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Dear Landlord and Landlord Attorneys:

Senator Dwite Pedersen has introduced LB 456 which is extremely landlord hostile. This bill further expands the rights tenants currently have under the landlord tenant act. In fact, part of this bill makes violating the landlord tenant act a crime!

LB 456 would do the following:

1. Define "entry" into the premises to include a visual observation of the interior from presumably the outside.
2. Defines "ordinary wear and tear" as that which would be "ordinarily expected to occur to the premises when occupied by the allowable number of inhabitants".
3. Changes the law regarding unconscionable lease provisions.
4. Limits the amount a landlord may charge for early termination of the lease.
5. Lowers the amount of a security deposit from one month's rent to one-half of a month's rent.
6. Requires that the security deposit be refunded to a tenant unless there is rent owing or "the tenant has, by willful or negligent noncompliance . . . caused damage to the premises" this standard will be more difficult to prove than the current "tenant's noncompliance with the rental agreement" standard. Furthermore, the act allows the tenant to recover up to three months' periodic rent or threefold the actual damages for a landlord's willful failure to refund.
7. Eliminates the current provision that a tenant must demand a refund of the deposit and designate the location where the payment is to be mailed.
8. Adds a provision to provide sufficient lighting in common areas.
9. Changes the reasonable access notice from "one day" to "twenty-four hours" advance notice and limits the purposes for which a landlord may enter to emergencies and "legitimate safety reasons".
10. Prohibits a landlord from entering in a tenant's absence unless a tenant has given written authorization.
11. Imposes a penalty on a landlord for unlawful entry of a Class II misdemeanor for a first violation and a Class I misdemeanor for subsequent violations. A class II misdemeanor is punishable by up to 6 months imprisonment and up to a one-thousand dollar fine, a Class I, up to a year and up to a one-thousand dollar fine.
12. Limits the amount of rent a landlord may recover to one-half a month's rent and damages "above and beyond ordinary wear and tear caused by willful or negligent noncompliance with the rental agreement".
13. The bill's only redeeming quality (from our standpoint) is that the use of the premises for the purposes of conducting criminal activity is cause for "immediate termination" of the rental agreement. Unfortunately, as you know, we do not have a method to bring about an immediate termination (no notice provision).

Although the legislature will be preoccupied dealing with budgetary matters, this bill needs our attention. This is the First Session of the 98th Legislature, therefore, if it does not work its way through this session, it can be heard next year. The bill is assigned to the Judiciary committee: Sen. Kermit Brashear, Chairperson, Sen. Dwite Pedersen, Vice Chairperson, Other members: Sens. Chambers, Foley, Mines, Mossey, Quandahl and Tyson.

Sincerely,

(Mr.) Jan E. Beran

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