



Senate

General Assembly

File No. 264

January Session, 2013

Substitute Senate Bill No. 952

Senate, April 2, 2013

The Committee on Housing reported through SEN. BARTOLOMEO of the 13th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS REGARDING BED BUG INFESTATION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) (a) As used in this
2 section: (1) "Certified applicator" means an individual who is certified,
3 in accordance with section 22a-54 of the general statutes, by the
4 Commissioner of Energy and Environmental Protection to perform
5 application within this state of a pesticide or class of pesticides; (2)
6 "bed bug" means the common bed bug (*Cimex lectularius*); (3) "bed
7 bug detection team" means a scent detection canine team that holds a
8 current, independent, third-party certification in accordance with the
9 guidelines for Minimum Standards for Canine Bed Bug Detection
10 Team Certification established by the National Pest Management
11 Association; (4) "landlord", "owner", "person" and "tenant" shall have
12 the same meanings as in section 47a-1 of the general statutes; (5)
13 "qualified inspector" means a certified applicator, local health
14 department official or bed bug detection team retained by a landlord

15 to conduct an inspection for an infestation of bed bugs; and (6) "pest
16 control agent" means a person who is a certified applicator or who is
17 otherwise specially licensed or qualified to treat bed bug infestations.

18 (b) (1) A tenant shall promptly notify a landlord orally or in writing
19 when the tenant knows or reasonably suspects that the tenant's
20 dwelling unit is infested with bed bugs. Not later than five business
21 days after receiving such notice, the landlord shall obtain an inspection
22 of the dwelling unit and contiguous units by a qualified inspector and
23 may enter a dwelling unit for the purpose of conducting such
24 inspection as provided in subdivision (2) of this subsection. If the
25 qualified inspector determines that the dwelling unit is infested with
26 bed bugs, the landlord shall, not later than five business days after the
27 date of the inspection, take reasonable measures, as determined by
28 such qualified inspector, to effectively treat the bed bug infestation,
29 including, without limitation, treating the contiguous units and
30 retaining the services of a pest control agent. No landlord shall apply
31 any pesticide or class of pesticides for the purpose of treating a bed
32 bug infestation unless such landlord is a certified applicator. Except as
33 otherwise provided in this section, the landlord shall be responsible for
34 all costs associated with inspection for and treatment of a bed bug
35 infestation.

36 (2) (A) Upon reasonable written or oral notice to a tenant in
37 accordance with the provisions of section 47a-16 of the general statutes
38 that a landlord, qualified inspector or pest control agent must enter a
39 dwelling unit for the purpose of conducting an inspection for, or
40 treating an infestation of, bed bugs, a tenant shall not unreasonably
41 withhold access to the dwelling unit. Any entry to a dwelling unit shall
42 be made in accordance with the provisions of section 47a-16 of the
43 general statutes.

44 (B) A qualified inspector may initially conduct a visual and manual
45 inspection of the tenant's bedding and upholstered furniture. The
46 qualified inspector may inspect items other than bedding and
47 upholstered furniture when such qualified inspector determines that

48 such an inspection is necessary and reasonable. If the qualified
49 inspector finds bed bugs in the dwelling unit or in a contiguous unit,
50 such qualified inspector may have such additional access to the
51 tenant's personal belongings as the qualified inspector determines is
52 necessary and reasonable. A tenant shall comply with reasonable
53 measures to permit the inspection and treatment of a bed bug
54 infestation as set forth by the landlord and qualified inspector or pest
55 control agent, and such tenant shall be responsible for all costs
56 associated with preparing a dwelling unit for such inspection and
57 treatment. The tenant's knowing and unreasonable failure to comply
58 with such bed bug inspection and treatment measures shall result in
59 the tenant being held liable for those bed bug treatments of the
60 dwelling unit arising from such failure.

61 (C) Whenever any furniture, clothing, equipment or personal
62 property belonging to a tenant is found to be infested with bed bugs,
63 such furniture, clothing, equipment or personal property shall not be
64 removed from the dwelling unit until a pest control agent determines
65 that a bed bug treatment has been completed, or until the landlord
66 approves of such removal.

67 (3) (A) A landlord shall offer to make reasonable assistance available
68 to a tenant who is not able to comply with preparation for any bed bug
69 inspection or treatment measures that are the tenant's responsibility
70 under this section. The landlord shall disclose to the tenant the cost, if
71 any, to assist the tenant with preparing the dwelling unit for inspection
72 or treatment. The landlord may, at the landlord's discretion, charge the
73 tenant a reasonable amount for any such assistance, provided such
74 charge is subject to a reasonable repayment schedule not to exceed six
75 months, unless the landlord and tenant agree to one or more
76 extensions of such repayment schedule. A tenant's failure to agree to
77 any such charges or repayment schedule shall not relieve the landlord
78 of the duty to treat the dwelling unit.

79 (B) A tenant's failure to make any payment required pursuant to a
80 repayment schedule shall not be the basis for a summary process

81 action instituted pursuant to chapter 832 of the general statutes. At the
82 termination of a tenancy, a landlord may deduct any remaining
83 payments owed under a repayment schedule from a security deposit
84 in accordance with the provisions of section 47a-21 of the general
85 statutes.

86 (C) Nothing in this section shall be construed to require a landlord
87 to provide a tenant with alternative lodging or to pay to replace the
88 tenant's personal property. Nothing in this section shall be construed
89 to preempt or restrict application of the provisions of chapter 814c of
90 the general statutes or any other state or federal law concerning
91 reasonable accommodations for persons with disabilities.

92 (c) No landlord shall offer for rent a dwelling unit that the landlord
93 knows or reasonably suspects is infested with bed bugs. Before renting
94 a dwelling unit, a landlord shall disclose to a prospective tenant
95 whether the unit the landlord is offering for rent or any contiguous
96 unit (1) is currently infested with bed bugs, or (2) has been treated for
97 such infestation, provided no such disclosure shall be required if a pest
98 control agent has determined that such treatment has been completed
99 and sixty days have elapsed since the landlord received written notice
100 of such determination. Upon request from a tenant or prospective
101 tenant, a landlord shall disclose the last date on which the dwelling
102 unit being rented or offered for rent was inspected for, and found to be
103 free of, a bed bug infestation.

104 (d) (1) The failure of any landlord to comply with the provisions of
105 this section shall constitute a rebuttable presumption that such
106 landlord has failed to comply with the provisions of subdivisions (1)
107 and (2) of subsection (a) of section 47a-7 of the general statutes and the
108 tenant may proceed as provided in section 47a-12 of the general
109 statutes or section 47a-14h of the general statutes, as amended by this
110 act. Any landlord who fails to comply with the provisions of this
111 section shall be liable to the tenant for reasonable attorneys' fees and
112 the greater of two hundred fifty dollars or the tenant's actual damages.

113 (2) A landlord may apply to the Superior Court to obtain injunctive

114 relief in accordance with section 47a-18 of the general statutes and to
115 obtain such other relief as may be appropriate against a tenant who (A)
116 refuses to provide reasonable access to a dwelling unit, (B) fails to
117 comply with reasonable requests for inspection or treatment of a
118 dwelling unit, or (C) fails to implement reasonable inspection and
119 treatment measures required pursuant to subsection (b) of this section.
120 The entry fee for such an action shall be the same as the entry fee for a
121 small claims case. If a court finds that a tenant has unreasonably failed
122 to comply with this section, the court may issue a temporary order or
123 interim relief to carry out the provisions of this section, including, but
124 not limited to: (i) Granting the landlord access to the dwelling unit for
125 the purposes set forth in this section; (ii) granting the landlord the right
126 to engage in bed bug inspection and treatment measures; and (iii)
127 requiring the tenant to comply with specific bed bug inspection and
128 treatment measures or assessing the tenant with costs and damages
129 related to the tenant's noncompliance. Any order granting a landlord
130 access to a dwelling unit shall be served upon the tenant at least
131 twenty-four hours before a landlord, qualified inspector or pest control
132 agent enters the dwelling unit.

133 (3) In any action of summary process under chapter 832 of the
134 general statutes, there shall be a rebuttable presumption that such
135 action was commenced in retaliation against the tenant if the tenant
136 asserted the tenant's rights pursuant to this section less than six
137 months before the commencement of such action. The rebuttable
138 presumption of retaliation shall not apply (A) unless the tenant
139 asserted the tenant's rights pursuant to this section prior to being
140 served with a valid notice to quit possession or occupancy, or (B) if the
141 action of summary process is brought for failure to pay rent or for
142 causing substantial damage to the premises. A landlord shall retain all
143 rights to defend a claim of retaliation as set forth in section 47a-20a of
144 the general statutes.

145 (4) The remedies in this section shall be in addition to any other
146 remedies available at law, or in equity, to any person. This section shall
147 not be construed to limit or restrict the authority of any state or local

148 housing or health code enforcement agency.

149 Sec. 2. Subsection (a) of section 47a-14h of the general statutes is
 150 repealed and the following is substituted in lieu thereof (*Effective*
 151 *October 1, 2013*):

152 (a) Any tenant who claims that [his] the landlord has failed to
 153 perform his or her legal duties, as required by section 47a-7, [or]
 154 subdivisions (1) to (13), inclusive, of subsection (a) of section 21-82, or
 155 section 1 of this act, may institute an action in the superior court
 156 having jurisdiction over housing matters in the judicial district in
 157 which [he] such tenant resides to obtain the relief authorized by this
 158 section and sections 47a-20, [and] 47a-68, and section 1 of this act. No
 159 tenant may institute an action under this section if a valid notice to quit
 160 possession or occupancy based upon nonpayment of rent has been
 161 served on [him] such tenant prior to [his] the institution of an action
 162 under this section or if a valid notice to quit possession or occupancy
 163 based on any other ground has been served on [him] such tenant prior
 164 to [his] such tenant making the complaint to the agency referred to in
 165 subsection (b) of this section, provided any such notice to quit is still
 166 effective.

167 Sec. 3. (NEW) (*Effective October 1, 2013*) The Connecticut
 168 Agricultural Experiment Station, in consultation with the Department
 169 of Public Health and the Department of Energy and Environmental
 170 Protection, shall, within available appropriations, develop and publish
 171 guidelines that identify effective and least burdensome methods of
 172 investigating and treating bed bug infestations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	New section
Sec. 2	<i>October 1, 2013</i>	47a-14h(a)
Sec. 3	<i>October 1, 2013</i>	New section

Statement of Legislative Commissioners:

Rephrased the third sentence in Sec. 1(b)(2)(B) for clarity, changed "property of" to "property belonging to" in Sec. 1(b)(2)(C), and rephrased first sentence in Sec. 1(b)(3)(A) for clarity.

HSG *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:** None**Municipal Impact:** None**Explanation**

The bill, which establishes a framework for identifying and treating bed bug infestations in residential rental properties, has no fiscal impact. The provision regulates the responsibilities that both the landlords and tenants have if such infestations occur.

The bill also has no fiscal impact by requiring the Agricultural Experiment Station (AES) to develop and publish guidelines on investigating and treating bed bug infestation within available appropriations. The agency currently produces information guides addressing bed bugs, which is available on the AES website.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis**sSB 952*****AN ACT CONCERNING THE RIGHTS AND RESPONSIBILITIES OF LANDLORDS AND TENANTS REGARDING BED BUG INFESTATION.*****SUMMARY:**

This bill establishes a framework for identifying and treating bed bug infestations in residential rental properties. It sets separate duties and responsibilities for landlords and tenants, including notice, inspection, and treatment requirements. It also gives landlords and tenants remedies when either party fails to comply with these duties and responsibilities.

The bill requires landlords to hire and pay for a pest control agent to treat bed bug infestations. However, it makes tenants financially responsible for subsequent treatment costs of their unit if they knowingly and unreasonably fail to provide access to their unit or comply with treatment measures. It also prohibits landlords from renting units that they know or suspect are infested with bed bugs.

The bill requires the Connecticut Agricultural Experiment Station, in consultation with the departments of Public Health and Energy and Environmental Protection (DEEP), within available appropriations, to develop and publish guidelines on effective and least burdensome methods of investigating and treating bed bug infestations.

The bill makes technical and conforming changes to the statute allowing tenants to enforce a landlord's duties (CGS § 47a-14h).

EFFECTIVE DATE: October 1, 2013

DEFINITIONS

The bill defines "certified applicator" as an individual who is

certified by DEEP to apply pesticides. A “pest control agent” is a (1) certified applicator or (2) person otherwise specially licensed or qualified to treat bed bug infestations. “Bed bug detection team” means a scent detection canine team that holds a current, independent, third-party certification in accordance with the standards set by the National Pest Management Association. “Qualified inspector” is a (1) certified applicator, (2) local health department official, or (3) bed bug detection team. “Bed bug” refers to the species *Cimex lectularius*, the common bed bug.

LANDLORD'S DUTIES

By law, landlords must comply with building and housing codes materially affecting health and safety and keep units in fit and habitable condition (CGS § 47a-7).

Under the bill, landlords must:

1. pay for the inspection and treatment of a bed bug infestation;
2. have the unit and adjacent units inspected by a qualified inspector within five business days of receiving notice from a tenant that his or her unit may be infested;
3. take reasonable measures to treat the infestation within five business days of the inspection, including treating adjacent units and hiring a pest control agent;
4. refrain from applying pesticides themselves, unless they are certified applicators;
5. provide reasonable written or oral notice to a tenant before entering a unit for bed bug inspection or control purposes;
6. offer assistance to tenants who cannot comply with treatment procedures, for which they may charge a reasonable amount;
7. offer reasonable accommodations to people with disabilities;

8. refrain from offering a unit for rent if they know or suspect it is infested;
9. disclose to prospective tenants whether the rental unit or adjacent units are currently infested or have been treated for bed bugs in the past 60 days; and
10. upon request from a current or prospective tenant, disclose the last date when the rental unit was inspected for bed bugs and found free of infestation.

TENANT'S DUTIES

Under the bill, tenants must:

1. promptly notify their landlord, orally or in writing, when they know or suspect their unit is infested with bed bugs;
2. grant the landlord, qualified inspector, or pest control agent access to the unit;
3. cover the costs associated with preparing the unit for inspection and treatment;
4. comply with reasonable measures to eliminate and control the infestation, or pay for additional costs arising from noncompliance; and
5. refrain from moving infested material from their unit until treatment is complete or the landlord gives them permission to do so.

INSPECTIONS

Landlords, qualified inspectors, and pest control agents must enter units in accordance with state law. That is, landlords must provide reasonable notice of their intent to enter, unless there is an emergency, court order, extended absence, or abandonment. By law, tenants must not unreasonably withhold their consent.

During an initial inspection, qualified inspectors may visually or manually inspect only a tenant's bedding and upholstered furniture. However, they may inspect other items when they deem it necessary and reasonable, including personal belongings if they find bed bugs in the unit or in an adjacent unit.

FINANCIAL RESPONSIBILITY

The bill requires landlords to hire and pay for a pest control agent to treat bed bug infestations. Tenants are responsible for preparing the unit for treatment (e.g., moving or covering furniture). The bill does not modify state or federal duties regarding reasonable accommodations for people with disabilities.

The bill requires landlords to assist tenants who cannot comply with their duty to prepare their unit. If landlords disclose the cost of assistance, they may charge tenants a reasonable amount for the assistance and set a repayment schedule of up to six months, unless both parties agree to an extension. Under the bill, even if the tenant does not agree to the charges or repayment schedule, the landlord must treat the unit. Landlords may not institute summary process (eviction) proceedings against tenants solely because they fail to make an agreed upon payment, but they may deduct the amount owed from tenants' security deposits at the end of the tenancy.

Landlords are not responsible for (1) providing tenants with alternative accommodations during treatment or (2) replacing tenants' personal property. Tenants who unreasonably fail to comply with treatment procedures may be held financially responsible for the cost of additional treatments of their unit.

REMEDIES

In addition to the remedies identified in the bill, aggrieved landlords and tenants may pursue any other remedies available in law or equity. The bill does not restrict the authority of state or local housing or health code enforcement agencies.

Tenant's

The bill makes it a rebuttable presumption that landlords breached their duty to comply with building and housing codes materially affecting health and safety and keep units in fit and habitable condition when the statutory bed bug infestation procedure is not followed (CGS § 47a-7(a)(1-2). The bill allows tenants to (1) ask a court to provide relief, including rent abatement or an order to comply, or (2) terminate the rental agreement (CGS §§ 47a-12, 47a-14h).

A landlord who fails to comply with the bill is additionally liable for a \$250 fine, or actual damages, whichever is greater, plus reasonable attorney's fees.

The bill creates a rebuttable presumption that a tenant is being retaliated against if a landlord starts eviction proceedings within six months after a tenant asserted his or her rights under the bill, unless the tenant (1) before asserting his or her rights, was served with a notice to quit possession or occupancy; (2) caused substantial damage to the unit; or (3) is behind in rent payments. The bill does not alter landlords' statutory retaliation defenses (CGS § 47a-20a).

Landlord's

If tenants unreasonably refuse to give a landlord, qualified inspector, or pest control agent access to their unit, or fail to comply with inspection or treatment procedures or control measures, a landlord may ask the court to provide relief. This includes:

1. granting the landlord access to the unit to carry out inspection or treatment measures;
2. requiring the tenant to comply with inspection or control measures or charging them for the costs of noncompliance, including attorney's fees; and
3. terminating the rental agreement.

Under the bill, the entry fee for initiating such an action is the same as that for a small claims case (i.e., \$90).

Any order granting the landlord, qualified inspector, or pest control

agent access to the premises must be served on the tenant at least 24 hours before entry.

COMMITTEE ACTION

Housing Committee

Joint Favorable Substitute

Yea 10 Nay 0 (03/14/2013)