected for affordable housing
 - ▶ 4% for Landlord Mitigation Program (reduced to 2% in 2023)
 - ▶ Remainder to be used for public housing, emergency housing, rapid rehousing and acquisition.
- ▶ Creates the Eviction Prevention Rental Assistance Program in WA Commerce.
 - ▶ Grant funds for households most likely to become homeless or to suffer severe health consequences, or both, after an eviction.

ESHB 1368: Responding to the COVID-19 pandemic through state actions supported by federal funding.

- ▶ Sponsors: Representatives Ormsby, Macri, Ramos, Callan, Gregerson, Berry, Sullivan, Leavitt, Duerr, Bergquist, Kloba, Riccelli, Ramel, Harris-Talley and Pollet
- ▶ Appropriates \$2.2 billion in federal funding from a combination of the federal Consolidated Coronavirus Response and Relief Supplemental Appropriations Act, the Coronavirus Relief Fund under the federal Coronavirus Aid, Relief, and Economic Security Act, and Medicaid.
 - ▶ Federal rental assistance: \$325M
 - ▶ Eviction rental assistance program: \$30M
 - ▶ Landlords: \$2M

Operating Budget

- ▶ Eviction Prevention Rental Assistance Program: \$88M (HB 1277)
- ▶ Landlord Mitigation Program: \$11.6M (HB 1277)
- ▶ Rental assistance: \$658M (federal APRA)