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**SENATE BILL 5160**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Senators Kuderer, Liias, Conway, Das, Lovelett, Saldaña, and Wilson, C.

AN ACT Relating to addressing landlord-tenant relations by providing certain tenant protections during and after public health emergencies, providing for legal representation in eviction cases, and authorizing landlord access to state rental assistance programs; amending RCW 59.18.057, 59.18.365, 36.18.020, 59.12.040, 59.18.410, and 59.20.040; reenacting and amending RCW 59.18.230; adding new sections to chapter 59.18 RCW; adding a new section to chapter 2.53 RCW; adding a new section to chapter 43.185C RCW; creating new sections; repealing RCW 59.18.367, 59.18.375, and 59.20.310; prescribing penalties; and declaring an emergency.

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

NEW SECTION. **Sec.**  The legislature finds that the COVID-19 pandemic is causing a sustained global economic slowdown, and an economic downturn throughout Washington state with unprecedented numbers of layoffs and reduced work hours for a significant percentage of our workforce. Many of the state's workforce has been impacted by these layoffs and substantially reduced work hours and have suffered economic hardship, disproportionately affecting low and moderate-income workers resulting in lost wages and the inability to pay for basic household expenses, including rent. Hundreds of thousands of tenants in Washington are unable to consistently pay their rent, reflecting the continued financial precariousness of many renters in the state. Before the COVID-19 pandemic, nonpayment of rent was the leading cause of evictions within the state. Because the COVID-19 pandemic has led to an inability for tenants to consistently pay rent, the likelihood of evictions has increased, as well as life, health, and safety risks to a significant percentage of the state's tenants. As a result, the governor has issued a temporary moratorium on evictions as of March 2020, with multiple extensions and other related actions, to reduce housing instability and enable tenants to stay in their homes.

Therefore, it is the intent of the legislature with this act to expand upon and preserve some of these protections for tenants within the governor's eviction moratorium, provide legal representation for qualifying tenants in eviction cases, and ensure tenants and landlords have adequate opportunities to access state and local rental assistance programs to both reimburse landlords for unpaid rent and preserve tenancies.

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

The definitions in this section apply throughout sections 3 through 5 of this act unless the context clearly requires otherwise.

(1) "Dwelling unit" has the same meaning as defined in RCW 59.18.030, and includes a manufactured/mobile home or a mobile home lot as defined in RCW 59.20.030.

(2) "Eviction moratorium" refers to the governor of the state of Washington's proclamation 20.19-5, proclaiming a moratorium on certain evictions for all counties throughout Washington state on December 31, 2020, and any subsequent orders extending or amending such proclamation until it expires or is terminated by the governor of the state of Washington.

(3) "Landlord" has the same meaning as defined in RCW 59.18.030 and 59.20.030.

(4) "Public health emergency" refers to the governor of the state of Washington's proclamation 20-05, proclaiming a state of emergency for all counties throughout Washington state on February 29, 2020, and any subsequent orders extending or amending such proclamation due to COVID-19 until the proclamation expires or is terminated by the governor of the state of Washington. "Public health emergency" also refers to any proclamation declaring a state of emergency for all counties in Washington state.

(5) "Rent" has the same meaning as defined in RCW 59.18.030.

(6) "Reprisal or retaliatory action" has the same meaning as defined in RCW 59.18.240.

(7) "Tenant" refers to any individual renting a dwelling unit or lot primarily for living purposes, including any individual with a tenancy subject to chapter 59.18 or 59.20 RCW or any individual residing in transient lodging, such as a hotel or motel or camping area as their primary dwelling, for more than 14 days. "Tenant" does not include a person entering onto land without permission of the landowner or lessor.

**TENANT PROTECTIONS**

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

(1)(a) Until two years after expiration of any public health emergency, a landlord may not terminate a tenancy or refuse to renew a rental agreement pursuant to RCW 59.12.030 (1) or (2), 59.18.200, or 59.18.220 unless:

(i) The landlord intends to sell the rental dwelling unit or the property on which the rental dwelling sits or intends to occupy the rental dwelling unit as their primary residence; or

(ii) The landlord and tenant reside in the same dwelling unit.

(b) When the landlord seeks to terminate a tenancy or refuse to renew a rental agreement as allowed under (a)(i) of this subsection, the landlord must provide at least 60 days' notice to the tenant in the form of an affidavit signed under penalty of perjury.

(2) If a tenant has any unpaid rent that accrued between March 1, 2020, and the governor's eviction moratorium expiration date, and except as provided in subsection (1) of this section, there is a rebuttable presumption that any notice issued to a tenant under RCW 59.12.030 (1) or (2), 59.18.200, or 59.18.220 constitutes a reprisal or retaliatory action. A landlord may not take any adverse action against a tenant who raises the tenant's rights under this section.

(3) A landlord in violation of this section is liable in a civil action for up to four and one-half times the monthly rent of the real property at issue, as well as court costs and reasonable attorneys' fees. A court must impose this penalty in an amount necessary to deter future violations, payable to the tenant bringing the action.

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

(1)A tenant's right to possession of a dwelling unit used primarily for residential purposes cannot be conditioned on satisfaction of any rent that accrued between March 1, 2020, and the governor's eviction moratorium expiration date.

(2) A tenant who has been adversely impacted during any public health emergency may elect to terminate their tenancy upon a 20-day written notice, which includes a statement that the tenant is terminating their tenancy due to COVID-19. Any tenant who elects to terminate their tenancy under this subsection must not be assessed any penalty, early termination fee, or any other amount for the failure to continue their tenancy for a predetermined amount of time. Any deposit paid by the tenant must not be deemed forfeited by the tenant's election to terminate the tenant's tenancy under this subsection. However, if rent is still owed after the tenant elects to terminate their tenancy as authorized under this subsection, the landlord may apply deposit funds to the outstanding rent amount or any other charges consistent with RCW 59.18.280.

(3) For rent that accrued between March 1, 2020, and the governor's eviction moratorium expiration date, a tenant's nonpayment of rent must not be a factor in any housing decision affecting a tenant's right or ability to occupy a rental dwelling unit. A tenant's early termination of a prior lease in accordance with subsection (2) of this section may not be a factor in any housing decision affecting the tenant's right or ability to occupy a rental dwelling unit. This subsection applies equally to tenants and prospective tenants.

(4) A landlord may not charge or impose any late fees or other charges against any tenant for the nonpayment of rent that became due during any public health emergency.

(5)(a) A landlord may not deny, discourage application for, or otherwise make unavailable any rental dwelling unit based on a tenant's or prospective tenant's medical history including, but not limited to, the tenant's or prospective tenant's prior or current exposure or infection to the COVID-19 virus.

(b) A landlord may not inquire about, consider, or require disclosure of a tenant's or prospective tenant's medical records or history, unless such disclosure is necessary to evaluate a reasonable accommodation request or reasonable modification request under RCW 49.60.222.

(c) A violation of this subsection (5) constitutes a violation of chapter 49.60 RCW.

(6) A landlord in violation of this section is liable in a civil action for up to four and one-half times the monthly rent of the real property at issue, as well as court costs and reasonable attorneys' fees. A court must impose this penalty in an amount necessary to deter future violations, payable to the tenant bringing the action.

**REPAYMENT PLANS**

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

(1)(a) Before taking any collection action to seek any remaining unpaid rent that accrued either between March 1, 2020, and the governor's eviction moratorium expiration date or during any public health emergency, a landlord must first offer the tenant a repayment plan that considers and is based on the individual financial, health, or other circumstances of the tenant's household and whether a tenant is able to meet their other necessary life-sustaining financial obligations after the requirements of a repayment plan, including payments for food, utilities, work-related expenses, child support, medical care, child care, or other similar necessities.

(b) For purposes of this section, "collection action" means any attempts to collect, or threats to collect, through a collection agency, by filing an unlawful detainer or other judicial action, withholding any portion of a security deposit, billing or invoicing, reporting to credit bureaus, reporting to tenant screening companies, or by any other means.

(2) Any repayment plan entered into under this section must:

(a) Not require payment until 60 days after the repayment plan is offered to the tenant;

(b) Cover rent only and not any late fees, attorneys' fees, or any other fees and charges;

(c) Allow for payments from any source of income as defined in RCW 59.18.255(5) or from pledges by nonprofit organizations, churches, religious institutions, or governmental entities;

(d) Not include provisions or be conditioned on: The tenant's compliance with the rental agreement, payment of attorneys' fees, court costs, or other costs related to litigation if the tenant defaults on the rental agreement; a requirement that the tenant apply for governmental benefits or provide proof of receipt of governmental benefits; or the tenant's waiver of any rights to a notice under RCW 59.12.030 or related provisions before a writ of restitution is issued.

(3)(a) If a tenant knowingly refuses the offer of a repayment plan, fails to respond to the offer of a repayment plan, or defaults on any rent owed under a repayment plan entered under this section, the landlord may proceed with an unlawful detainer action pursuant to RCW 59.12.030(3) and subject to any prefiling conciliation and formal mediation requirements if the unlawful detainer action would be filed in a county superior court operating an eviction resolution program in accordance with order no. 25700-B-639 of the Washington supreme court and any standing order of the superior court.

(b) It is a defense to an eviction under RCW 59.12.030 that a landlord did not offer a repayment plan under this section. This defense is not available if a landlord demonstrates by a preponderance of the evidence to a court that the tenant was offered, and knowingly refused or failed to respond to or comply with, a repayment plan in conformity with this section.

**RIGHT TO COUNSEL**

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

(1) The court must appoint an attorney for an indigent tenant at any show cause hearing or scheduled trial. Subject to the availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to this subsection. The office of civil legal aid is responsible for implementation of this subsection as provided in section 7 of this act.

(2) For purposes of this section, "indigent" means any person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income;

(b) Receiving an annual income, after taxes, of 200 percent or less of the current federally established poverty level; or

(c) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

NEW SECTION. **Sec.**  A new section is added to chapter 2.53 RCW to read as follows:

(1) Money appropriated by the legislature for legal services provided by an attorney appointed pursuant to section 6 of this act must be administered by the office of civil legal aid established under RCW 2.53.020. The office of civil legal aid must enter into contracts with attorneys and agencies for the provision of legal services under section 6 of this act to remain within appropriated amounts.

(2) The legislature recognizes that the office of civil legal aid needs time to properly implement the right to attorney legal representation for indigent tenants under section 6 of this act. Within 90 days after the effective date of this section, the office of civil legal aid must submit to the appropriate legislative committees and the administrative office of the courts a plan to fully implement the tenant representation program under section 6 of this act within 12 months of the effective date of this section.

**Sec.**  RCW 59.18.057 and 2020 c 315 s 2 are each amended to read as follows:

(1) Every ((~~fourteen-day~~)) 14-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

|  |  |
| --- | --- |
|  | "TO: |
|  | AND TO: |
|  | ADDRESS: |

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

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

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

**AND/OR**

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

**AND/OR**

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

**TOTAL AMOUNT DUE: $ (dollar amount)**

**Note - payment must be made pursuant to the terms of the rental agreement or by nonelectronic means including, but not limited to, cashier's check, money order, or other certified funds.**

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

**The Washington state Office of the Attorney General has this notice in multiple languages as well as information on available resources to help you pay your rent, including state and local rental assistance programs, on its website at www.atg.wa.gov/landlord-tenant.** ((**~~You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent.~~**

**~~Alternatively, for no-cost legal assistance for low-income renters~~**)) **State law provides you the right to legal representation and to an appointed lawyer at court if you are a qualifying low-income renter. For additional resources, call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. – 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional information to help you at http://www.washingtonlawhelp.org.**

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

OWNER/LANDLORD:\_\_\_\_\_\_\_\_\_\_\_DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**WHERE TOTAL AMOUNT DUE IS TO BE PAID: \_\_\_(owner/landlord name)\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_(address)\_\_\_\_\_\_\_\_**"

(2)(a) The landlord must also provide the notice required in this section to the dispute resolution center located within or serving the county in which the dwelling unit is located. It is a defense to an eviction under RCW 59.12.030 that a landlord did not provide additional notice under this subsection.

(b) Dispute resolution centers are encouraged to notify the housing justice project or northwest justice project located within or serving the county in which the dispute resolution center is located, as appropriate, once notice is received by the landlord under this subsection.

(3) The form required in this section does not abrogate any additional notice requirements to tenants as required by federal, state, or local law.

**Sec.**  RCW 59.18.365 and 2020 c 315 s 4 are each amended to read as follows:

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

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

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

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

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

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

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

IN THE SUPERIOR COURT OF THE

STATE OF WASHINGTON

IN AND

FOR . . . . . . COUNTY

|  |  |  |
| --- | --- | --- |
| Plaintiff/  Landlord/  Owner, |              | NO. |
| vs. | EVICTION SUMMONS  (Residential) |
| Defendant/  Tenant/  Occupant. |

THIS IS AN IMPORTANT LEGAL DOCUMENT TO EVICT YOU.

YOUR **WRITTEN**

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

TO: . . . . . . . . . . . . (Defendant's Name)

. . . . . . . . . . . . (Defendant's Address)

**GET HELP: If you do not respond by the deadline above, you will lose your right to defend yourself or be represented by a lawyer if you cannot afford one in court and could be evicted.** ((~~If you cannot afford a lawyer~~)) The court will appoint a lawyer to represent you if you are indigent as defined in section 6 of this act and are unable to afford a lawyer. For additional resources, you may call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. – 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). ((~~They can refer you to free or low-cost legal help.~~)) You may find additional information to help you at http://www.washingtonlawhelp.org.

**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 3 days before the deadline above. Request receipt of a proof of mailing from the post office. If you hand deliver or fax it, you must do it by the deadline above. 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.

**LANDLORD ACCESS TO RENTAL ASSISTANCE PROGRAMS**

NEW SECTION. **Sec.**  A new section is added to chapter 43.185C RCW to read as follows:

The department must authorize landlords access to any statewide rental assistance program administered by the department, if feasible, and establish application and eligibility requirements and any conditions on the receipt of funds as the department deems appropriate by rule.

**OTHER TENANT PROTECTIONS**

**Sec.**  RCW 36.18.020 and 2018 c 269 s 17 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsection (5) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial document in any civil action((~~,~~)) including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the document is filed, a fee of ((~~two hundred dollars~~)) $200 except((~~, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or~~)) in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. ((~~The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.~~))

(b) Any party, except a defendant in a criminal case, filing the first or initial document on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the document is filed, a fee of ((~~two hundred dollars~~)) $200.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of ((~~two hundred dollars~~)) $200.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of ((~~fifty-three dollars~~)) $53.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of ((~~two hundred dollars~~)) $200.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of ((~~two hundred dollars~~)) $200.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of ((~~two hundred dollars~~)) $200.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, an adult defendant in a criminal case shall be liable for a fee of ((~~two hundred dollars~~)) $200, except this fee shall not be imposed on a defendant who is indigent as defined in RCW 10.101.010(3) (a) through (c).

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972. However, no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

(4) No fee shall be collected when an abstract of judgment is filed by the county clerk of another county for the purposes of collection of legal financial obligations.

(5)(a) Until July 1, 2021, in addition to the fees required to be collected under this section, clerks of the superior courts must collect surcharges as provided in this subsection (5) of which ((~~seventy-five~~)) 75 percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and ((~~twenty-five~~)) 25 percent must be retained by the county.

(b) On filing fees required to be collected under subsection (2)(b) of this section, a surcharge of ((~~thirty dollars~~)) $30 must be collected.

(c) On all filing fees required to be collected under this section, except for fees required under subsection (2)(b), (d), and (h) of this section, a surcharge of ((~~forty dollars~~)) $40 must be collected.

**Sec.**  RCW 59.12.040 and 2010 c 8 s 19007 are each amended to read as follows:

Any notice provided for in this chapter shall be served either (1) by delivering a copy personally to the person entitled thereto; or (2) if he or she be absent from the premises unlawfully held, by leaving there a copy, with some person of suitable age and discretion, and sending a copy through the mail addressed to the person entitled thereto at his or her place of residence; or (3) if the person to be notified be a tenant, or an unlawful holder of premises, and his or her place of residence is not known, or if a person of suitable age and discretion there cannot be found then by affixing a copy of the notice in a conspicuous place on the premises unlawfully held, and also delivering a copy to a person there residing, if such a person can be found, and also sending a copy through the mail addressed to the tenant, or unlawful occupant, at the place where the premises unlawfully held are situated. Service upon a subtenant may be made in the same manner: PROVIDED, That in cases where the tenant or unlawful occupant, shall be conducting a hotel, inn, lodging house, boarding house, or shall be renting rooms while still retaining control of the premises as a whole, that the guests, lodgers, boarders, or persons renting such rooms shall not be considered as subtenants within the meaning of this chapter, but all such persons may be served by affixing a copy of the notice to be served in two conspicuous places upon the premises unlawfully held; and such persons shall not be necessary parties defendant in an action to recover possession of said premises. Service of any notice provided for in this chapter may be had upon a corporation by delivering a copy thereof to any officer, agent, or person having charge of the business of such corporation, at the premises unlawfully held, and in case no such officer, agent, or person can be found upon such premises, then service may be had by affixing a copy of such notice in a conspicuous place upon said premises and by sending a copy through the mail addressed to such corporation at the place where said premises are situated. Proof of any service under this section may be made by the affidavit of the person making the same in like manner and with like effect as the proof of service of summons in civil actions. When a copy of notice is sent through the mail, as provided in this section, service shall be deemed complete when such copy is deposited in the United States mail in the county in which the property is situated properly addressed with postage prepaid: PROVIDED, HOWEVER, That when service is made by mail one additional day shall be allowed before the commencement of an action based upon such notice. ((~~RCW 59.18.375 may also apply to notice given under this chapter.~~))

**Sec.**  RCW 59.18.230 and 2020 c 315 s 6 and 2020 c 177 s 2 are each reenacted and amended to read as follows:

(1)(a) Any provision of a lease or other agreement, whether oral or written, whereby any section or subsection of this chapter is waived except as provided in RCW 59.18.360 and shall be deemed against public policy and shall be unenforceable. Such unenforceability shall not affect other provisions of the agreement which can be given effect without them.

(b) Any agreement, whether oral or written, between a landlord and tenant, or their representatives, and entered into pursuant to an unlawful detainer action under this chapter that requires the tenant to pay any amount in violation of RCW 59.18.283 or the statutory judgment amount limits under RCW 59.18.410 (1) or (2), or waives any rights of the tenant under RCW 59.18.410 or any other rights afforded under this chapter except as provided in RCW 59.18.360 is void and unenforceable. A landlord may not threaten a tenant with eviction for failure to pay nonpossessory charges limited under RCW 59.18.283.

(2) No rental agreement may provide that the tenant:

(a) Agrees to waive or to forgo rights or remedies under this chapter; or

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to pay the landlord's attorneys' fees, except as authorized in this chapter; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith; or

(e) And landlord have agreed to a particular arbitrator at the time the rental agreement is entered into; or

(f) Agrees to pay late fees for rent that is paid within five days following its due date. If rent is more than five days past due, the landlord may charge late fees commencing from the first day after the due date until paid. Nothing in this subsection prohibits a landlord from serving a notice to pay or vacate at any time after the rent becomes due.

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him or her to be prohibited, the tenant may recover actual damages sustained by him or her, statutory damages not to exceed ((~~five hundred dollars~~)) $500, costs of suit, and reasonable attorneys' fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific written consent of the tenant to such incident of taking or detention, and who, after written demand by the tenant for the return of his or her personal property, refuses to return the same promptly shall be liable to the tenant for the value of the property retained, actual damages, and if the refusal is intentional, may also be liable for damages of up to ((~~five hundred dollars~~)) $500 per day but not to exceed ((~~five thousand dollars~~)) $5,000, for each day or part of a day that the tenant is deprived of his or her property. The prevailing party may recover his or her costs of suit and a reasonable attorneys' fee.

In any action, including actions pursuant to chapters 7.64 or 12.28 RCW, brought by a tenant or other person to recover possession of his or her personal property taken or detained by a landlord in violation of this section, the court, upon motion and after notice to the opposing parties, may waive or reduce any bond requirements where it appears to be to the satisfaction of the court that the moving party is proceeding in good faith and has, prima facie, a meritorious claim for immediate delivery or redelivery of said property.

**Sec.**  RCW 59.18.410 and 2020 c 315 s 5 are each amended to read as follows:

(1) If at trial the verdict of the jury or, if the case is tried without a jury, the finding of the court is in favor of the landlord and against the tenant, judgment shall be entered for the restitution of the premises; and if the proceeding is 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 are tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved at trial, and, if the alleged unlawful detainer is based on default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed, for the rent, if any, found due, and late fees if such fees are due under the lease and do not exceed ((~~seventy-five dollars~~)) $75 in total. The court may award statutory costs. The court may also award reasonable attorneys' fees as provided in RCW 59.18.290.

(2) When the tenant is liable for unlawful detainer after a default in the payment of rent, execution upon the judgment shall not occur until the expiration of five court days after the entry of the judgment. Before entry of a judgment or until five court days have expired after entry of the judgment, 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 or to the landlord the amount of the rent due, any court costs incurred at the time of payment, late fees if such fees are due under the lease and do not exceed ((~~seventy-five dollars~~)) $75 in total, and attorneys' fees if awarded, in which event any judgment entered shall be satisfied and the tenant restored to his or her tenancy. If the tenant seeks to restore his or her tenancy after entry of a judgment, the tenant may tender the amount stated within the judgment as long as that amount does not exceed the amount authorized under subsection (1) of this section. If a tenant seeks to restore his or her tenancy and pay the amount set forth in this subsection with funds acquired through an emergency rental assistance program provided by a governmental or nonprofit entity, the tenant shall provide a copy of the pledge of emergency rental assistance provided from the appropriate governmental or nonprofit entity and have an opportunity to exercise such rights under this subsection, which may include a stay of judgment and provision by the landlord of documentation necessary for processing the assistance. The landlord shall accept any pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity before the expiration of any pay or vacate notice for nonpayment of rent for the full amount of the rent owing under the rental agreement. The landlord shall accept any written pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity after the expiration of the pay or vacate notice if the pledge will contribute to the total payment of both the amount of rent due, including any current rent, and other amounts if required under this subsection. The landlord shall suspend any court action for seven court days after providing necessary payment information to the nonprofit or governmental entity to allow for payment of the emergency rental assistance funds. By accepting such pledge of emergency rental assistance, the landlord is not required to enter into any additional conditions not related to the provision of necessary payment information and documentation. If a judgment has been satisfied, the landlord shall file a satisfaction of judgment with the court. A tenant seeking to exercise rights under this subsection shall pay an additional ((~~fifty dollars~~)) $50 for each time the tenant was reinstated after judgment pursuant to this subsection within the previous ((~~twelve~~)) 12 months prior to payment. If payment of the amount specified in this subsection is not made within five court days after the entry of the judgment, the judgment may be enforced for its full amount and for the possession of the premises.

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

(i) The tenant's willful or intentional default or intentional failure to pay rent;

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

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

(iv) The tenant's payment history;

(v) Whether the tenant is otherwise in substantial compliance with the rental agreement;

(vi) Hardship on the tenant if evicted; and

(vii) Conduct related to other notices served within the last six months.

(b) The burden of proof for such relief under this subsection (3) shall be on the tenant. If the tenant seeks relief pursuant to this subsection (3) at the time of the show cause hearing, the court shall hear the matter at the time of the show cause hearing or as expeditiously as possible so as to avoid unnecessary delay or hardship on the parties.

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

(i) The court shall not stay the writ of restitution more than ((~~ninety~~)) 90 days from the date of order, but may order repayment of the judgment balance within such time. If the payment plan is to exceed ((~~thirty~~)) 30 days, the total cumulative payments for each ((~~thirty-day~~)) 30-day period following the order shall be no less than one month of the tenant's share of the rent, and the total amount of the judgment and all additional rent that is due shall be paid within ((~~ninety~~)) 90 days.

(ii) Within any payment plan ordered by the court, the court shall require the tenant to pay to the landlord or to the court one month's rent within five court days of issuance of the order. If the date of the order is on or before the fifteenth of the month, the tenant shall remain current with ongoing rental payments as they become due for the duration of the payment plan; if the date of the order is after the fifteenth of the month, the tenant shall have the option to apportion the following month's rental payment within the payment plan, but monthly rental payments thereafter shall be paid according to the rental agreement.

(iii) The sheriff may serve the writ of restitution upon the tenant before the expiration of the five court days of issuance of the order; however, the sheriff shall not execute the writ of restitution until after expiration of the five court days in order for payment to be made of one month's rent as required by (c)(ii) of this subsection. In the event payment is made as provided in (c)(ii) of this subsection for one month's rent, the court shall stay the writ of restitution ex parte without prior notice to the landlord upon the tenant filing and presenting a motion to stay with a declaration of proof of payment demonstrating full compliance with the required payment of one month's rent. Any order staying the writ of restitution under this subsection (3)(c)(iii) shall require the tenant to serve a copy of the order on the landlord by personal delivery, first-class mail, facsimile, or email if agreed to by the parties.

(A) If the tenant has satisfied (c)(ii) of this subsection by paying one month's rent within five court days, but defaults on a subsequent payment required by the court pursuant to this subsection (3)(c), the landlord may enforce the writ of restitution after serving a notice of default in accordance with RCW 59.12.040 informing the tenant that he or she has defaulted on rent due under the lease agreement or payment plan entered by the court. Upon service of the notice of default, the tenant shall have three calendar days from the date of service to vacate the premises before the sheriff may execute the writ of restitution.

(B) If the landlord serves the notice of default described under this subsection (3)(c)(iii), an additional day is not included in calculating the time before the sheriff may execute the writ of restitution. The notice of default must be in substantially the following form:

NOTICE OF DEFAULT FOR RENT AND/OR PAYMENT PLAN ORDERED BY COURT

NAME(S)

ADDRESS

CITY, STATE, ZIP

THIS IS NOTICE THAT YOU ARE IN DEFAULT OF YOUR RENT AND/OR PAYMENT PLAN ORDERED BY THE COURT. YOUR LANDLORD HAS RECEIVED THE FOLLOWING PAYMENTS:

DATE

AMOUNT

DATE

AMOUNT

DATE

AMOUNT

THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION WITHIN THREE CALENDAR DAYS OF SERVICE OF THIS NOTICE. TO STOP A PHYSICAL EVICTION, YOU ARE REQUIRED TO PAY THE BALANCE OF YOUR RENT AND/OR PAYMENT PLAN IN THE AMOUNT OF $. . . . ..

PAYMENT MAY BE MADE TO THE COURT OR TO THE LANDLORD. IF YOU FAIL TO PAY THE BALANCE WITHIN THREE CALENDAR DAYS, THE LANDLORD MAY PROCEED WITH A PHYSICAL EVICTION FOR POSSESSION OF THE UNIT THAT YOU ARE RENTING.

DATE

SIGNATURE

LANDLORD/AGENT

NAME

ADDRESS

PHONE

(iv) If a tenant seeks to satisfy a condition of this subsection (3)(c) by relying on an emergency rental assistance program provided by a government or nonprofit entity and provides an offer of proof, the court shall stay the writ of restitution as necessary to afford the tenant an equal opportunity to comply.

(v) The court shall extend the writ of restitution as necessary to enforce the order issued pursuant to this subsection (3)(c) in the event of default.

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

~~(e)~~))(i) In any application seeking relief pursuant to this subsection (3) by either the tenant or landlord, the court shall issue a finding as to whether the tenant is low-income, limited resourced, or experiencing hardship to determine if the parties would be eligible for disbursement through the landlord mitigation program account established within RCW 43.31.605(1)(c). In making this finding, the court may include an inquiry regarding the tenant's income relative to area median income, household composition, any extenuating circumstances, or other factors, and may rely on written declarations or oral testimony by the parties at the hearing.

(ii) After a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order: (A) Finding that the landlord is eligible to receive on behalf of the tenant and may apply for reimbursement from the landlord mitigation program; and (B) directing the clerk to remit, without further order of the court, any future payments made by the tenant in order to reimburse the department of commerce pursuant to RCW 43.31.605(1)(c)(iii). In accordance with RCW 43.31.605(1)(c), such an order must be accompanied by a copy of the order staying the writ of restitution. Nothing in this subsection (3)((~~(e)~~)) (d) shall be deemed to obligate the department of commerce to provide assistance in claim reimbursement through the landlord mitigation program if there are not sufficient funds.

(iii) If the department of commerce fails to disburse payment to the landlord for the judgment pursuant to this subsection (3)((~~(e)~~)) (d) within ((~~thirty~~)) 30 days from submission of the application, the landlord may renew an application for a writ of restitution pursuant to RCW 59.18.370 and for other rent owed by the tenant since the time of entry of the prior judgment. In such event, the tenant may exercise rights afforded under this section.

(iv) Upon payment by the department of commerce to the landlord for the remaining or total amount of the judgment, as applicable, the judgment is satisfied and the landlord shall file a satisfaction of judgment with the court.

(v) Nothing in this subsection (3)((~~(e)~~)) (d) prohibits the landlord from otherwise applying for reimbursement for an unpaid judgment pursuant to RCW 43.31.605(1)(c) after the tenant defaults on a payment plan ordered pursuant to (c) of this subsection.

(4) If a tenant seeks to stay a writ of restitution issued pursuant to this chapter, the court may issue ((~~an ex parte~~)) a stay of the writ of restitution, including ex parte, provided the tenant or tenant's attorney submits a declaration indicating good faith efforts were made to notify the other party or, if no efforts were made, why notice could not be provided prior to the application for an ex parte stay, and describing the immediate or irreparable harm that may result if an immediate stay is not granted. The court shall require service of the order and motion to stay the writ of restitution, along with any accompanying motions, by personal delivery, mail, facsimile, or other means most likely to afford all parties notice of the court date.

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

(6) 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.

**Sec.**  RCW 59.20.040 and 1999 c 359 s 3 are each amended to read as follows:

This chapter shall regulate and determine legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot and including specified amenities within the mobile home park, mobile home park cooperative, or mobile home park subdivision, where the tenant has no ownership interest in the property or in the association which owns the property, whose uses are referred to as a part of the rent structure paid by the tenant. All such rental agreements shall be unenforceable to the extent of any conflict with any provision of this chapter. Chapter 59.12 RCW shall be applicable only in implementation of the provisions of this chapter and not as an alternative remedy to this chapter which shall be exclusive where applicable: PROVIDED, That the provision of RCW 59.12.090, 59.12.100, and 59.12.170 shall not apply to any rental agreement included under the provisions of this chapter. RCW 59.18.055 ((~~and 59.18.370~~)), sections 6 and 16 of this act, 59.18.365, 59.18.370, and 59.18.380 through 59.18.410 shall be applicable to any action of forcible entry or detainer or unlawful detainer arising from a tenancy under the provisions of this chapter, except when a mobile home, manufactured home, or park model or a tenancy in a mobile home lot is abandoned. Rentals of mobile homes, manufactured homes, or park models themselves are governed by the residential landlord-tenant act, chapter 59.18 RCW.

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

(1) Except as provided under subsection (2) of this section, the court must allow access to unlawful detainer case records filed under this chapter only as follows:

(a) To a party to the action, including a party's attorney;

(b) To a person who provides the court with the names of at least one plaintiff and one defendant and the address of the premises, including the apartment or unit number, if any;

(c) To a resident of the premises who provides the court with the name of one of the parties or the case number and shows proof of residency;

(d) To a person by order of the court, which may be granted ex parte, on a showing of good cause.

(2) A court must automatically and permanently seal any unlawful detainer action unless, within 60 days after the complaint is filed, the landlord prevails at the show cause hearing or trial or any default or default judgment for the landlord is not vacated or set aside.

(3) This section does not prohibit the court from issuing an order that prohibits access to the court record in an unlawful detainer action filed under this chapter if stipulated by the parties to the action.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 59.18.367 (Unlawful detainer action—Limited dissemination authorized, when) and 2016 c 66 s 3;

(2)RCW 59.18.375 (Forcible entry or detainer or unlawful detainer actions—Payment of rent into court registry—Writ of restitution—Notice) and 2008 c 75 s 2, 2006 c 51 s 2, & 1983 c 264 s 13; and

(3)RCW 59.20.310 (Unlawful detainer action—Limited dissemination) and 2019 c 390 s 18 & 2019 c 342 s 9.

NEW SECTION. **Sec.**  Sections 2 through 5 of this act supersede any other provisions within chapter 59.18 or 59.12 RCW, or chapter 59.20 RCW as applicable, that conflict with sections 2 through 5 of this act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**