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**HOUSE BILL 2804**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Macri and Pollet

AN ACT Relating to residential tenant protections; amending RCW 59.18.040, 59.18.220, 59.18.410, 59.18.290, and 61.24.060; reenacting and amending RCW 59.18.030; adding a new section to chapter 59.18 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) There is a housing crisis in Washington state that is worsened by the absence of a state law prohibiting a landlord from evicting a tenant without just cause.

(b) The state's prolonged affordable housing crisis disproportionately impacts low-income and working class persons and families, people of color, women, immigrants, seniors, and the LGBTQ community. These communities are disproportionately impacted by no cause eviction and displacement, creating residential segregation in our communities.

(c) Renters, who constitute a large percentage of the residents of Washington, suffer great and serious hardship when forced to move from their homes. No cause evictions have a negative, destabilizing impact on the peace, health, and safety of renters and their families.

(d) Studies have shown that women, especially women of color, are disproportionately impacted by evictions. The presence of children in a household increases the likelihood of eviction, even though discrimination based on family status is illegal under federal law. Without just cause eviction protection, preventing discriminatory eviction practices is impossible.

(e) Renters deserve access to safe and healthy housing, but many renters in our state live in substandard rentals. Just cause eviction protection allows renters to raise concerns with the habitability of a rental without the fear of retaliation in the form of a no cause eviction.

(f) Displacement through eviction uproots children from schools, disrupting the social ties and networks that are integral to residents' welfare and the stability of communities within Washington. Studies have shown students who have moved multiple times are more likely to have poorer grades in reading and math, as well as have a higher risk of dropping out of school, thus impacting the state's economy.

(g) Displacement through eviction creates undue hardship for renters with low incomes through additional relocation costs, stress and anxiety, and the threat of homelessness due to the lack of alternative housing.

(h) Basic fairness requires that a landlord must not terminate the tenancy of a residential tenant without good, just, nonarbitrary, nondiscriminatory reasons.

(2) The legislature further finds that the just cause eviction protections enacted in other states such as New Jersey and New Hampshire have aided community stability and reduced problems associated with arbitrary disruption of stable households.

(3) The legislature, therefore, concludes that the general welfare of all residents of Washington would be enhanced if no cause evictions were prohibited, and declares its intention to create long-term housing stability among all renters in Washington through just cause eviction protections.

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

As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The mortgagee;

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

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

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

(v) An attorney-at-law;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(25) "Rent" means consideration for use and occupancy of the premises; rent does not include charges for costs incurred due to late payment, legal costs, or other fees.

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

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

((~~(27)~~)) (28) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement and any occupant who has coresided with the tenant for six months or more prior to the tenant vacating the property.

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

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

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

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

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

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

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

**Sec.**  RCW 59.18.040 and 1989 c 342 s 3 are each amended to read as follows:

The following living arrangements are not intended to be governed by the provisions of this chapter, unless established primarily to avoid its application, in which event the provisions of this chapter shall control:

(1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, religious, educational, recreational, or similar services, including but not limited to correctional facilities, licensed nursing homes, monasteries and convents, and hospitals;

(2) Occupancy under a bona fide earnest money agreement to purchase or contract of sale of the dwelling unit or the property of which it is a part, where the tenant is, or stands in the place of, the purchaser;

(3) Residence in a hotel, motel, or other transient lodging whose operation is defined in RCW 19.48.010;

(4) Rental agreements entered into pursuant to the provisions of chapter 47.12 RCW where occupancy is by an owner-condemnee and where such agreement does not violate the public policy of this state of ensuring decent, safe, and sanitary housing and is so certified by the consumer protection division of the attorney general's office;

(5) Rental agreements for the use of any single-family residence which are incidental to leases or rentals entered into in connection with a lease of land to be used primarily for agricultural purposes;

(6) ((~~Rental agreements providing housing for seasonal agricultural employees while provided in conjunction with such employment;~~

~~(7)~~)) Rental agreements with the state of Washington, department of natural resources, on public lands governed by Title 79 RCW((~~;~~

~~(8) Occupancy by an employee of a landlord whose right to occupy is conditioned upon employment in or about the premises~~)).

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

(1) A landlord may not evict tenants subject to this chapter without a court order, which can be issued by a court only after the tenant has an opportunity at a show cause hearing to contest the eviction pursuant to RCW 59.18.380. A landlord shall not evict or attempt to evict any tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant unless the landlord proves in court that just cause exists. In any action brought under this chapter, the landlord must plead with particularity any applicable regulations pertaining to the tenancy. The reasons for termination of tenancy listed in this subsection, and no others, constitute just cause under this chapter:

(a) The tenant continues in possession in person or by subtenant after a default in the payment of rent, and after notice in writing requiring, in the alternative, the payment of the rent or the surrender of the detained premises, served in a manner consistent with RCW 59.12.040 on behalf of the person entitled to the rent upon the person owing it, has remained uncomplied with for the period of fourteen days after service thereof, provided the property is in compliance with local housing standards. The notice may be served at any time after the rent becomes due;

(b) The tenant continues, after fourteen days' written notice to cease served in the manner prescribed within RCW 59.12.040, to substantially violate a material term subscribed to the tenant within the original lease agreement other than one for monetary damages. Within fourteen days after the service of such notice the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform such condition and thereby save the lease from such forfeiture. It is unlawful for a landlord to restrict occupancy of residential premises, by express lease terms or otherwise, to a tenant or tenants or to such tenants and immediate family. Any such violation does not constitute good cause. Any lease or rental agreement for residential premises entered into by one tenant is construed to permit occupancy by the tenant, immediate family of the tenant, one additional occupant, and dependent children of the occupant provided that the tenant or the tenant's spouse occupies the premises as his or her primary residence. Any lease or rental agreement for residential premises entered into by two or more tenants is construed to permit occupancy by tenants, immediate family of tenants, occupants, and dependent children of occupants;  provided that the total number of tenants and occupants, excluding occupants' dependent children, does not exceed the number of tenants specified in the current lease or rental agreement, and that at least one tenant or a tenants' spouse occupies the premises as his or her primary residence. Nothing in this section is construed as invalidating or impairing the operation of, or the right of, a landlord to restrict occupancy in order to comply with federal, state, or local laws, regulations, ordinances, or codes;

(c) The tenant continues to commit, after fourteen days' written notice to cease served in the manner prescribed by RCW 59.12.040, an ongoing, substantial interference of the use and enjoyment of the premises;

(d) The tenant continues in possession after the owner of a residential building with three units or less in good faith and without ulterior motive seeks possession so that the owner or a member of his or her immediate family may occupy the unit as that person's principal residence for twenty-four months and no substantially equivalent unit is vacant and available in the same building, and the owner has given at least ninety days' advance written notice of the date the tenant's possession is to end served in the manner prescribed by RCW 59.12.040. An owner may not exercise this subsection (1)(d) against any tenant who is sixty years of age or older or is a person with a disability as defined within RCW 49.60.040(7) unless the owner is providing a comparable dwelling to the tenant available prior to taking possession. There is a rebuttable presumption that the claim was not in good faith if the owner or a member of the owner's immediate family fails to occupy the unit as that person's principal residence for at least sixty consecutive days during the ninety days immediately after the tenant vacated the unit pursuant to a notice of termination or eviction using this subsection (1)(d) as the cause for eviction;

(e) When the tenant continues in possession after the owner elects to withdraw the premises from the rental market, including to pursue a conversion pursuant to RCW 64.34.440, after the owner has given at least ninety days' advance written notice of the date the tenant's possession is to end served in the manner prescribed by RCW 59.12.040. A notice made in bad faith is subject to damages pursuant to this subsection;

(f) The tenant continues in possession of the premises after the landlord serves the tenant by sixty days' advance notice in the manner prescribed by RCW 59.12.040 with plans to substantially rehabilitate or demolish the dwelling. Such notice must include approvals and plans from the local jurisdictions for the rehabilitation project in accordance with local law. A notice made in bad faith is subject to damages pursuant to this section;

(g) After the landlord has served fourteen days' advance notice to vacate upon the tenant in the manner prescribed by RCW 59.12.040, the tenant continues in possession of a premises certified or condemned as uninhabitable by a local agency charged with the authority to issue such an order that would subject the landlord to civil or criminal penalties, and it is economically unfeasible to restore the premises to a habitable condition.

(2) Any landlord who violates this section may be liable for treble damages for any violation or three months' rent at the date of move out, whichever is greater.

**Sec.**  RCW 59.18.220 and 2003 c 7 s 2 are each amended to read as follows:

(1) In all cases where premises are rented for a specified time, by express or implied contract, ((~~the tenancy shall be deemed terminated at the end of such specified time~~)) upon expiration and absent an agreement, such tenancy shall be construed to be a tenancy from month to month with rent payable on the same terms and conditions in existence at the time of expiration subject to the protections of this chapter.

(2) Any tenant who is a member of the armed forces, including the national guard and armed forces reserves, or that tenant's spouse or dependent, may terminate a tenancy for a specified time if the tenant receives reassignment or deployment orders. The tenant shall provide notice of the reassignment or deployment order to the landlord no later than seven days after receipt.

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

(1) If upon the trial the verdict of the jury or, if the case be tried without a jury, the finding of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the restitution of the premises; and if the proceeding be for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement, or tenancy. The jury, or the court, if the proceedings be tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and, if the alleged unlawful detainer be after default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the defendant guilty of the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed and for the rent, if any, found due, and the court may award statutory costs and reasonable ((~~attorney's~~)) attorneys' fees. When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, execution upon the judgment shall not be issued until the expiration of five days after the entry of the judgment, within which time the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court for the landlord the amount of the ((~~judgment and costs~~)) rental arrears found owing by the court at trial or show cause hearing, and thereupon the judgment shall be satisfied and the tenant restored to his or her tenancy; but if payment, as herein provided, be not made within five days the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately. If writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required. This section also applies if the writ of restitution is issued pursuant to a final judgment entered after a show cause hearing conducted in accordance with RCW 59.18.380.

(2) Nothing in this section is construed to prohibit the court from vacating or staying the writ of restitution upon good cause and on such terms as the court deems fair and just and, where the judgment is issued for a condition capable of cure, the court shall stay the writ of restitution to afford an additional ten days for the tenant to properly cure and redeem the tenancy.

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

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

(2) It ((~~shall be~~)) is unlawful for the tenant to hold over in the premises or exclude the landlord therefrom after the termination of the rental agreement except under a valid court order so authorizing. Any landlord so deprived of possession of premises in violation of this section may recover possession of the property and damages sustained by him or her, and the prevailing party may recover his or her costs of suit or arbitration and reasonable ((~~attorney's~~)) attorneys' fees; however, any award of costs and fees besides rent is not a condition of relief from forfeiture.

**Sec.**  RCW 61.24.060 and 2009 c 292 s 10 are each amended to read as follows:

(1) The purchaser at the trustee's sale shall be entitled to possession of the property on the twentieth day following the sale, as against the borrower and grantor under the deed of trust and anyone having an interest junior to the deed of trust, including occupants who are not tenants, who were given all of the notices to which they were entitled under this chapter. The purchaser shall also have a right to the summary proceedings to obtain possession of real property provided in chapter 59.12 RCW; except that protections afforded to a tenant or an occupant pursuant to chapter 59.12 RCW shall survive such sale.

(2) If the trustee elected to foreclose the interest of any occupant or tenant, the purchaser of tenant-occupied property at the trustee's sale shall provide written notice to the occupants and tenants at the property purchased in substantially the following form:

"NOTICE: The property located at . . . . . . was purchased at a trustee's sale by . . . . . . on . . . . . . (date).

1. If you are the previous owner or an occupant who is not a tenant of the property that was purchased, pursuant to RCW 61.24.060, the purchaser at the trustee's sale is entitled to possession of the property on . . . . . . (date), which is the twentieth day following the sale.

2. If you are a tenant or subtenant in possession of the property that was purchased, pursuant to RCW 61.24.146, the purchaser at the trustee's sale may either give you a new rental agreement OR give you a written notice to vacate the property in sixty days or more before the end of the monthly rental period."

(3) The notice required in subsection (2) of this section must be given to the property's occupants and tenants by both first-class mail and either certified or registered mail, return receipt requested.

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