

HCS HB 848 -- HABITABILITY OF RENTAL PROPERTY

SPONSOR: DeGroot

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Judiciary by a vote of 8 to 3.

This bill requires a tenant who asserts the affirmative defense of breach of implied warranty of habitability, as specified in the bill, and who retains possession of the premises to deposit any then-owed rent into the court's depository and to continue to deposit any rent that would otherwise be due in accordance with the lease during the course of litigation and until otherwise ordered by the court.

PROPOSERS: Supporters say that until last year, a tenant was to notify his or her landlord of a defect and put the owed rent into a custodial account. The landlord would take that money and fix the problem. However, since then, the Eastern District of Missouri disregarded case law and allowed a tenant to continue residing in an apartment without depositing the money into custodial account. This allows a person to avoid having to pay rent if he or she claims there was a breach of the implied warranty of habitability. The Missouri Supreme Court is presently preparing to rule on a current case. It can be difficult and expensive for some people to leave the apartment or house when there is a legitimate breach.

Testifying for the bill were Representative DeGroot; St. Louis Apartment Association; and the Missouri Association of Realtors.

OPPOSERS: Those who oppose the bill say that this bill's passage would exacerbate homelessness in Missouri, and it will have a negative effect on the residents of Missouri. Most cases filed in these situations are decided for the landlords, and this would make it an even bigger barrier for tenants to bring these sorts of cases. There is a very high threshold to use the "uninhabitability" defense, and there would be due process issues if this bill were to pass because a tenant would be asked to deposit rent the landlord has determined is owed into the court depository, but that is before a hearing is held on whether the money is actually owed. This will affect elderly, disabled, and low income people because they will not be able to pay into the court while they also try to move out and mitigate their damages.

Testifying against the bill were Samuel Hoff Stragand, Metro St. Louis Equal Housing & Opportunity Council and Empower Missouri.

OTHERS: Others testifying on the bill say that low income tenants would be significantly harmed. They would have to decide whether

to remain in their current living situation and hope the landlord fixes the issue or spend money trying to move. Currently, one in four Missourians is paying more than 50% of his or her income in rent. In the Western District, where this is not an issue, tenants have been able to successfully defend against this without having to deposit rent into an escrow account.

Testifying on the bill were Lee Camp, Legal Services of Eastern Missouri and Michael Carney, Mid-Missouri Legal Services.