

March 21, 2019

MEMORANDUM

To: Members of the Civil Rights, Utilities, Economic Development & Arts Committee
From: Asha Venkataraman, Council Central Staff
Subject: Update on Potential Solutions to Address Eviction Harms in Resolution 31861

On March 26, 2019, the Committee on Civil Rights, Utilities, Economic Development & Arts (CRUEDA) will discuss the status of potential solutions to address the harms related to eviction identified in [Resolution 31861](#). Since the time Council adopted this resolution, the Washington State Legislature, in its current session, has discussed multiple bills that could provide partial or whole solutions to the eviction-related problems the resolution outlined for Council to address in the short-term. This memorandum: (1) provides background on the eviction-related problems; and (2) describes state legislation that could alleviate the need for City-level action, and where the state legislature has not proposed legislation, solutions that Council could implement through legislation. The solutions described are not necessarily mutually exclusive.

Background

During 2018, the Housing Justice Project of the King County Bar Association (HJP) and the Seattle Women's Commission (SWC) researched court documents associated with eviction proceedings (known as unlawful detainers) in King County in 2017. The goal was to conduct "a deep analysis of eviction causes, processes, and outcomes" in Seattle.¹ At the September 21, 2018 CRUEDA meeting, HJP and SWC presented the results of their research, contained in the report "[Losing Home: The Human Cost of Eviction in Seattle](#)". The report made many findings regarding the characteristics of tenants being evicted, locations from where landlords were evicting tenants, the reasons for eviction, the factors leading to tenants facing eviction, the outcomes of eviction cases, and how eviction impacts tenants. It also included recommendations in three major categories to ameliorate the negative impacts of the eviction process: (1) "Make it possible to pay rent;" (2) "Improve the landlord-tenant relationship;" and (3) "Rebalance the scales of justice" to even out the playing field for landlords and tenants.

In response to the report and its recommendations, Council took a variety of actions during the 2019-2020 budget process, including adopting Statements of Legislative Intent (SLIs) for various City departments, providing funding to support tenant organizations, and including specific language in the City's 2019 State Legislative Agenda to support amendments to [RCW 59.18](#), which currently limits Seattle's ability to extend City-level just cause eviction protections to tenants at the end of their lease term and reforms the unlawful detainer process.

¹ Seattle Women's Commission and the Housing Justice Project, "Losing Home: The Human Cost of Eviction in Seattle." September 2018.

On February 4, 2019 Council adopted Resolution 31861, outlining many of the findings and recommendations in the *Losing Home* report and detailing the actions taken by Council during the 2019-2020 budget process. The language of the resolution described Council's commitment to exploring the strategies in the report and examining how legislative action can address the causes of eviction and associated harm to tenants and marginalized communities.

Since adoption of the resolution, members of the Washington State Legislature introduced and discussed multiple bills regarding eviction reform. The last day to pass bills out of their house of origin was March 13, 2019; those that did not pass are considered "dead." Only two bills that address problems outlined in Resolution 31861 passed out of their house of origin: Engrossed Substitute House Bill (ESHB) 1453 (Attachment A) and Engrossed Substitute Senate Bill (ESSB) 5600 (Attachment B). The provisions of these bills are outlined below as applicable.

Potential Solutions to Issues Identified in Section 2 of Resolution 31861

Issue 1: The financial hardship for tenants experiencing domestic violence who are held liable for damages caused by a perpetrator of domestic violence.

Council could pass legislation to implement any of the following options:

- A. Prohibit a landlord from holding a tenant experiencing domestic violence liable for damage to the landlord's property caused by a perpetrator of domestic violence if the tenant has a protection order in place against the person causing the damage.
- B. Prohibit a landlord from holding a tenant experiencing domestic violence liable for damage to the landlord's property if the tenant files a report with a qualified third party (such as a law enforcement officer, a court employee, a licensed mental health professional, or a domestic violence advocate) about the incident in which the perpetrator of domestic violence caused the damage and provides that report to the landlord.
- C. Regardless of whether tenants are held liable for damages or landlords are prohibited from holding tenants liable, legislate access to and provide appropriations for a mitigation fund that would cover damages caused by a perpetrator of domestic violence.

Draft legislation combining options 1.A and 1.B is attached to this memo (Attachment C).

Issue 2: The lack of flexibility tenants have to avoid eviction when faced with emergencies such as temporary unemployment or reduced income, medical emergencies, hospitalization, deaths in the family, domestic violence, and large rent increases.

Council could pass legislation to implement any of the following options:

- A. Require a landlord to offer the tenant a payment plan before filing an eviction notice the first time the tenant is unable to timely pay rent in a twelve-month period, regardless of the reason.
- B. Require a landlord to offer the tenant a payment plan before filing an eviction notice if the tenant suffers an emergency that prevents the tenant from timely paying rent in a twelve-month period. Documentation of the reason may or may not be needed.
- C. Provide that an emergency resulting in a tenant's inability to pay rent is a defense to just cause eviction. The defense can be used only once in a twelve-month period.

Issue 3: The high default rate for evictions suggests that tenants do not understand the eviction process or the effect of mutual termination agreements and tenant rights, or are unaware that free legal resources are available.

ESHB 1453:

- Section 2 of the bill states that any eviction notice required by RCW 59.12.030(3) must be accompanied by a form that tells the tenant that the Washington State Department of Commerce (DOC) has information about how to find a lawyer or advocate at low or no cost and about available resources to help pay rent. The notice also directs the tenant to call 2-1-1 for this information.
- Section 3(1) of the bill adds language requiring DOC to keep translated versions of the notice described in the top ten languages spoken in Washington State, and requires that the notice be made available in printed form on 8.5 X 11 paper, in easily readable font size.
- Section 3(2) of the bill adds language requiring DOC to provide on its website information about where tenants can access legal or advocacy resources including immigrant and cultural organizations that can provide assistance in the tenants' primary language.

ESSB 5600:

- Sections 2 and 3 of the bill are substantially the same as the parallel provisions in ESHB 1453, except that the Washington State Attorney General's Office rather than DOC is the responsible agency.

Issue 4: Non-rent charges such as late fees, court costs, and attorney's fees can add a substantial burden to the tenant's hardships in paying rent.

ESHB 1453:

- Section 5 requires that any payment made by a tenant be counted toward rent before applying it to late payments, damages, legal costs, or fees, including attorneys' fees. It also states that the tenant's right to possession may not be

conditioned on payment of any amount except for rent. A landlord may still pursue other legal remedies to recover costs other than rent.

- Section 4 adds language defining “rent” or “rental amount” as recurring and periodic charges for use and occupancy of the premises, and may include charges for utilities. These terms do not include charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys’ fees.
- Section 6(1) revises current state law in an unlawful detainer action after default in the payment of rent or violation of a condition of the rental agreement to allow the court to award statutory costs and reasonable attorneys’ fees when judgment is for the landlord only after a finding that the tenant:
 - did not act in good faith;
 - willfully performed a prohibited act; or
 - willfully refrained from performing a required act.
- Section 6(2) revises current state law to require that if a tenant is found liable in an unlawful detainer action after default in the payment of rent, to be restored to tenancy the tenant must pay within five court days, any rent due, court costs incurred, late fees if they are due under the lease and for no more than \$75 total, and attorneys’ fees. These requirements are no longer limited to circumstances in which the lease has not expired.

ESSB 5600:

- Section 5 is substantially the same as the parallel provision in ESHB 1453, in that it requires that any payment made by a tenant be counted toward rent before applying it to late payments, damages, legal costs, or fees, including attorneys’ fees. It also states that the tenant’s right to possession may not be conditioned on payment of any amount except for rent. A landlord may still pursue other legal remedies to recover costs other than rent.
 - Section 4 defines “rent” or “rental amount” similarly as well, with the following changes: recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, and which may include charges for utilities. These terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys’ fees.
- Section 6(1) revises current state law in an unlawful detainer action after default in the payment of rent to require a tenant pay any rent due, court costs incurred at the time of payment, late fees no more than \$75, statutory costs, and attorney’s fees. However, if judgment is entered after default for failure to appear and the total amount of rent awarded in the judgment for rent is either:

(1) equal to or less than two months of monthly contract rent; or (2) less than \$1,200, the court is prohibited from awarding attorneys' fees. In addition, if a tenant seeks a stay to a writ of restitution and the tenant prevails, attorneys' fees can be awarded and included as a part of the tenant's right to reinstatement. But if the landlord prevails, the court may not award attorneys' fees against the tenant.

- Section 6(2) is substantially the same as the parallel provision in ESHB 1453, but adds that the tenant must pay an additional \$50 for each time the tenant was reinstated to tenancy within the previous 12 months.

Issue 5: Tenants often need to live with a roommate to afford rent, but some leases prohibit or limit the number of roommates; landlords have discretion to reject roommates regardless of whether the rejection is reasonable; and landlords can impose extra fees and strict screening criteria for roommates.

Council could pass legislation to implement any of the following options:

- A. Require that the rental agreement provide the tenant a right to live with immediate family members and up to one additional occupant, subject to occupancy limits.
- B. Require that if a tenant would like to add a roommate to the rental agreement, the landlord may not subject the roommate to screening criteria stricter than for what the landlord screened the primary tenant and impose no other additional fees for adding someone to the rental agreement, except fees for screening.
- C. Prohibit the landlord from unreasonably rejecting a request for a roommate.

Issue 6: The fees for terminating a lease before the end of a term are often high and can accumulate even though the market indicates re-renting a unit is not difficult and a landlord is required to make a reasonable effort to re-rent the unit.

Council could pass legislation to implement any of the following options:

- A. Require all rental agreements have an early termination fee and limit the fee to one month's rent or actual damages, whichever is lower.
- B. For those rental agreements that do have early termination fees, cap the fee at one month's rent or actual damages, whichever is lower.
- C. Define of what a landlord's obligation to make a "reasonable effort" to re-rent the unit consists.

Issue 7: Even if the tenant has good cause to be late on the payment of rent, courts generally do not exercise judicial discretion to prevent evictions, even if the tenant has all of the money owed at the time of the hearing.

ESHB 1453:

- Section 6(3) states that if judgment is for the landlord based on non-payment of rent, the court may stay or vacate a writ of restitution at the show cause hearing or on subsequent motion of the tenant, upon good cause and on fair and just terms for both parties.
- The court shall consider the following six factors:
 - The tenant's payment history;
 - Evidence that non-payment was caused by exigent circumstances beyond the tenant's control and that those circumstances are unlikely to recur;
 - Evidence or lack of evidence of the tenant's willful or intentional failure to pay rent;
 - The tenant's ability to timely pay the judgment;
 - The relative burden on the parties resulting from reinstatement or the refusal to reinstate; and
 - Conduct related to other notices served contemporaneously with the notice to pay or vacate regardless of whether the other notices were part of the court's judgment.
- The tenant has the burden of proof.
- The court can issue an order that includes paying the monetary judgment or severing all or part of the monetary judgment. Any severing of judgment does not preclude the landlord from pursuing other lawful remedies to collect the remainder of the judgment.
- For any order the court issues:
 - The court cannot stay the writ for more than three months from the date of judgment, but can order repayment of the balance within that time;
 - The tenant is required to tender to the landlord or deposit with the court one month's rent within five court days of the order; and
 - Conditioned on the court finding repayment of the balance, the court will issue the writ of restitution but require that it not be served by the sheriff unless the tenant defaults on the repayment order, in which case the court will extend the writ of restitution as needed to enforce the order.

ESSB 5600:

- Section 6(3)(a), as in ESHB 1453, states that if judgment is for the landlord based on non-payment of rent, the court may stay or vacate a writ of restitution at the show cause hearing or on subsequent motion of the tenant, upon good cause and on fair and just terms for both parties.

- The court shall consider eight factors – the six required in ESHB 1453, along with:
 - If the tenant is otherwise in substantial compliance with the rental agreement; and
 - Whether the landlord can obtain disbursement from the Landlord Mitigation Program.
- Section 6(3)(b), as in ESHB 1453, gives the tenant the burden of proof.
- As in ESHB 1453, the court can issue an order that includes payment of the monetary judgment or severing all or part of the monetary judgment. Any severing of judgment does not preclude the landlord for pursuing other lawful remedies to collect the remainder of the judgment.
- This bill adds that if the tenant seeks relief at the show cause hearing, the court shall hear the matter at that time or as expeditiously as possible to avoid unnecessary delay or hardship to the parties.
- Section (6)(c) states that for any order the court issues:
 - As in ESHB 1453, the court cannot stay the writ for more than three months from the date of judgment, but can order repayment of the balance within that time;
 - The tenant is required to tender to the landlord or deposit with the court, one month's rent within five court days of the order, and in the case of default, the sheriff may serve a writ of restitution but not execute it until the five days has expired;
 - If the tenant timely repays the balance, the writ of restitution must be stayed without further order of the court, but if the tenant defaults, the sheriff must serve the writ of restitution before execution or the landlord must serve a notice of default informing the tenant that the tenant has three calendar days from the date of service to vacate the premises before the sheriff executes the writ of restitution;
 - If a tenant is depending on emergency rental assistance from the government or a non-profit to satisfy repayment conditions, the tenant can stay the writ of restitution with sufficient documentation to readily pay the balance set forth by the order. The court shall stay the writ as needed to give the tenant the opportunity to satisfy the court's conditions.
 - The court can order payment to the landlord directly if the means of the tenant's payment prevents payment to the court;
 - The court shall extend the writ as needed to enforce the order in case of default.

- Section (6)(d) states that a tenant may not ask for relief by judicial discretion if the tenant has been served with three or more notices to pay or vacate for failure to pay rent within twelve months prior to the notice at issue at the proceeding.
- Section 6(e) states that at the hearing, if the landlord states the intent to apply to the Landlord Mitigation Program to satisfy the outstanding judgment, the court shall restore the tenancy, issue an order affirming judgment for the landlord, denying or vacating the writ of restitution, and indicate the landlord is entitled to payment from the Landlord Mitigation Program for the amount of the judgment (subject to appropriation and available funds).
 - If DOC does not disburse payment to the landlord, the landlord can renew the application for a writ of restitution and other rent owed by the tenant since the time the court entered the prior judgment.
 - The judgment is satisfied upon DOC's payment.
- Section 11 revises the current law addressing the Landlord Mitigation Program to allow the program to cover unpaid judgments in unlawful detainer cases where the court exercises judicial discretion.
 - If a landlord has been reimbursed by the program, a tenant has three months from the date of the judgment issued when the landlord stated intent to apply to the Landlord Mitigation Program to reimburse DOC by depositing funds into the court registry for the court to forward to the department. The tenant or another interested party can ask for the funds to be disbursed by ex parte order as well.

Next Steps

The next deadline for bills to pass out of the opposite house is April 3, and any further exploration of solutions at the City level will depend on whether and how ESHB 1453 and ESSB 5600 continue through the state legislative process. In the meanwhile, Central Staff will continue to explore options outlined for Issues 1, 2, 5 and 6, and draft legislation as requested for the committee's consideration.

Attachments:

- A. Engrossed Substitute House Bill (ESHB)1453
- B. Engrossed Substitute Senate Bill (ESSB) 5600
- C. Draft legislation re domestic violence and damages

cc: Kirstan Arestad, Central Staff Director
Erik Sund, Supervising Analyst

ENGROSSED SUBSTITUTE HOUSE BILL 1453

State of Washington

66th Legislature

2019 Regular Session

By House Civil Rights & Judiciary (originally sponsored by Representatives Macri, Jinkins, Morgan, Dolan, Frame, Peterson, Thai, Doglio, Gregerson, Pellicciotti, Orwall, Davis, Lekanoff, Senn, Kloba, Stanford, and Ortiz-Self)

READ FIRST TIME 02/20/19.

1 AN ACT Relating to residential tenant protections; amending RCW
2 59.12.030, 59.18.410, 59.18.290, 59.18.390, 59.18.365, and 59.18.055;
3 reenacting and amending RCW 59.18.030; adding new sections to chapter
4 59.18 RCW; and prescribing penalties.

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

6 **Sec. 1.** RCW 59.12.030 and 1998 c 276 s 6 are each amended to
7 read as follows:

8 A tenant of real property for a term less than life is (~~guilty~~
9 ~~of~~) liable for unlawful detainer either:

10 (1) When he or she holds over or continues in possession, in
11 person or by subtenant, of the property or any part thereof after the
12 expiration of the term for which it is let to him or her. When real
13 property is leased for a specified term or period by express or
14 implied contract, whether written or oral, the tenancy shall be
15 terminated without notice at the expiration of the specified term or
16 period;

17 (2) When he or she, having leased property for an indefinite time
18 with monthly or other periodic rent reserved, continues in possession
19 thereof, in person or by subtenant, after the end of any such month
20 or period, when the landlord, more than twenty days prior to the end
21 of such month or period, has served notice (in manner in RCW

1 59.12.040 provided) requiring him or her to quit the premises at the
2 expiration of such month or period;

3 (3) When he or she continues in possession in person or by
4 subtenant after a default in the payment of rent, and after notice in
5 writing requiring in the alternative the payment of the rent or the
6 surrender of the detained premises, served (in manner in RCW
7 59.12.040 provided) in behalf of the person entitled to the rent upon
8 the person owing it, has remained uncomplied with for the period of
9 three days after service thereof, or for the period of fourteen days
10 after service for tenancies under chapter 59.18 RCW. The notice may
11 be served at any time after the rent becomes due;

12 (4) When he or she continues in possession in person or by
13 subtenant after a neglect or failure to keep or perform any other
14 condition or covenant of the lease or agreement under which the
15 property is held, including any covenant not to assign or sublet,
16 than one for the payment of rent, and after notice in writing
17 requiring in the alternative the performance of such condition or
18 covenant or the surrender of the property, served (in manner in RCW
19 59.12.040 provided) upon him or her, and if there is a subtenant in
20 actual possession of the premises, also upon such subtenant, shall
21 remain uncomplied with for ten days after service thereof. Within ten
22 days after the service of such notice the tenant, or any subtenant in
23 actual occupation of the premises, or any mortgagee of the term, or
24 other person interested in its continuance, may perform such
25 condition or covenant and thereby save the lease from such
26 forfeiture;

27 (5) When he or she commits or permits waste upon the demised
28 premises, or when he or she sets up or carries on thereon any
29 unlawful business, or when he or she erects, suffers, permits, or
30 maintains on or about the premises any nuisance, and remains in
31 possession after the service (in manner in RCW 59.12.040 provided)
32 upon him or her of three days' notice to quit;

33 (6) A person who, without the permission of the owner and without
34 having color of title thereto, enters upon land of another and who
35 fails or refuses to remove therefrom after three days' notice, in
36 writing and served upon him or her in the manner provided in RCW
37 59.12.040. Such person may also be subject to the criminal provisions
38 of chapter 9A.52 RCW; or

39 (7) When he or she commits or permits any gang-related activity
40 at the premises as prohibited by RCW 59.18.130.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 59.18
2 RCW to read as follows:

3 Every notice served pursuant to RCW 59.12.030(3) must be
4 accompanied by a notice in substantially the following form:

5 **"FOURTEEN-DAY NOTICE TO PAY RENT AND/OR UTILITIES OR VACATE THE**
6 **PREMISES**

7 You are receiving the attached notice because the landlord
8 alleges you are not in compliance with the terms of the lease
9 agreement by failing to pay rent and/or utilities that are past due.

10 **The monthly rent amount is \$ (dollar amount).**

11 **Rent due for (list month(s)):** \$ (dollar amount)

12 **AND/OR**

13 **Utilities due for (list month(s)):** \$ (dollar amount)

14 **Total rent and/or utilities due:** \$ (dollar amount)

15 **Note - payment must be by cash, cashier's check, money order, or**
16 **certified funds.**

17 You must pay the total amount of rent and/or utilities due to
18 your landlord within fourteen (14) days after receipt of this notice
19 or you must vacate the premises. Any payment you make to the landlord
20 must first be applied to the amount due as shown on this notice. Any
21 failure to comply with this notice within fourteen (14) days after
22 receipt of this notice may result in a judicial proceeding that leads
23 to your eviction from the premises.

24 **The Washington state Department of Commerce has this notice in**
25 **multiple languages on its web site. You will also find information**
26 **there on how to find a lawyer or advocate at low or no cost and any**
27 **available resources to help pay your rent. Alternatively, call 2-1-1**
28 **to learn about these services.**

29 **State law provides you the right to receive interpreter services**
30 **at court.**

31

32 OWNER/LANDLORD: _____ DATE: _____

33

34 **WHERE RENT IS TO BE PAID: ___ (owner/landlord name) ___**
35 **_____ (address) _____ "**

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 59.18
37 RCW to read as follows:

1 (1) The department of commerce shall produce and maintain on its
2 web site translated versions of the notice under section 2 of this
3 act in the top ten languages spoken in Washington state and, at the
4 discretion of the department, other languages. The notice must be
5 made available upon request in printed form on one letter size paper,
6 eight and one-half by eleven inches, and in an easily readable font
7 size.

8 (2) The department of commerce shall also provide on its web site
9 information on where tenants can access legal or advocacy resources,
10 including information on any immigrant and cultural organizations
11 where tenants can receive assistance in their primary language.

12 **Sec. 4.** RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and
13 amended to read as follows:

14 As used in this chapter:

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

31 (2) "Commercially reasonable manner," with respect to a sale of a
32 deceased tenant's personal property, means a sale where every aspect
33 of the sale, including the method, manner, time, place, and other
34 terms, must be commercially reasonable. If commercially reasonable, a
35 landlord may sell the tenant's property by public or private
36 proceedings, by one or more contracts, as a unit or in parcels, and
37 at any time and place and on any terms.

38 (3) "Comprehensive reusable tenant screening report" means a
39 tenant screening report prepared by a consumer reporting agency at

1 the direction of and paid for by the prospective tenant and made
2 available directly to a prospective landlord at no charge, which
3 contains all of the following: (a) A consumer credit report prepared
4 by a consumer reporting agency within the past thirty days; (b) the
5 prospective tenant's criminal history; (c) the prospective tenant's
6 eviction history; (d) an employment verification; and (e) the
7 prospective tenant's address and rental history.

8 (4) "Criminal history" means a report containing or summarizing
9 (a) the prospective tenant's criminal convictions and pending cases,
10 the final disposition of which antedates the report by no more than
11 seven years, and (b) the results of a sex offender registry and
12 United States department of the treasury's office of foreign assets
13 control search, all based on at least seven years of address history
14 and alias information provided by the prospective tenant or available
15 in the consumer credit report.

16 (5) "Designated person" means a person designated by the tenant
17 under RCW 59.18.590.

18 (6) "Distressed home" has the same meaning as in RCW 61.34.020.

19 (7) "Distressed home conveyance" has the same meaning as in RCW
20 61.34.020.

21 (8) "Distressed home purchaser" has the same meaning as in RCW
22 61.34.020.

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

28 (10) "Eviction history" means a report containing or summarizing
29 the contents of any records of unlawful detainer actions concerning
30 the prospective tenant that are reportable in accordance with state
31 law, are lawful for landlords to consider, and are obtained after a
32 search based on at least seven years of address history and alias
33 information provided by the prospective tenant or available in the
34 consumer credit report.

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

39 (12) "Gang-related activity" means any activity that occurs
40 within the gang or advances a gang purpose.

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

1 (18) "Premises" means a dwelling unit, appurtenances thereto,
2 grounds, and facilities held out for the use of tenants generally and
3 any other area or facility which is held out for use by the tenant.

4 (19) "Property" or "rental property" means all dwelling units on
5 a contiguous quantity of land managed by the same landlord as a
6 single, rental complex.

7 (20) "Prospective landlord" means a landlord or a person who
8 advertises, solicits, offers, or otherwise holds a dwelling unit out
9 as available for rent.

10 (21) "Prospective tenant" means a tenant or a person who has
11 applied for residential housing that is governed under this chapter.

12 (22) "Qualified inspector" means a United States department of
13 housing and urban development certified inspector; a Washington state
14 licensed home inspector; an American society of home inspectors
15 certified inspector; a private inspector certified by the national
16 association of housing and redevelopment officials, the American
17 association of code enforcement, or other comparable professional
18 association as approved by the local municipality; a municipal code
19 enforcement officer; a Washington licensed structural engineer; or a
20 Washington licensed architect.

21 (23) "Reasonable attorneys' fees," where authorized in this
22 chapter, means an amount to be determined including the following
23 factors: The time and labor required, the novelty and difficulty of
24 the questions involved, the skill requisite to perform the legal
25 service properly, the fee customarily charged in the locality for
26 similar legal services, the amount involved and the results obtained,
27 and the experience, reputation and ability of the lawyer or lawyers
28 performing the services.

29 (24) "Reasonable manner," with respect to disposing of a deceased
30 tenant's personal property, means to dispose of the property by
31 donation to a not-for-profit charitable organization, by removal of
32 the property by a trash hauler or recycler, or by any other method
33 that is reasonable under the circumstances.

34 (25) "Rent" or "rental amount" means recurring and periodic
35 charges for use and occupancy of the premises, and may include
36 charges for utilities. These terms do not include charges for costs
37 incurred due to late payment, damages, deposits, legal costs, or
38 other fees, including attorneys' fees.

1 ~~(26)~~ "Rental agreement" means all agreements which establish or
2 modify the terms, conditions, rules, regulations, or any other
3 provisions concerning the use and occupancy of a dwelling unit.

4 ~~((26))~~ (27) A "single-family residence" is a structure
5 maintained and used as a single dwelling unit. Notwithstanding that a
6 dwelling unit shares one or more walls with another dwelling unit, it
7 shall be deemed a single-family residence if it has direct access to
8 a street and shares neither heating facilities nor hot water
9 equipment, nor any other essential facility or service, with any
10 other dwelling unit.

11 ~~((27))~~ (28) A "tenant" is any person who is entitled to occupy
12 a dwelling unit primarily for living or dwelling purposes under a
13 rental agreement.

14 ~~((28))~~ (29) "Tenant representative" means:

15 (a) A personal representative of a deceased tenant's estate if
16 known to the landlord;

17 (b) If the landlord has no knowledge that a personal
18 representative has been appointed for the deceased tenant's estate, a
19 person claiming to be a successor of the deceased tenant who has
20 provided the landlord with proof of death and an affidavit made by
21 the person that meets the requirements of RCW 11.62.010(2);

22 (c) In the absence of a personal representative under (a) of this
23 subsection or a person claiming to be a successor under (b) of this
24 subsection, a designated person; or

25 (d) In the absence of a personal representative under (a) of this
26 subsection, a person claiming to be a successor under (b) of this
27 subsection, or a designated person under (c) of this subsection, any
28 person who provides the landlord with reasonable evidence that he or
29 she is a successor of the deceased tenant as defined in RCW
30 11.62.005. The landlord has no obligation to identify all of the
31 deceased tenant's successors.

32 ~~((29))~~ (30) "Tenant screening" means using a consumer report or
33 other information about a prospective tenant in deciding whether to
34 make or accept an offer for residential rental property to or from a
35 prospective tenant.

36 ~~((30))~~ (31) "Tenant screening report" means a consumer report
37 as defined in RCW 19.182.010 and any other information collected by a
38 tenant screening service.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.18
2 RCW to read as follows:

3 Under this chapter:

4 (1) A landlord must first apply any payment made by a tenant
5 toward rent, as that term is defined in RCW 59.18.030, before
6 applying any payment toward late payments, damages, legal costs, or
7 other fees, including attorneys' fees.

8 (2) Except as provided in RCW 59.18.410, the tenant's right to
9 possession may not be conditioned on a tenant's payment or
10 satisfaction of any monetary amount other than rent. However, this
11 does not foreclose a landlord from pursuing other lawful remedies to
12 collect late payments, damages, legal costs, or other fees, including
13 attorneys' fees.

14 **Sec. 6.** RCW 59.18.410 and 2011 c 132 s 20 are each amended to
15 read as follows:

16 (1) If upon the trial the verdict of the jury or, if the case be
17 tried without a jury, the finding of the court be in favor of the
18 plaintiff and against the defendant, judgment shall be entered for
19 the restitution of the premises; and if the proceeding be for
20 unlawful detainer after neglect or failure to perform any condition
21 or covenant of a lease or agreement under which the property is held,
22 or after default in the payment of rent, the judgment shall also
23 declare the forfeiture of the lease, agreement, or tenancy. The jury,
24 or the court, if the proceedings be tried without a jury, shall also
25 assess the damages arising out of the tenancy occasioned to the
26 plaintiff by any forcible entry, or by any forcible or unlawful
27 detainer, alleged in the complaint and proved on the trial, and, if
28 the alleged unlawful detainer be after default in the payment of
29 rent, find the amount of any rent due, and the judgment shall be
30 rendered against the defendant guilty of the forcible entry, forcible
31 detainer, or unlawful detainer for the amount of damages thus
32 assessed and for the rent, if any, found due, and the court may award
33 statutory costs and reasonable ((attorney's)) attorneys' fees;
34 however, if the alleged unlawful detainer is after default in the
35 payment of rent, or for violation of a condition of the rental
36 agreement, the court may award reasonable attorneys' fees only after
37 a finding that the tenant did not act in good faith, willfully
38 performed an act prohibited by the lease or the governing law, or

1 willfully refrained from performing an act required by the lease or
2 the governing law.

3 (2) When the ((proceeding)) tenant is liable for ((an)) unlawful
4 detainer after default in the payment of rent, ((and the lease or
5 agreement under which the rent is payable has not by its terms
6 expired,)) execution upon the judgment shall not be issued until the
7 expiration of five court days after the entry of the judgment,
8 ((within which)) and before such time the tenant or any subtenant, or
9 any mortgagee of the term, or other party interested in the
10 continuance of the tenancy, may pay to the landlord or into court for
11 the landlord the amount of the ((judgment and costs, and thereupon
12 the judgment shall be satisfied and)) rent owed, court costs
13 incurred, late fees provided such fees are due under the lease and do
14 not exceed seventy-five dollars in total, and attorneys' fees if
15 imposed pursuant to this section, in which event the tenant shall be
16 restored to his or her tenancy((; but)). If payment((, as herein
17 provided, be)) of the amount specified herein is not made within five
18 court days after the judgment, the judgment may be enforced for its
19 full amount and for the possession of the premises.

20 (3)(a) Following the entry of a judgment in favor of the
21 plaintiff and against the defendant for the restitution of the
22 premises and forfeiture of tenancy due to nonpayment of rent, the
23 court, at the time of the show cause hearing or trial, or upon
24 subsequent motion of the tenant but before the execution of the writ
25 of restitution, may stay or vacate the writ of restitution upon good
26 cause and on such terms that the court deems fair and just for both
27 parties. In making this decision, the court shall consider the
28 following factors:

29 (i) The defendant's payment history;

30 (ii) Evidence the nonpayment was caused by exigent circumstances
31 that were beyond the defendant's control and that are not likely to
32 recur;

33 (iii) Evidence or lack of evidence of the defendant's willful or
34 intentional failure to pay rent;

35 (iv) The defendant's ability to timely pay the judgment;

36 (v) The relative burden on the parties resulting from
37 reinstatement or refusal to reinstate;

38 (vi) Conduct related to other notices served contemporaneously
39 with the notice to pay or vacate regardless of whether the other
40 notices were part of the court's judgment.

1 (b) The burden of proof for such relief under this subsection
2 shall be on the tenant. The court may issue an order pursuant to this
3 subsection upon appropriate terms, which may include the payment or
4 severing of all or part of the monetary judgment. Any severing of the
5 judgment shall not preclude the landlord from pursuing other lawful
6 remedies to collect the remainder of the judgment.

7 (c) In any order issued pursuant to this subsection (3):

8 (i) The court shall not stay the writ more than three months from
9 the date of judgment, but may order repayment of the balance within
10 such time;

11 (ii) The court shall require the tenant to tender to the landlord
12 or deposit with the court one month's rent within five court days of
13 the order;

14 (iii) Providing for repayment of the balance found by the court,
15 the court shall issue the writ of restitution, but require that the
16 writ of restitution not be served by the sheriff on the tenant unless
17 the tenant defaults on the repayment order; in such event, the court
18 shall extend the writ of restitution as necessary to enforce the
19 order in the event of default.

20 (4) In all other cases the judgment may be enforced immediately.
21 If writ of restitution shall have been executed prior to judgment no
22 further writ or execution for the premises shall be required.

23 (5) This section also applies if the writ of restitution is
24 issued pursuant to a final judgment entered after a show cause
25 hearing conducted in accordance with RCW 59.18.380.

26 **Sec. 7.** RCW 59.18.290 and 2010 c 8 s 19028 are each amended to
27 read as follows:

28 (1) It (~~shall be~~) is unlawful for the landlord to remove or
29 exclude from the premises the tenant thereof except under a court
30 order so authorizing. Any tenant so removed or excluded in violation
31 of this section may recover possession of the property or terminate
32 the rental agreement and, in either case, may recover the actual
33 damages sustained. The prevailing party may recover the costs of suit
34 or arbitration and reasonable (~~attorney's~~) attorneys' fees.

35 (2) It (~~shall be~~) is unlawful for the tenant to hold over in
36 the premises or exclude the landlord therefrom after the termination
37 of the rental agreement except under a valid court order so
38 authorizing. Subject to RCW 59.18.410, any landlord so deprived of
39 possession of premises in violation of this section may recover

1 possession of the property and damages sustained by him or her, and
2 the prevailing party may recover his or her costs of suit or
3 arbitration and reasonable ((attorney's)) attorneys' fees.

4 **Sec. 8.** RCW 59.18.390 and 2011 c 132 s 19 are each amended to
5 read as follows:

6 (1) The sheriff shall, upon receiving the writ of restitution,
7 forthwith serve a copy thereof upon the defendant, his or her agent,
8 or attorney, or a person in possession of the premises, and shall not
9 execute the same for three days thereafter(~~(, and the defendant, or~~
10 ~~person in possession of the premises within three days after the~~
11 ~~service of the writ of restitution may execute to the plaintiff a~~
12 ~~bond to be filed with and approved by the clerk of the court in such~~
13 ~~sum as may be fixed by the judge, with sufficient surety to be~~
14 ~~approved by the clerk of the court, conditioned that they will pay to~~
15 ~~the plaintiff such sum as the plaintiff may recover for the use and~~
16 ~~occupation of the premises, or any rent found due, together with all~~
17 ~~damages the plaintiff may sustain by reason of the defendant~~
18 ~~occupying or keeping possession of the premises, together with all~~
19 ~~damages which the court theretofore has awarded to the plaintiff as~~
20 ~~provided in this chapter, and also all the costs of the action. If~~
21 ~~the writ of restitution was issued after alternative service provided~~
22 ~~for in RCW 59.18.055, the court shall determine the amount of the~~
23 ~~bond after considering the rent claimed and any other factors the~~
24 ~~court deems relevant. The plaintiff, his or her agent or attorneys,~~
25 ~~shall have notice of the time and place where the court or judge~~
26 ~~thereof shall fix the amount of the defendant's bond, and shall have~~
27 ~~notice and a reasonable opportunity to examine into the qualification~~
28 ~~and sufficiency of the sureties upon the bond before the bond shall~~
29 ~~be approved by the clerk)). After the issuance of a writ of~~
30 ~~restitution, acceptance of a payment by the landlord or plaintiff~~
31 ~~that only partially satisfies the judgment will not invalidate the~~
32 ~~writ unless pursuant to a written agreement executed by both parties.~~
33 ~~The eviction will not be postponed or stopped unless a copy of that~~
34 ~~written agreement is provided to the sheriff. It is the~~
35 ~~responsibility of the tenant or defendant to ensure a copy of the~~
36 ~~agreement is provided to the sheriff. Upon receipt of the agreement~~
37 ~~the sheriff will cease action unless ordered to do otherwise by the~~
38 ~~court. The writ of restitution and the notice that accompanies the~~
39 ~~writ of restitution required under RCW 59.18.312 shall conspicuously~~

1 state in bold face type, all capitals, not less than twelve points
2 information about partial payments as set forth in subsection (2) of
3 this section. If the writ of restitution has been based upon a
4 finding by the court that the tenant, subtenant, sublessee, or a
5 person residing at the rental premises has engaged in drug-related
6 activity or has allowed any other person to engage in drug-related
7 activity at those premises with his or her knowledge or approval,
8 neither the tenant, the defendant, nor a person in possession of the
9 premises shall be entitled to post a bond in order to retain
10 possession of the premises. The writ may be served by the sheriff, in
11 the event he or she shall be unable to find the defendant, an agent
12 or attorney, or a person in possession of the premises, by affixing a
13 copy of the writ in a conspicuous place upon the premises: PROVIDED,
14 That the sheriff shall not require any bond for the service or
15 execution of the writ. The sheriff shall be immune from all civil
16 liability for serving and enforcing writs of restitution unless the
17 sheriff is grossly negligent in carrying out his or her duty.

18 (2) The notice accompanying a writ of restitution required under
19 RCW 59.18.312 shall be substantially similar to the following:

20 **IMPORTANT NOTICE - PARTIAL PAYMENTS**

21 **YOUR LANDLORD'S ACCEPTANCE OF A PARTIAL PAYMENT FROM YOU AFTER**
22 **SERVICE OF THIS WRIT OF RESTITUTION WILL NOT AUTOMATICALLY POSTPONE**
23 **OR STOP YOUR EVICTION. IF YOU HAVE A WRITTEN AGREEMENT WITH YOUR**
24 **LANDLORD THAT THE EVICTION WILL BE POSTPONED OR STOPPED, IT IS YOUR**
25 **RESPONSIBILITY TO PROVIDE A COPY OF THE AGREEMENT TO THE SHERIFF. THE**
26 **SHERIFF WILL NOT CEASE ACTION UNLESS YOU PROVIDE A COPY OF THE**
27 **AGREEMENT. AT THE DIRECTION OF THE COURT THE SHERIFF MAY TAKE FURTHER**
28 **ACTION.**

29 **Sec. 9.** RCW 59.18.365 and 2008 c 75 s 1 are each amended to read
30 as follows:

31 (1) The summons must contain the names of the parties to the
32 proceeding, the attorney or attorneys if any, the court in which the
33 same is brought, the nature of the action, in concise terms, and the
34 relief sought, and also the return day; and must notify the defendant
35 to appear and answer within the time designated or that the relief
36 sought will be taken against him or her. The summons must contain a
37 street address for service of the notice of appearance or answer and,
38 if available, a facsimile number for the plaintiff or the plaintiff's

1 attorney, if represented. The summons must be served and returned in
2 the same manner as a summons in other actions is served and returned.

3 (2) A defendant may serve a copy of an answer or notice of
4 appearance by any of the following methods:

5 (a) By delivering a copy of the answer or notice of appearance to
6 the person who signed the summons at the street address listed on the
7 summons;

8 (b) By mailing a copy of the answer or notice of appearance
9 addressed to the person who signed the summons to the street address
10 listed on the summons;

11 (c) By facsimile to the facsimile number listed on the summons.
12 Service by facsimile is complete upon successful transmission to the
13 facsimile number listed upon the summons;

14 (d) As otherwise authorized by the superior court civil rules.

15 (3) The summons for unlawful detainer actions for tenancies
16 covered by this chapter shall be substantially in the following form:

17 IN THE SUPERIOR COURT OF THE
18 STATE OF WASHINGTON
19 IN AND
20 FOR COUNTY

21 Plaintiff/ } NO.
22 Landlord/ }
23 Owner, }
24 }

25
26
27
28
29 vs. EVICTION SUMMONS
30 (Residential)

31 Defendant/
32 Tenant/
33 Occupant.

34 THIS IS (~~(NOTICE OF A LAWSUIT)~~) AN IMPORTANT LEGAL DOCUMENT TO EVICT
35 YOU.

36 (~~(PLEASE READ IT CAREFULLY.~~
37 ~~THE DEADLINE FOR)~~) YOUR WRITTEN
38 RESPONSE (~~(IS)~~) MUST BE RECEIVED BY: 5:00 p.m., on

1 TO: (Defendant's Name)
2 (Defendant's Address)

3 (~~This is notice of a lawsuit to evict you from the property
4 which you are renting. Your landlord is asking the court to terminate
5 your tenancy, direct the sheriff to remove you and your belongings
6 from the property, enter a money judgment against you for unpaid rent
7 and/or damages for your use of the property, and for court costs and
8 attorneys' fees.~~

9 ~~If you want to defend yourself in this lawsuit, you must respond
10 to the eviction complaint in writing on or before the deadline stated
11 above. You must respond in writing even if no case number has been
12 assigned by the court yet.~~

13 ~~You can respond to the complaint in writing by delivering a copy
14 of a notice of appearance or answer to your landlord's attorney (or
15 your landlord if there is no attorney) by personal delivery, mailing,
16 or facsimile to the address or facsimile number stated below **TO BE
17 RECEIVED NO LATER THAN THE DEADLINE STATED ABOVE.** Service by
18 facsimile is complete upon successful transmission to the facsimile
19 number, if any, listed in the summons.~~

20 ~~The notice of appearance or answer must include the name of this
21 case (plaintiff(s) and defendant(s)), your name, the street address
22 where further legal papers may be sent, your telephone number (if
23 any), and your signature.~~

24 ~~If there is a number on the upper right side of the eviction
25 summons and complaint, you must also file your original notice of
26 appearance or answer with the court clerk by the deadline for your
27 written response.~~

28 ~~You may demand that the plaintiff file this lawsuit with the
29 court. If you do so, the demand must be in writing and must be served
30 upon the person signing the summons. Within fourteen days after you
31 serve the demand, the plaintiff must file this lawsuit with the
32 court, or the service on you of this summons and complaint will be
33 void.~~

34 ~~If you wish to seek the advice of an attorney in this matter, you
35 should do so promptly so that your written response, if any, may be
36 served on time.~~

37 ~~You may also be instructed in a separate order to appear for a
38 court hearing on your eviction. If you receive an order to show cause
39 you must personally appear at the hearing on the date indicated in~~

1 ~~the order to show cause **IN ADDITION** to delivering and filing your~~
2 ~~notice of appearance or answer by the deadline stated above.~~

3 ~~IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE~~
4 ~~DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD~~
5 ~~MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF~~
6 ~~THE PROPERTY.~~

7 ~~The notice of appearance or answer must be delivered to:~~

8

9 Name

10

11 Street Address

12

13 Telephone Number

14

15 Facsimile Number (Required
16 if Available))

17 **GET HELP: If you do not respond by . . . (date) . . ., you will**
18 **lose your right to defend yourself in court and could be evicted. If**
19 **you cannot afford a lawyer, you can get help at**
20 **WashingtonLawHelp.org. They have forms to help you respond. If you do**
21 **not have the internet at home, you can get on the internet at your**
22 **local library. You may also call 211. They can refer you to free or**
23 **low-cost legal help. They can help you find help paying for a lawyer.**

24 **HOW TO RESPOND: Phone calls to your landlord or your landlord's**
25 **lawyer are not a response. You may respond with a "notice of**
26 **appearance." This is a letter that includes the following:**

- 27 (1) A statement that you are appearing in the court case
- 28 (2) Names of the plaintiff(s) and the defendant(s) (as listed
29 above)
- 30 (3) Your name, your address where legal documents may be sent,
31 your signature, phone number (if any), and case number (if the case
32 is filed)

33 This case is / is not filed with the court. If this case is
34 filed, you need to also file your response with the court by
35 delivering a copy to the clerk of the court at:
36 (Clerk's Office/Address/Room number/Business hours of court clerk)

37 **WHERE TO RESPOND: You must mail, fax, or hand deliver your**
38 **response letter to your landlord's lawyer, or if no lawyer, to your**

1 landlord. If you mail it, you must do it by . . . (3 days before
2 deadline) Get a proof of mailing from the post office. If
3 you hand deliver or fax it, you must do it by . . . (date of
4 deadline) The address is:

5 (Attorney/Landlord Name)

6 (Address)

7 (Fax - required if available)

8 **COURT DATE:** If you respond to this Summons, You will be notified
9 of your hearing date in a document called an "Order to Show Cause."
10 This is usually mailed to you. If you get notice of a hearing, you
11 must go to the hearing. If you do not show up, your landlord can
12 evict you. Your landlord might also charge you more money. If you
13 move before the court date, you must tell your landlord or the
14 landlord's attorney.

15 **Sec. 10.** RCW 59.18.055 and 1997 c 86 s 1 are each amended to
16 read as follows:

17 (1) When the plaintiff, after the exercise of due diligence, is
18 unable to personally serve the summons on the defendant, the
19 ~~((court))~~ plaintiff may ~~((authorize))~~ use the alternative means of
20 service ~~((described herein. Upon filing of an affidavit from the~~
21 ~~person or persons attempting service describing those attempts, and~~
22 ~~the filing of an affidavit from the plaintiff, plaintiff's agent, or~~
23 ~~plaintiff's attorney stating the belief that the defendant cannot be~~
24 ~~found, the court may enter an order authorizing service of the~~
25 ~~summons))~~ as follows:

26 (a) The summons and complaint shall be posted in a conspicuous
27 place on the premises unlawfully held, not less than nine days from
28 the return date stated in the summons; and

29 (b) Copies of the summons and complaint shall be deposited in the
30 mail, postage prepaid, by both regular mail and certified mail
31 directed to the defendant's or defendants' last known address not
32 less than nine days from the return date stated in the summons.

33 (2) When service on the defendant or defendants is accomplished
34 by this alternative procedure, the court's jurisdiction is limited to
35 restoring possession of the premises to the plaintiff and no money
36 judgment may be entered against the defendant or defendants until
37 such time as jurisdiction over the defendant or defendants is
38 obtained.

1 ~~((2))~~ (3) Before the entry of any judgment or issuance of a
2 writ of restitution due to the defendant's failure to appear, the
3 plaintiff shall provide the court with an affidavit from the person
4 or persons attempting service that describes the service achieved, or
5 if by alternative service pursuant to this section, that describes
6 the efforts at personal service before alternative service was used,
7 together with an affidavit from the plaintiff, plaintiff's agent, or
8 plaintiff's attorney stating his or her belief that the defendant
9 cannot be found.

10 (4) This section shall apply to this chapter and chapter 59.20
11 RCW.

--- END ---

ENGROSSED SUBSTITUTE SENATE BILL 5600

State of Washington

66th Legislature

2019 Regular Session

By Senate Housing Stability & Affordability (originally sponsored by Senators Kuderer, Das, Nguyen, Frockt, Cleveland, Darneille, Saldaña, Hasegawa, Wilson, C., Conway, Randall, Wellman, Keiser, Hunt, Pedersen, and Lias)

READ FIRST TIME 02/19/19.

1 AN ACT Relating to residential tenant protections; amending RCW
2 59.12.030, 59.18.410, 59.18.390, 59.18.365, 59.18.290, 59.18.055,
3 43.31.605, and 43.31.615; reenacting and amending RCW 59.18.030;
4 adding new sections to chapter 59.18 RCW; creating a new section; and
5 prescribing penalties.

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

7 **Sec. 1.** RCW 59.12.030 and 1998 c 276 s 6 are each amended to
8 read as follows:

9 A tenant of real property for a term less than life is (~~guilty~~
10 ~~of~~) liable for unlawful detainer either:

11 (1) When he or she holds over or continues in possession, in
12 person or by subtenant, of the property or any part thereof after the
13 expiration of the term for which it is let to him or her. When real
14 property is leased for a specified term or period by express or
15 implied contract, whether written or oral, the tenancy shall be
16 terminated without notice at the expiration of the specified term or
17 period;

18 (2) When he or she, having leased property for an indefinite time
19 with monthly or other periodic rent reserved, continues in possession
20 thereof, in person or by subtenant, after the end of any such month
21 or period, when the landlord, more than twenty days prior to the end

1 of such month or period, has served notice (in manner in RCW
2 59.12.040 provided) requiring him or her to quit the premises at the
3 expiration of such month or period;

4 (3) When he or she continues in possession in person or by
5 subtenant after a default in the payment of rent, and after notice in
6 writing requiring in the alternative the payment of the rent or the
7 surrender of the detained premises, served (in manner in RCW
8 59.12.040 provided) in behalf of the person entitled to the rent upon
9 the person owing it, has remained uncomplied with for the period of
10 three days after service thereof, or for the period of fourteen days
11 after service for tenancies under chapter 59.18 RCW. The notice may
12 be served at any time after the rent becomes due. For the purposes of
13 this subsection and as applied to tenancies under chapter 59.18 RCW,
14 "rent" has the same meaning as defined in RCW 59.18.030;

15 (4) When he or she continues in possession in person or by
16 subtenant after a neglect or failure to keep or perform any (~~either~~)
17 condition or covenant of the lease or agreement under which the
18 property is held, including any covenant not to assign or sublet,
19 other than one for the payment of rent, and after notice in writing
20 requiring in the alternative the performance of such condition or
21 covenant or the surrender of the property, served (in manner in RCW
22 59.12.040 provided) upon him or her, and if there is a subtenant in
23 actual possession of the premises, also upon such subtenant, shall
24 remain uncomplied with for ten days after service thereof. Within ten
25 days after the service of such notice the tenant, or any subtenant in
26 actual occupation of the premises, or any mortgagee of the term, or
27 other person interested in its continuance, may perform such
28 condition or covenant and thereby save the lease from such
29 forfeiture. For the purposes of this subsection and as applied to
30 tenancies under chapter 59.18 RCW, "rent" has the same meaning as
31 defined in RCW 59.18.030;

32 (5) When he or she commits or permits waste upon the demised
33 premises, or when he or she sets up or carries on thereon any
34 unlawful business, or when he or she erects, suffers, permits, or
35 maintains on or about the premises any nuisance, and remains in
36 possession after the service (in manner in RCW 59.12.040 provided)
37 upon him or her of three days' notice to quit;

38 (6) A person who, without the permission of the owner and without
39 having color of title thereto, enters upon land of another and who
40 fails or refuses to remove therefrom after three days' notice, in

1 writing and served upon him or her in the manner provided in RCW
2 59.12.040. Such person may also be subject to the criminal provisions
3 of chapter 9A.52 RCW; or

4 (7) When he or she commits or permits any gang-related activity
5 at the premises as prohibited by RCW 59.18.130.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 59.18
7 RCW to read as follows:

8 Every fourteen-day notice served pursuant to RCW 59.12.030(3)
9 must be in substantially the following form:

10 **"FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES**

11 You are receiving the attached notice because the landlord
12 alleges you are not in compliance with the terms of the lease
13 agreement by failing to pay rent and/or utilities and/or recurring or
14 periodic charges that are past due.

15 (1) Monthly rent due for (list month(s)): \$ (dollar amount)

16 AND/OR

17 (2) Utilities due for (list month(s)): \$ (dollar amount)

18 AND/OR

19 (3) Other recurring or periodic charges identified in the lease
20 for (list month(s)): \$ (dollar amount)

21 TOTAL AMOUNT DUE: \$ (dollar amount)

22 Note - payment must be by cash, cashier's check, money order, or
23 certified funds.

24 You must pay the total amount due to your landlord within
25 fourteen (14) days after receipt of this notice or you must vacate
26 the premises. Any payment you make to the landlord must first be
27 applied to the total amount due as shown on this notice. Any failure
28 to comply with this notice within fourteen (14) days after receipt of
29 this notice may result in a judicial proceeding that leads to your
30 eviction from the premises.

31 The Washington state Attorney General's Office has this notice in
32 multiple languages on its website. You will also find information
33 there on how to find a lawyer or advocate at low or no cost and any
34 available resources to help pay your rent. Alternatively, call 2-1-1
35 to learn about these services.

36 State law provides you the right to receive interpreter services
37 at court.

38

1 OWNER/LANDLORD: _____ DATE: _____

2
3 **WHERE TOTAL AMOUNT DUE IS TO BE PAID: ___ (owner/landlord name) ___**
4 **_____ (address) _____ "**

5 NEW SECTION. **Sec. 3.** A new section is added to chapter 59.18
6 RCW to read as follows:

7 (1) The attorney general's office shall produce and maintain on
8 its web site translated versions of the notice under section 2 of
9 this act in the top ten languages spoken in Washington state and, at
10 the discretion of the attorney general's office, other languages. The
11 notice must be made available upon request in printed form on one
12 letter size paper, eight and one-half by eleven inches, and in an
13 easily readable font size.

14 (2) The attorney general's office shall also provide on its web
15 site information on where tenants can access legal or advocacy
16 resources, including information on any immigrant and cultural
17 organizations where tenants can receive assistance in their primary
18 language.

19 **Sec. 4.** RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and
20 amended to read as follows:

21 As used in this chapter:

22 (1) "Certificate of inspection" means an unsworn statement,
23 declaration, verification, or certificate made in accordance with the
24 requirements of RCW 9A.72.085 by a qualified inspector that states
25 that the landlord has not failed to fulfill any substantial
26 obligation imposed under RCW 59.18.060 that endangers or impairs the
27 health or safety of a tenant, including (a) structural members that
28 are of insufficient size or strength to carry imposed loads with
29 safety, (b) exposure of the occupants to the weather, (c) plumbing
30 and sanitation defects that directly expose the occupants to the risk
31 of illness or injury, (d) not providing facilities adequate to supply
32 heat and water and hot water as reasonably required by the tenant,
33 (e) providing heating or ventilation systems that are not functional
34 or are hazardous, (f) defective, hazardous, or missing electrical
35 wiring or electrical service, (g) defective or hazardous exits that

1 increase the risk of injury to occupants, and (h) conditions that
2 increase the risk of fire.

3 (2) "Commercially reasonable manner," with respect to a sale of a
4 deceased tenant's personal property, means a sale where every aspect
5 of the sale, including the method, manner, time, place, and other
6 terms, must be commercially reasonable. If commercially reasonable, a
7 landlord may sell the tenant's property by public or private
8 proceedings, by one or more contracts, as a unit or in parcels, and
9 at any time and place and on any terms.

10 (3) "Comprehensive reusable tenant screening report" means a
11 tenant screening report prepared by a consumer reporting agency at
12 the direction of and paid for by the prospective tenant and made
13 available directly to a prospective landlord at no charge, which
14 contains all of the following: (a) A consumer credit report prepared
15 by a consumer reporting agency within the past thirty days; (b) the
16 prospective tenant's criminal history; (c) the prospective tenant's
17 eviction history; (d) an employment verification; and (e) the
18 prospective tenant's address and rental history.

19 (4) "Criminal history" means a report containing or summarizing
20 (a) the prospective tenant's criminal convictions and pending cases,
21 the final disposition of which antedates the report by no more than
22 seven years, and (b) the results of a sex offender registry and
23 United States department of the treasury's office of foreign assets
24 control search, all based on at least seven years of address history
25 and alias information provided by the prospective tenant or available
26 in the consumer credit report.

27 (5) "Designated person" means a person designated by the tenant
28 under RCW 59.18.590.

29 (6) "Distressed home" has the same meaning as in RCW 61.34.020.

30 (7) "Distressed home conveyance" has the same meaning as in RCW
31 61.34.020.

32 (8) "Distressed home purchaser" has the same meaning as in RCW
33 61.34.020.

34 (9) "Dwelling unit" is a structure or that part of a structure
35 which is used as a home, residence, or sleeping place by one person
36 or by two or more persons maintaining a common household, including
37 but not limited to single-family residences and units of multiplexes,
38 apartment buildings, and mobile homes.

39 (10) "Eviction history" means a report containing or summarizing
40 the contents of any records of unlawful detainer actions concerning

1 the prospective tenant that are reportable in accordance with state
2 law, are lawful for landlords to consider, and are obtained after a
3 search based on at least seven years of address history and alias
4 information provided by the prospective tenant or available in the
5 consumer credit report.

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

10 (12) "Gang-related activity" means any activity that occurs
11 within the gang or advances a gang purpose.

12 (13) "In danger of foreclosure" means any of the following:

13 (a) The homeowner has defaulted on the mortgage and, under the
14 terms of the mortgage, the mortgagee has the right to accelerate full
15 payment of the mortgage and repossess, sell, or cause to be sold the
16 property;

17 (b) The homeowner is at least thirty days delinquent on any loan
18 that is secured by the property; or

19 (c) The homeowner has a good faith belief that he or she is
20 likely to default on the mortgage within the upcoming four months due
21 to a lack of funds, and the homeowner has reported this belief to:

22 (i) The mortgagee;

23 (ii) A person licensed or required to be licensed under chapter
24 19.134 RCW;

25 (iii) A person licensed or required to be licensed under chapter
26 19.146 RCW;

27 (iv) A person licensed or required to be licensed under chapter
28 18.85 RCW;

29 (v) An attorney-at-law;

30 (vi) A mortgage counselor or other credit counselor licensed or
31 certified by any federal, state, or local agency; or

32 (vii) Any other party to a distressed property conveyance.

33 (14) "Landlord" means the owner, lessor, or sublessor of the
34 dwelling unit or the property of which it is a part, and in addition
35 means any person designated as representative of the owner, lessor,
36 or sublessor including, but not limited to, an agent, a resident
37 manager, or a designated property manager.

38 (15) "Mortgage" is used in the general sense and includes all
39 instruments, including deeds of trust, that are used to secure an
40 obligation by an interest in real property.

1 (16) "Owner" means one or more persons, jointly or severally, in
2 whom is vested:

3 (a) All or any part of the legal title to property; or

4 (b) All or part of the beneficial ownership, and a right to
5 present use and enjoyment of the property.

6 (17) "Person" means an individual, group of individuals,
7 corporation, government, or governmental agency, business trust,
8 estate, trust, partnership, or association, two or more persons
9 having a joint or common interest, or any other legal or commercial
10 entity.

11 (18) "Premises" means a dwelling unit, appurtenances thereto,
12 grounds, and facilities held out for the use of tenants generally and
13 any other area or facility which is held out for use by the tenant.

14 (19) "Property" or "rental property" means all dwelling units on
15 a contiguous quantity of land managed by the same landlord as a
16 single, rental complex.

17 (20) "Prospective landlord" means a landlord or a person who
18 advertises, solicits, offers, or otherwise holds a dwelling unit out
19 as available for rent.

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

22 (22) "Qualified inspector" means a United States department of
23 housing and urban development certified inspector; a Washington state
24 licensed home inspector; an American society of home inspectors
25 certified inspector; a private inspector certified by the national
26 association of housing and redevelopment officials, the American
27 association of code enforcement, or other comparable professional
28 association as approved by the local municipality; a municipal code
29 enforcement officer; a Washington licensed structural engineer; or a
30 Washington licensed architect.

31 (23) "Reasonable attorneys' fees," where authorized in this
32 chapter, means an amount to be determined including the following
33 factors: The time and labor required, the novelty and difficulty of
34 the questions involved, the skill requisite to perform the legal
35 service properly, the fee customarily charged in the locality for
36 similar legal services, the amount involved and the results obtained,
37 and the experience, reputation and ability of the lawyer or lawyers
38 performing the services.

39 (24) "Reasonable manner," with respect to disposing of a deceased
40 tenant's personal property, means to dispose of the property by

1 donation to a not-for-profit charitable organization, by removal of
2 the property by a trash hauler or recycler, or by any other method
3 that is reasonable under the circumstances.

4 (25) "Rent" or "rental amount" means recurring and periodic
5 charges identified in the rental agreement for the use and occupancy
6 of the premises, which may include charges for utilities. These terms
7 do not include nonrecurring charges for costs incurred due to late
8 payment, damages, deposits, legal costs, or other fees, including
9 attorneys' fees.

10 (26) "Rental agreement" means all agreements which establish or
11 modify the terms, conditions, rules, regulations, or any other
12 provisions concerning the use and occupancy of a dwelling unit.

13 ((+26)) (27) A "single-family residence" is a structure
14 maintained and used as a single dwelling unit. Notwithstanding that a
15 dwelling unit shares one or more walls with another dwelling unit, it
16 shall be deemed a single-family residence if it has direct access to
17 a street and shares neither heating facilities nor hot water
18 equipment, nor any other essential facility or service, with any
19 other dwelling unit.

20 ((+27)) (28) A "tenant" is any person who is entitled to occupy
21 a dwelling unit primarily for living or dwelling purposes under a
22 rental agreement.

23 ((+28)) (29) "Tenant representative" means:

24 (a) A personal representative of a deceased tenant's estate if
25 known to the landlord;

26 (b) If the landlord has no knowledge that a personal
27 representative has been appointed for the deceased tenant's estate, a
28 person claiming to be a successor of the deceased tenant who has
29 provided the landlord with proof of death and an affidavit made by
30 the person that meets the requirements of RCW 11.62.010(2);

31 (c) In the absence of a personal representative under (a) of this
32 subsection or a person claiming to be a successor under (b) of this
33 subsection, a designated person; or

34 (d) In the absence of a personal representative under (a) of this
35 subsection, a person claiming to be a successor under (b) of this
36 subsection, or a designated person under (c) of this subsection, any
37 person who provides the landlord with reasonable evidence that he or
38 she is a successor of the deceased tenant as defined in RCW
39 11.62.005. The landlord has no obligation to identify all of the
40 deceased tenant's successors.

1 (~~(29)~~) (30) "Tenant screening" means using a consumer report or
2 other information about a prospective tenant in deciding whether to
3 make or accept an offer for residential rental property to or from a
4 prospective tenant.

5 (~~(30)~~) (31) "Tenant screening report" means a consumer report
6 as defined in RCW 19.182.010 and any other information collected by a
7 tenant screening service.

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.18
9 RCW to read as follows:

10 Under this chapter:

11 (1) A landlord must first apply any payment made by a tenant
12 toward rent before applying any payment toward late payments,
13 damages, legal costs, or other fees, including attorneys' fees.

14 (2) Except as provided in RCW 59.18.410, the tenant's right to
15 possession of the premises may not be conditioned on a tenant's
16 payment or satisfaction of any monetary amount other than rent.
17 However, this does not foreclose a landlord from pursuing other
18 lawful remedies to collect late payments, legal costs, or other fees,
19 including attorneys' fees.

20 **Sec. 6.** RCW 59.18.410 and 2011 c 132 s 20 are each amended to
21 read as follows:

22 (1) If upon the trial the verdict of the jury or, if the case be
23 tried without a jury, the finding of the court be in favor of the
24 (~~(plaintiff)~~) landlord and against the (~~(defendant)~~) tenant, judgment
25 shall be entered for the restitution of the premises; and if the
26 proceeding be for unlawful detainer after neglect or failure to
27 perform any condition or covenant of a lease or agreement under which
28 the property is held, or after default in the payment of rent, the
29 judgment shall also declare the forfeiture of the lease, agreement,
30 or tenancy. The jury, or the court, if the proceedings be tried
31 without a jury, shall also assess the damages arising out of the
32 tenancy occasioned to the (~~(plaintiff)~~) landlord by any forcible
33 entry, or by any forcible or unlawful detainer, alleged in the
34 complaint and proved on the trial, and, if the alleged unlawful
35 detainer be after default in the payment of rent, find the amount of
36 any rent due, and the judgment shall be rendered against the
37 (~~(defendant guilty of)~~) tenant liable for the forcible entry,
38 forcible detainer, or unlawful detainer for the amount of damages

1 thus assessed ~~((and))~~, for the rent, if any, found due, and late fees
2 if such fees are due under the lease and do not exceed seventy-five
3 dollars in total. In addition to the amount awarded under this
4 subsection, the court may award statutory costs and reasonable
5 ((attorney's)) attorneys' fees. However, the court shall not award
6 attorneys' fees when judgment is entered after default for failure to
7 appear, if the total amount of rent awarded in the judgment for rent
8 is equal to or less than two months of the tenant's monthly contract
9 rent or if the total amount of rent awarded in the judgment is less
10 than one thousand two hundred dollars. In all cases, if a tenant
11 seeks a stay pursuant to subsection (3) of this section after a
12 default in the payment of rent, the court may award attorneys' fees
13 only if the tenant prevails on the motion subject to the provisions
14 of subsection (3) of this section, in which case the attorneys' fees
15 may be included as a part of the tenant's right to reinstatement. No
16 attorneys' fees may be awarded against the tenant if the landlord
17 prevails at the hearing under subsection (3) of this section.

18 (2) When the ~~((proceeding))~~ tenant is liable for ~~((an))~~ unlawful
19 detainer after a default in the payment of rent, ~~((and the lease or~~
20 ~~agreement under which the rent is payable has not by its terms~~
21 ~~expired,))~~ execution upon the judgment shall not be issued until the
22 expiration of five court days after the entry of the judgment~~((~~
23 ~~within which))~~. Before such time, the tenant or any subtenant, or any
24 mortgagee of the term, or other party interested in the continuance
25 of the tenancy, may pay into court ~~((for))~~ or to the landlord the
26 amount of the ~~((judgment and costs, and thereupon the judgment shall~~
27 ~~be satisfied and the))~~ rent due, any court costs incurred at the time
28 of payment, late fees if such fees are due under the lease and do not
29 exceed seventy-five dollars in total, and attorneys' fees if awarded
30 under this section, in which event any judgment issued shall be
31 satisfied and the tenant shall be restored to his or her tenancy~~((~~
32 ~~but))~~. The tenant shall tender an additional fifty dollars for each
33 time the tenant was reinstated pursuant to this subsection or
34 subsection (3) of this section within the previous twelve months
35 prior to payment. If payment~~((, as herein provided, be))~~ of the
36 amount specified in this section is not made within five court days
37 after the judgment, the judgment may be enforced for its full amount
38 and for the possession of the premises.

39 (3) (a) Following the entry of a judgment in favor of the landlord
40 and against the tenant for the restitution of the premises and

1 forfeiture of the tenancy due to nonpayment of rent, the court, at
2 the time of the show cause hearing or trial, or upon subsequent
3 motion of the tenant but before the execution of the writ of
4 restitution, may stay or vacate the writ of restitution upon good
5 cause and on such terms that the court deems fair and just for both
6 parties. In making this decision, the court shall consider the
7 following factors:

8 (i) Evidence or lack of evidence of the tenant's willful or
9 intentional default or intentional failure to pay rent;

10 (ii) Evidence that nonpayment of the rent was caused by exigent
11 circumstances that were beyond the tenant's control and that are not
12 likely to recur;

13 (iii) The tenant's ability to timely pay the judgment;

14 (iv) The tenant's payment history;

15 (v) The tenant is otherwise in substantial compliance with the
16 rental agreement;

17 (vi) The relative burden on the parties resulting from
18 reinstatement or refusal to reinstate;

19 (vii) Conduct related to other notices served contemporaneously
20 with the notice to pay or vacate regardless of whether the other
21 notices were part of the court's judgment; and

22 (viii) Whether the landlord can obtain disbursement from the
23 landlord mitigation program as provided in RCW 43.31.605.

24 (b) The burden of proof for such relief under this subsection
25 shall be on the tenant. If the tenant seeks relief pursuant to this
26 subsection (3) at the time of the show cause hearing, the court shall
27 hear the matter at the time of the show cause hearing or as
28 expeditiously as possible as to avoid unnecessary delay or hardship
29 on the parties. The court may issue an order pursuant to this
30 subsection upon appropriate terms, which may include the payment or
31 severing of all or part of the monetary judgment. Any severing of the
32 judgment shall not preclude the landlord from pursuing other lawful
33 remedies to collect the remainder of the judgment.

34 (c) In any order issued pursuant to this subsection (3):

35 (i) The court shall not stay the writ more than three months from
36 the date of judgment, but may order repayment of the balance within
37 such time;

38 (ii) The court shall require the tenant to tender to the landlord
39 or deposit with the court one month's rent within five court days of
40 the order, before which the sheriff may serve the writ of restitution

1 upon the tenant for its execution in the event of default in the
2 payment of the amount stated in this subsection (3)(c)(ii); however,
3 the sheriff shall not execute upon the writ of restitution until
4 after expiration of five court days in order for payment to be made
5 pursuant to this subsection (3)(c)(ii).

6 (iii) In the event payment is timely made within (c)(ii) of this
7 subsection, the writ of restitution shall be stayed without further
8 order of the court in order for the tenant to make any remaining
9 payment pursuant to the court order; in the event of default in
10 payment by the tenant, the court shall require the sheriff to serve
11 the writ of restitution again upon the tenant before execution of the
12 writ of restitution or, in lieu of reservice of the writ by the
13 sheriff, require the landlord to serve a notice of default in
14 accordance with RCW 59.12.040 informing the tenant that he or she has
15 defaulted on the payment plan arranged by the court and has three
16 calendar days from the date of service to vacate the premises before
17 the sheriff may execute the writ of restitution. If the landlord
18 serves the notice of default described under this subsection
19 (3)(c)(iii), an additional day shall not be included in calculating
20 the time before the sheriff may execute the writ of restitution.

21 (iv) A tenant who seeks to satisfy a condition of this subsection
22 (3)(c) by relying on an emergency rental assistance program provided
23 by a government or nonprofit entity may stay the writ of restitution
24 upon sufficient documentation to readily pay any balance set forth by
25 the court order. The court shall stay the writ of restitution as
26 necessary to afford the tenant an opportunity to satisfy the
27 condition by the court.

28 (v) If payment to the court cannot be made due to the means of
29 payment by the tenant, the court may order payment to be made
30 directly to the landlord or landlord's agent.

31 (vi) The court shall extend the writ of restitution as necessary
32 to enforce the order in the event of default.

33 (d) A tenant who has been served with three or more notices to
34 pay or vacate for failure to pay rent as set forth in RCW 59.12.040
35 within twelve months prior to the notice to pay or vacate upon which
36 the proceeding is based may not seek relief under this subsection
37 (3).

38 (e)(i) If, at a hearing pursuant to this subsection (3), the
39 landlord indicates that he or she will submit an application to the
40 landlord mitigation program under RCW 43.31.605 in order to satisfy

1 the outstanding judgment, the court shall restore the tenancy. The
2 court shall then render an order sustaining the judgment for the
3 landlord, denying or vacating the writ of restitution, in order for
4 payment to be made to the landlord from the landlord mitigation
5 program, and indicating that the landlord is entitled to disbursement
6 from the landlord mitigation program for the amount entered within
7 the judgment subject to the availability of amounts appropriated for
8 this specific purpose. The monetary judgment entered pursuant to
9 subsection (1) of this section remains in effect pending disbursal
10 under this subsection (3)(e).

11 (ii) If the department of commerce fails to disburse payment to
12 the landlord for the judgment pursuant to this subsection (3)(e), the
13 landlord may renew an application for a writ of restitution pursuant
14 to RCW 59.18.370 and for other rent owed by the tenant since the time
15 of entry of the prior judgment. In such event, the tenant may
16 exercise rights afforded under this section.

17 (iii) Upon payment by the department of commerce to the landlord
18 for the amount of the judgment, the judgment is satisfied.

19 (4) In all other cases the judgment may be enforced immediately.
20 If writ of restitution shall have been executed prior to judgment no
21 further writ or execution for the premises shall be required.

22 (5) This section also applies if the writ of restitution is
23 issued pursuant to a final judgment entered after a show cause
24 hearing conducted in accordance with RCW 59.18.380.

25 **Sec. 7.** RCW 59.18.390 and 2011 c 132 s 19 are each amended to
26 read as follows:

27 (1) The sheriff shall, upon receiving the writ of restitution,
28 forthwith serve a copy thereof upon the ((defendant)) tenant, his or
29 her agent, or attorney, or a person in possession of the premises,
30 and shall not execute the same for three days thereafter(~~(, and the~~
31 ~~defendant, or person in possession of the premises within three days~~
32 ~~after the service of the writ of restitution may execute to the~~
33 ~~plaintiff a bond to be filed with and approved by the clerk of the~~
34 ~~court in such sum as may be fixed by the judge, with sufficient~~
35 ~~surety to be approved by the clerk of the court, conditioned that~~
36 ~~they will pay to the plaintiff such sum as the plaintiff may recover~~
37 ~~for the use and occupation of the premises, or any rent found due,~~
38 ~~together with all damages the plaintiff may sustain by reason of the~~
39 ~~defendant occupying or keeping possession of the premises, together~~

1 with all damages which the court theretofore has awarded to the
2 plaintiff as provided in this chapter, and also all the costs of the
3 action. If the writ of restitution was issued after alternative
4 service provided for in RCW 59.18.055, the court shall determine the
5 amount of the bond after considering the rent claimed and any other
6 factors the court deems relevant. The plaintiff, his or her agent or
7 attorneys, shall have notice of the time and place where the court or
8 judge thereof shall fix the amount of the defendant's bond, and shall
9 have notice and a reasonable opportunity to examine into the
10 qualification and sufficiency of the sureties upon the bond before
11 the bond shall be approved by the clerk). After the issuance of a
12 writ of restitution, acceptance of a payment by the landlord (~~or~~
13 ~~plaintiff~~) that only partially satisfies the judgment will not
14 invalidate the writ unless pursuant to a written agreement executed
15 by both parties. The eviction will not be postponed or stopped unless
16 a copy of that written agreement is provided to the sheriff. It is
17 the responsibility of the tenant (~~or defendant~~) to ensure a copy of
18 the agreement is provided to the sheriff. Upon receipt of the
19 agreement, the sheriff will cease action unless ordered to do
20 otherwise by the court. The writ of restitution and the notice that
21 accompanies the writ of restitution required under RCW 59.18.312
22 shall conspicuously state in bold face type, all capitals, not less
23 than twelve points information about partial payments as set forth in
24 subsection (2) of this section. If the writ of restitution has been
25 based upon a finding by the court that the tenant, subtenant,
26 sublessee, or a person residing at the rental premises has engaged in
27 drug-related activity or has allowed any other person to engage in
28 drug-related activity at those premises with his or her knowledge or
29 approval, neither the tenant (~~, the defendant,~~) nor a person in
30 possession of the premises shall be entitled to post a bond in order
31 to retain possession of the premises. The writ may be served by the
32 sheriff, in the event he or she shall be unable to find the
33 (~~defendant~~) tenant, an agent or attorney, or a person in possession
34 of the premises, by affixing a copy of the writ in a conspicuous
35 place upon the premises: PROVIDED, That the sheriff shall not require
36 any bond for the service or execution of the writ. The sheriff shall
37 be immune from all civil liability for serving and enforcing writs of
38 restitution unless the sheriff is grossly negligent in carrying out
39 his or her duty.

1 (2) The notice accompanying a writ of restitution required under
2 RCW 59.18.312 shall be substantially similar to the following:

3 **IMPORTANT NOTICE - PARTIAL PAYMENTS**

4 **YOUR LANDLORD'S ACCEPTANCE OF A PARTIAL PAYMENT FROM YOU AFTER**
5 **SERVICE OF THIS WRIT OF RESTITUTION WILL NOT AUTOMATICALLY POSTPONE**
6 **OR STOP YOUR EVICTION. IF YOU HAVE A WRITTEN AGREEMENT WITH YOUR**
7 **LANDLORD THAT THE EVICTION WILL BE POSTPONED OR STOPPED, IT IS YOUR**
8 **RESPONSIBILITY TO PROVIDE A COPY OF THE AGREEMENT TO THE SHERIFF. THE**
9 **SHERIFF WILL NOT CEASE ACTION UNLESS YOU PROVIDE A COPY OF THE**
10 **AGREEMENT. AT THE DIRECTION OF THE COURT THE SHERIFF MAY TAKE FURTHER**
11 **ACTION.**

12 **Sec. 8.** RCW 59.18.365 and 2008 c 75 s 1 are each amended to read
13 as follows:

14 (1) The summons must contain the names of the parties to the
15 proceeding, the attorney or attorneys if any, the court in which the
16 same is brought, the nature of the action, in concise terms, and the
17 relief sought, and also the return day; and must notify the defendant
18 to appear and answer within the time designated or that the relief
19 sought will be taken against him or her. The summons must contain a
20 street address for service of the notice of appearance or answer and,
21 if available, a facsimile number for the plaintiff or the plaintiff's
22 attorney, if represented. The summons must be served and returned in
23 the same manner as a summons in other actions is served and returned.

24 (2) A defendant may serve a copy of an answer or notice of
25 appearance by any of the following methods:

26 (a) By delivering a copy of the answer or notice of appearance to
27 the person who signed the summons at the street address listed on the
28 summons;

29 (b) By mailing a copy of the answer or notice of appearance
30 addressed to the person who signed the summons to the street address
31 listed on the summons;

32 (c) By facsimile to the facsimile number listed on the summons.
33 Service by facsimile is complete upon successful transmission to the
34 facsimile number listed upon the summons;

35 (d) As otherwise authorized by the superior court civil rules.

36 (3) The summons for unlawful detainer actions for tenancies
37 covered by this chapter shall be substantially in the following form:

38 IN THE SUPERIOR COURT OF THE

STATE OF WASHINGTON

IN AND

FOR COUNTY

Plaintiff/ } NO.
Landlord/ }
Owner, }
}

vs. EVICTION SUMMONS

(Residential)

Defendant/
Tenant/
Occupant.

THIS IS ((NOTICE OF A LAWSUIT)) AN IMPORTANT LEGAL DOCUMENT TO EVICT YOU.

((PLEASE READ IT CAREFULLY.

THE DEADLINE FOR)) YOUR **WRITTEN**

RESPONSE ((IS)) MUST BE RECEIVED BY: 5:00 p.m., on

TO: (Defendant's Name)

. (Defendant's Address)

~~((This is notice of a lawsuit to evict you from the property which you are renting. Your landlord is asking the court to terminate your tenancy, direct the sheriff to remove you and your belongings from the property, enter a money judgment against you for unpaid rent and/or damages for your use of the property, and for court costs and attorneys' fees.~~

~~If you want to defend yourself in this lawsuit, you must respond to the eviction complaint in writing on or before the deadline stated above. You must respond in writing even if no case number has been assigned by the court yet.~~

~~You can respond to the complaint in writing by delivering a copy of a notice of appearance or answer to your landlord's attorney (or your landlord if there is no attorney) by personal delivery, mailing, or facsimile to the address or facsimile number stated below **TO BE**~~

1 ~~RECEIVED NO LATER THAN THE DEADLINE STATED ABOVE.~~ Service by
2 facsimile is complete upon successful transmission to the facsimile
3 number, if any, listed in the summons.

4 The notice of appearance or answer must include the name of this
5 case (plaintiff(s) and defendant(s)), your name, the street address
6 where further legal papers may be sent, your telephone number (if
7 any), and your signature.

8 If there is a number on the upper right side of the eviction
9 summons and complaint, you must also file your original notice of
10 appearance or answer with the court clerk by the deadline for your
11 written response.

12 You may demand that the plaintiff file this lawsuit with the
13 court. If you do so, the demand must be in writing and must be served
14 upon the person signing the summons. Within fourteen days after you
15 serve the demand, the plaintiff must file this lawsuit with the
16 court, or the service on you of this summons and complaint will be
17 void.

18 If you wish to seek the advice of an attorney in this matter, you
19 should do so promptly so that your written response, if any, may be
20 served on time.

21 You may also be instructed in a separate order to appear for a
22 court hearing on your eviction. If you receive an order to show cause
23 you must personally appear at the hearing on the date indicated in
24 the order to show cause **IN ADDITION** to delivering and filing your
25 notice of appearance or answer by the deadline stated above.

26 IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE
27 DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD
28 MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF
29 THE PROPERTY.

30 The notice of appearance or answer must be delivered to:

31

32 Name

33

34 Street Address

35

36 Telephone Number

37

GET HELP: If you do not respond by . . . (date) . . . , you will lose your right to defend yourself in court and could be evicted. If you cannot afford a lawyer, you may call 2-1-1. They can refer you to free or low-cost legal help. They can help you find help to pay for a lawyer.

HOW TO RESPOND: Phone calls to your Landlord or your Landlord's lawyer are not a response. You may respond with a "notice of appearance." This is a letter that includes the following:

- (1) A statement that you are appearing in the court case
- (2) Names of the landlord(s) and the tenant(s) (as listed above)
- (3) Your name, your address where legal documents may be sent, your signature, phone number (if any), and case number (if the case is filed)

This case is / is not filed with the court. If this case is filed, you need to also file your response with the court by delivering a copy to the clerk of the court at: (Clerk's Office/Address/Room number/Business hours of court clerk)

WHERE TO RESPOND: You must mail, fax, or hand deliver your response letter to your Landlord's lawyer, or if no lawyer is named in the complaint, to your Landlord. If you mail the response letter, you must do it by . . . (3 days before deadline) Get a proof of mailing from the post office. If you hand deliver or fax it, you must do it by . . . (date of deadline) The address is:

- (Attorney/Landlord Name)
- (Address)
- (Fax - required if available)

COURT DATE: If you respond to this Summons, you will be notified of your hearing date in a document called an "Order to Show Cause." This is usually mailed to you. If you get notice of a hearing, **you must go to the hearing.** If you do not show up, your landlord can evict you. Your landlord might also charge you more money. If you move before the court date, you must tell your landlord or the landlord's attorney.

Sec. 9. RCW 59.18.290 and 2010 c 8 s 19028 are each amended to read as follows:

1 (1) It (~~shall be~~) is unlawful for the landlord to remove or
2 exclude from the premises the tenant thereof except under a court
3 order so authorizing. Any tenant so removed or excluded in violation
4 of this section may recover possession of the property or terminate
5 the rental agreement and, in either case, may recover the actual
6 damages sustained. The prevailing party may recover the costs of suit
7 or arbitration and reasonable (~~attorney's~~) attorneys' fees.

8 (2) It (~~shall be~~) is unlawful for the tenant to hold over in
9 the premises or exclude the landlord therefrom after the termination
10 of the rental agreement except under a valid court order so
11 authorizing. Subject to RCW 59.18.410, any landlord so deprived of
12 possession of premises in violation of this section may recover
13 possession of the property and damages sustained by him or her, and
14 the prevailing party may recover his or her costs of suit or
15 arbitration and reasonable (~~attorney's~~) attorneys' fees.

16 **Sec. 10.** RCW 59.18.055 and 1997 c 86 s 1 are each amended to
17 read as follows:

18 (1) When the (~~plaintiff~~) landlord, after the exercise of due
19 diligence, is unable to personally serve the summons on the
20 (~~defendant~~) tenant, the (~~court~~) landlord may (~~authorize~~) use
21 the alternative means of service (~~described herein. Upon filing of~~
22 ~~an affidavit from the person or persons attempting service describing~~
23 ~~those attempts, and the filing of an affidavit from the plaintiff,~~
24 ~~plaintiff's agent, or plaintiff's attorney stating the belief that~~
25 ~~the defendant cannot be found, the court may enter an order~~
26 ~~authorizing service of the summons~~) as follows:

27 (a) The summons and complaint shall be posted in a conspicuous
28 place on the premises unlawfully held, not less than nine days from
29 the return date stated in the summons; and

30 (b) Copies of the summons and complaint shall be deposited in the
31 mail, postage prepaid, by both regular mail and certified mail
32 directed to the (~~defendant's~~) tenant's or (~~defendants'~~) tenants'
33 last known address not less than nine days from the return date
34 stated in the summons.

35 (2) When service on the (~~defendant~~) tenant or (~~defendants~~)
36 tenants is accomplished by this alternative procedure, the court's
37 jurisdiction is limited to restoring possession of the premises to
38 the (~~plaintiff~~) landlord and no money judgment may be entered
39 against the (~~defendant~~) tenant or (~~defendants~~) tenants until such

1 time as jurisdiction over the (~~(defendant)~~) tenant or (~~(defendants)~~)
2 tenants is obtained.

3 (~~((2))~~) (3) Before the entry of any judgment or issuance of a
4 writ of restitution due to the tenant's failure to appear, the
5 landlord shall provide the court with an affidavit from the person or
6 persons attempting service that describes the service achieved, or if
7 by alternative service pursuant to this section, that describes the
8 efforts at personal service before alternative service was used and
9 an affidavit from the landlord, landlord's agent, or landlord's
10 attorney stating his or her belief that the tenant cannot be found.

11 (4) For the purposes of subsection (1) of this section, the
12 exercise of due diligence is met if the landlord attempts personal
13 service on the tenant at least three times over not less than two
14 days and at different times of the day.

15 (5) This section shall apply to this chapter and chapter 59.20
16 RCW.

17 **Sec. 11.** RCW 43.31.605 and 2018 c 66 s 2 are each amended to
18 read as follows:

19 (1) (a) Subject to the availability of funds for this purpose, the
20 landlord mitigation program is created and administered by the
21 department. The department shall have such rule-making authority as
22 the department deems necessary to administer the program.

23 (b) The following types of claims related to landlord mitigation
24 for renting private market rental units to low-income tenants using a
25 housing subsidy program are eligible for reimbursement from the
26 landlord mitigation program account:

27 (~~((a))~~) (i) Up to one thousand dollars for improvements
28 identified in RCW 59.18.255(1)(a). In order to be eligible for
29 reimbursement under this subsection (1) (~~((a))~~) (b)(i), the landlord
30 must pay for the first five hundred dollars for improvements, and
31 rent to the tenant whose housing subsidy program was conditioned on
32 the real property passing inspection. Reimbursement under this
33 subsection (1) (~~((a))~~) (b)(i) may also include up to fourteen days of
34 lost rental income from the date of offer of housing to the applicant
35 whose housing subsidy program was conditioned on the real property
36 passing inspection until move in by that applicant;

37 (~~((b))~~) (ii) Reimbursement for damages as reflected in a judgment
38 obtained against the tenant through either an unlawful detainer

1 proceeding, or through a civil action in a court of competent
2 jurisdiction after a hearing;

3 ~~((e))~~ (iii) Reimbursement for damages established pursuant to
4 subsection (2) of this section; and

5 ~~((d))~~ (iv) Reimbursement for unpaid rent and unpaid utilities,
6 provided that the landlord can evidence it to the department's
7 satisfaction.

8 (c) Claims related to landlord mitigation for an unpaid judgment
9 for rent, late fees, attorneys' fees, and costs after a court order
10 pursuant to RCW 59.18.410(3) are eligible for reimbursement from the
11 landlord mitigation program account. Claims under this subsection are
12 not subject to subsection (4) of this section.

13 (2) In order for a claim under subsection (1)~~((e))~~ (b)(iii) of
14 this section to be eligible for reimbursement from the landlord
15 mitigation program account, a landlord must:

16 (a) Have ensured that the rental property was inspected at the
17 commencement of the tenancy by both the tenant and the landlord or
18 landlord's agent and that a detailed written move-in property
19 inspection report, as required in RCW 59.18.260, was prepared and
20 signed by both the tenant and the landlord or landlord's agent;

21 (b) Make repairs and then apply for reimbursement to the
22 department;

23 (c) Submit a claim on a form to be determined by the department,
24 signed under penalty of perjury; and

25 (d) Submit to the department copies of the move-in property
26 inspection report specified in (a) of this subsection and supporting
27 materials including, but not limited to, before repair and after
28 repair photographs, videos, copies of repair receipts for labor and
29 materials, and such other documentation or information as the
30 department may request.

31 (3) The department shall make reasonable efforts to review a
32 claim within ten business days from the date it received properly
33 submitted and complete claims to the satisfaction of the department.
34 In reviewing a claim, and determining eligibility for reimbursement,
35 the department must receive documentation, acceptable to the
36 department in its sole discretion, that the claim involves a private
37 market rental unit rented to a low-income tenant who is using a
38 housing subsidy program.

39 (4) Claims related to a tenancy must total at least five hundred
40 dollars in order for a claim to be eligible for reimbursement from

1 the program. While claims or damages may exceed five thousand
2 dollars, total reimbursement from the program may not exceed five
3 thousand dollars per tenancy.

4 (5) Damages, beyond wear and tear, that are eligible for
5 reimbursement include, but are not limited to: Interior wall gouges
6 and holes; damage to doors and cabinets, including hardware; carpet
7 stains or burns; cracked tiles or hard surfaces; broken windows;
8 damage to household fixtures such as disposal, toilet, sink, sink
9 handle, ceiling fan, and lighting. Other property damages beyond
10 normal wear and tear may also be eligible for reimbursement at the
11 department's discretion.

12 (6) All reimbursements for eligible claims shall be made on a
13 first-come, first-served basis, to the extent of available funds. The
14 department shall use best efforts to notify the tenant of the amount
15 and the reasons for any reimbursements made.

16 (7) The department, in its sole discretion, may inspect the
17 property and the landlord's records related to a claim, including the
18 use of a third-party inspector as needed to investigate fraud, to
19 assist in making its claim review and determination of eligibility.

20 (8) A landlord in receipt of reimbursement from the program is
21 prohibited from:

22 (a) Taking legal action against the tenant for damages
23 attributable to the same tenancy; or

24 (b) Pursuing collection, or authorizing another entity to pursue
25 collection on the landlord's behalf, of a judgment against the tenant
26 for damages attributable to the same tenancy.

27 (9) A landlord denied reimbursement under subsection (1)(~~(e)~~)
28 (b)(iii) of this section may seek to obtain a judgment from a court
29 of competent jurisdiction and, if successful, may resubmit a claim
30 for damages supported by the judgment, along with a certified copy of
31 the judgment. The department may reimburse the landlord for that
32 portion of such judgment that is based on damages reimbursable under
33 the landlord mitigation program, subject to the limitations set forth
34 in this section.

35 (10) Determinations regarding reimbursements shall be made by the
36 department in its sole discretion.

37 (11) The department must establish a web site that advertises the
38 landlord mitigation program, the availability of reimbursement from
39 the landlord mitigation program account, and maintains or links to
40 the agency rules and policies established pursuant to this section.

1 (12) Neither the state, the department, or persons acting on
2 behalf of the department, while acting within the scope of their
3 employment or agency, is liable to any person for any loss, damage,
4 harm, or other consequence resulting directly or indirectly from the
5 department's administration of the landlord mitigation program or
6 determinations under this section.

7 (13)(a) A report to the appropriate committees of the legislature
8 on the effectiveness of the program and recommended modifications
9 shall be submitted to the governor and the appropriate committees of
10 the legislature by January 1, 2021. In preparing the report, the
11 department shall convene and solicit input from a group of
12 stakeholders to include representatives of large multifamily housing
13 property owners or managers, small rental housing owners in both
14 rural and urban markets, a representative of tenant advocates, and a
15 representative of the housing authorities.

16 (b) The report shall include discussion of the effectiveness of
17 the program as well as the department's recommendations to improve
18 the program, and shall include the following:

19 (i) The number of total claims and total amount reimbursed to
20 landlords by the fund;

21 (ii) Any indices of fraud identified by the department;

22 (iii) Any reports by the department regarding inspections
23 authorized by and conducted on behalf of the department;

24 (iv) An outline of the process to obtain reimbursement for
25 improvements and for damages from the fund;

26 (v) An outline of the process to obtain reimbursement for lost
27 rent due to the rental inspection and tenant screening process,
28 together with the total amount reimbursed for such damages;

29 (vi) An evaluation of the feasibility for expanding the use of
30 the mitigation fund to provide up to ninety-day no interest loans to
31 landlords who have not received timely rental payments from a housing
32 authority that is administering section 8 rental assistance;

33 (vii) Any other modifications and recommendations made by
34 stakeholders to improve the effectiveness and applicability of the
35 program.

36 (14) When a landlord has been reimbursed pursuant to subsection
37 (1)(c) of this section, the tenant shall have three months from the
38 date that judgment is entered under RCW 59.18.410(3)(e) to reimburse
39 the department by depositing the amount disbursed from the landlord
40 mitigation program account into the court registry of the local

1 superior court. The local superior court shall then forward such
2 funds to the department. The tenant or other interested party may
3 seek an ex parte order of the court under the unlawful detainer
4 action to order such funds to be disbursed by the court. The court
5 clerk shall include a case number with any payment issued to the
6 department.

7 (15) As used in this section:

8 (a) "Housing subsidy program" means a housing voucher as
9 established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other
10 housing subsidy program including, but not limited to, valid short-
11 term or long-term federal, state, or local government, private
12 nonprofit, or other assistance program in which the tenant's rent is
13 paid either partially by the program and partially by the tenant, or
14 completely by the program directly to the landlord;

15 (b) "Low-income" means income that does not exceed eighty percent
16 of the median income for the standard metropolitan statistical area
17 in which the private market rental unit is located; and

18 (c) "Private market rental unit" means any unit available for
19 rent that is owned by an individual, corporation, limited liability
20 company, nonprofit housing provider, or other entity structure, but
21 does not include housing acquired, or constructed by a public housing
22 agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018.

23 **Sec. 12.** RCW 43.31.615 and 2018 c 66 s 3 are each amended to
24 read as follows:

25 (1) The landlord mitigation program account is created in the
26 custody of the state treasury. All transfers and appropriations by
27 the legislature, repayments, private contributions, and all other
28 sources must be deposited into the account. Expenditures from the
29 account may only be used for the landlord mitigation program under
30 this chapter to reimburse landlords for eligible claims related to
31 private market rental units during the time of their rental to low-
32 income tenants using housing subsidy programs as defined in RCW
33 43.31.605, for any unpaid judgment issued within an unlawful detainer
34 action under chapter 59.18 RCW, and for the administrative costs
35 identified in subsection (2) of this section. Only the director or
36 the director's designee may authorize expenditures from the account.
37 The account is subject to allotment procedures under chapter 43.88
38 RCW, but an appropriation is not required for expenditures.

1 (2) Administrative costs associated with application,
2 distribution, and other program activities of the department may not
3 exceed (~~ten~~) twenty percent of the annual funds available for the
4 landlord mitigation program. Reappropriations must not be included in
5 the calculation of the annual funds available for determining the
6 administrative costs.

7 NEW SECTION. **Sec. 13.** If specific funding for the purposes of
8 this act, referencing this act by bill or chapter number, is not
9 provided by June 30, 2019, in the capital or operating omnibus
10 appropriations acts, this act is null and void.

--- END ---

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CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE ...

..body

WHEREAS, ...; and

WHEREAS, ...; and

WHEREAS, ...; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 7.24.020 of the Seattle Municipal Code, last amended by Ordinance 125558, is amended as follows:

As used in this Chapter 7.24:

"Department" means the Seattle Department of Construction and Inspections or its successor.

"Domestic violence" means (a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; (b) sexual assault of one family or household member by another; or (c) stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member.

"Director" means the Director of the Seattle Department of Construction and Inspections or the Director's designee.

"Family or household members" means spouses, domestic partners, former spouses, former domestic partners, persons who have a child in common regardless of whether they have been married or have lived together at any time, adult persons related by blood or marriage, adult persons who are presently residing together or who have resided together in the past, persons 16

1 years of age or older who are presently residing together or who have resided together in the past
2 and who have or have had a dating relationship, persons 16 years of age or older with whom a
3 person 16 years of age or older has or has had a dating relationship, and persons who have a
4 biological or legal parent-child relationship, including stepparents and stepchildren and
5 grandparents and grandchildren.

6 "Hearing Examiner" means the official appointed by the Council and designated as the
7 Hearing Examiner, or that person's designee (Deputy Hearing Examiner, Hearing Examiner Pro
8 Tem, etc.).

9 "Housing costs" means the compensation or fees paid or charged, usually periodically,
10 for the use of any property. land, buildings, or equipment. For purposes of this chapter, housing
11 costs include the basic rent charge and any periodic or monthly fees for other services paid to the
12 landlord by the tenant, but do not include utility charges that are based on usage and that the
13 tenant has agreed in the rental agreement to pay, unless the obligation to pay those charges is
14 itself a change in the terms of the rental agreement.

15 "Landlord" means the owner, lessor, or sublessor of the dwelling unit or the property of
16 which it is a part, and in addition means any person designated as representative of the owner,
17 lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated
18 property manager."

19 "Last month's rent" means money that is paid as rent for the last month of a residential
20 tenancy and that is paid at the inception of the tenancy or in installments as authorized by
21 Section 7.24.036.

22 "Month-to-month tenancy" means a residential tenancy of an indefinite period with
23 monthly or other periodic rent reserved.

Attachment C - Draft legislation re domestic violence and damages

Asha Venkataraman
LEG DV Damages ORD
D1

1 "Non-refundable move-in fees" means non-refundable fees paid by a tenant to reimburse
2 a landlord for the cost of obtaining a tenant screening report, criminal background check, or
3 credit report or to pay for cleaning of the dwelling unit upon termination of the tenancy, but does
4 not include payment of a reservation fee authorized by RCW 59.18.253(2).

5 "Parking fee" means a periodic fee charged for the privilege of parking a motorized
6 vehicle.

7 "Person" means any individual, firm, corporation, association, governmental entity, or
8 partnership and its agents or assigns.

9 "Pet damage deposit" means money that is paid by the tenant to the landlord at any time
10 as security to pay for damage to the landlord's property that is caused by a pet for which the
11 tenant is responsible.

12 "Qualified third party" means any of the following people acting in their official capacity:

13 1. Law enforcement officers;

14 2. Persons subject to the provisions of chapter 18.120 RCW;

15 3. Employees of a court of the state;

16 4. Licensed mental health professionals or other licensed counselors;

17 5. Employees of crime victim/witness programs as defined in RCW 7.69.020 who
18 are trained advocates for the program; and

19 6. Members of the clergy as defined in RCW 26.44.020.

20 "Rental agreement" means a "rental agreement" as defined in and within the scope of
21 RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is
22 executed. At the time of the passage of the ordinance codified in this chapter, the RLTA defined

1 "rental agreement" as "all agreements which establish or modify the terms, conditions, rules,
2 regulations, or any other provisions concerning the use and occupancy of a dwelling unit."

3 "Rental housing bidding platform" or "platform" means a person that connects potential
4 tenants and landlords via an application based or online platform to facilitate rental housing
5 auctions wherein potential tenants submit competing bids on certain lease provisions including
6 but not limited to housing costs and lease term, to landlords for approval or denial. Merely
7 publishing a rental housing advertisement does not make a person a rental housing bidding
8 platform. This definition shall expire on the date Section 7.24.090 expires.

9 "Security deposit" means any payment, fee, charge, or deposit of money paid to the
10 landlord by the tenant at the beginning of the tenancy as a deposit and security for performance
11 of the tenant's obligations in a written rental agreement, but does not include payment of a
12 reservation fee authorized by RCW 59.18.253(2) or a payment to assure the payment of rent,
13 provided that a security deposit may be applied to rent as provided in Section 7.24.030. Security
14 deposits include payments, charges, or deposits for the purpose of:

15 1. Repairing damage to the premises, exclusive of ordinary wear and tear, caused by the
16 tenant, or by a guest or licensee of the tenant, except for damage caused by a perpetrator of
17 domestic violence against the tenant or a family or household member as described in SMC

18 7.24.030.I.

19 2. Compensating the landlord for the tenant's breach of the tenant's duties prescribed in
20 the rental agreement to restore, replace, or return personal property or appurtenances.

21 3. Compensating the landlord for the tenant's failure to return keys to the premises,
22 except that a landlord shall not retain any portion of the deposit for keys for lock mechanisms
23 that must be changed upon a change of tenancy pursuant to subsection 22.206.140.A.7.

Attachment C - Draft legislation re domestic violence and damages

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1 "Tenant" means a "tenant" as defined in and within the scope of RCW 59.18.030 and
2 RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed. At the time
3 of passage of the ordinance codified in this chapter, the RLTA defined "tenant" as "any person
4 who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental
5 agreement."

6 Section 2. Section 7.24.030 of the Seattle Municipal Code, last amended by Ordinance
7 125558, is amended as follows:

8 * * *

9 I. 1. A landlord may not hold a tenant liable for damages caused by a perpetrator of
10 domestic violence against the tenant or a household member if:

11 a. The tenant notifies the landlord in writing that the tenant or household
12 member was a victim of an act that constitutes domestic violence; and

13 b. The tenant or the household member provides to the landlord either:

14 1) a copy of a valid order of protection under one or more of the
15 following: RCW Chapter 7.90, 26.50, 26.26 or RCW 9A.46.040, 9A.46.050, 10.14.080,
16 10.99.040 (2) or (3), or 26.09.050 if the damages occurred while the protection order was in
17 effect; or

18 2) a written record of the report of the act constituting domestic
19 violence that caused damages signed by a qualified third party acting in an official capacity. The
20 written record of the report that is provided to the tenant or household member shall consist of a
21 document signed and dated by the qualified third party stating: a) That the tenant or the
22 household member notified the qualified third party that the tenant or household member was a
23 victim of domestic violence; b) the time and date the act or acts occurred; c) the location where

Attachment C - Draft legislation re domestic violence and damages

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LEG DV Damages ORD
D1

1 the act or acts occurred; d) a brief description of the act or acts of domestic violence; and e) that
2 the tenant or household member informed the qualified third party of the name of the alleged
3 perpetrator of the act or acts.

4 2. A tenant must provide to the landlord the materials described in I.1 within 90
5 days of the act, event, or circumstance giving rise to the damages.

6 Section 3. Section 22.206.170 of the Seattle Municipal Code, last amended by Ordinance
7 125343, is amended as follows:

8 It shall be the duty of every tenant to:

9 A. Maintain in a clean and sanitary condition the part or parts of the building and the
10 premises occupied or controlled by the tenant;

11 B. Store and dispose of all garbage and rubbish in a clean, sanitary, and safe manner in
12 garbage cans or other approved containers provided by the owner;

13 C. Comply with reasonable requests of the owner for the prevention or elimination of
14 infestation, including granting reasonable access for extermination or preventive measures by the
15 owner;

16 D. Exercise reasonable care in the use and operation of electrical and plumbing fixtures
17 and maintain all sanitary facilities, fixtures, and equipment in a clean and sanitary condition;

18 E. Within a reasonable time, repair or pay for the reasonable cost of repair of all damage
19 to the building caused by the negligent or intentional act of the tenant or the invitees or licensees
20 of the tenant, except for damage caused by a perpetrator of domestic violence against the tenant
21 or family or household member as defined and described in SMC 7.24.030.I.;

Attachment C - Draft legislation re domestic violence and damages

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1 F. Grant reasonable access to the owner of the building for the purpose of inspection by
2 the Director, or maintenance or repairs by the owner in the performance of any duty imposed on
3 the owner by this Code;

4 G. Refrain from placing or storing in the building or on the premises thereof any article,
5 substance, or material imminently dangerous to the health, safety, or general welfare of any
6 occupant thereof or of the public, or which may substantially contribute to or cause deterioration
7 of the building; and

8 H. Test according to the manufacturer's recommendations and keep in good working
9 condition, including replacing batteries if needed, all smoke detectors and carbon monoxide
10 alarms in the dwelling unit required by law.

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Attachment C - Draft legislation re domestic violence and damages

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1 Section 4. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2019,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2019.

7 _____
8 President _____ of the City Council

9 Approved by me this _____ day of _____, 2019.

10 _____
11 Jenny A. Durkan, Mayor

12 Filed by me this _____ day of _____, 2019.

13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)