

SHB 1904 - H AMD 931

By Representative Caldier

1 On page 14, after line 17, insert the following:

2 "Sec. 7. RCW 43.31.605 and 2021 c 115 s 5 are each amended to
3 read as follows:

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

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

12 (i) Up to one thousand dollars for improvements identified in
13 RCW 59.18.255(1)(a). In order to be eligible for reimbursement under
14 this subsection (1)(b)(i), the landlord must pay for the first five
15 hundred dollars for improvements, and rent to the tenant whose
16 housing subsidy program was conditioned on the real property passing
17 inspection. Reimbursement under this subsection (1)(b)(i) may also
18 include up to fourteen days of lost rental income from the date of
19 offer of housing to the applicant whose housing subsidy program was
20 conditioned on the real property passing inspection until move in by
21 that applicant;

22 (ii) Reimbursement for damages as reflected in a judgment
23 obtained against the tenant through either an unlawful detainer
24 proceeding, or through a civil action in a court of competent
25 jurisdiction after a hearing;

26 (iii) Reimbursement for damages established pursuant to
27 subsection (2) of this section; and

1 (iv) Reimbursement for unpaid rent and unpaid utilities,
2 provided that the landlord can evidence it to the department's
3 satisfaction.

4 (c) Claims related to landlord mitigation for an unpaid judgment
5 for rent, unpaid judgments resulting from the tenant's failure to
6 comply with an installment payment agreement identified in RCW
7 59.18.610, late fees, attorneys' fees, and costs after a court order
8 pursuant to RCW 59.18.410(3), including any unpaid portion of the
9 judgment after the tenant defaults on the payment plan pursuant to
10 RCW 59.18.410(3)(c), are eligible for reimbursement from the
11 landlord mitigation program account and are exempt from any
12 postjudgment interest required under RCW 4.56.110. Any claim for
13 reimbursement made pursuant to RCW 59.18.410(3)(e)(ii) must be
14 accompanied by a court order staying the writ of restitution
15 pursuant to RCW 59.18.410(3). Any claim for reimbursement under this
16 subsection (1)(c) is not an entitlement.

17 (i) The department shall provide for a form on its website for
18 tenants and landlords to apply for reimbursement funds for the
19 landlord pursuant to this subsection (1)(c).

20 (ii) The form must include: (A) Space for the landlord and
21 tenant to provide names, mailing addresses, phone numbers, date of
22 birth for the tenant, and any other identifying information
23 necessary for the department to process payment; (B) the landlord's
24 statewide vendor identification number and how to obtain one; (C)
25 name and address to whom payment must be made; (D) the amount of the
26 judgment with instructions to include any other supporting
27 documentation the department may need to process payment; (E)
28 instructions for how the tenant is to reimburse the department under
29 (c)(iii) of this subsection; (F) a description of the consequences
30 if the tenant does not reimburse the department as provided in this
31 subsection (1)(c); (G) a signature line for the landlord and tenant
32 to confirm that they have read and understood the contents of the
33 form and program; and (H) any other information necessary for the
34 operation of the program. If the tenant has not signed the form

1 after the landlord has made good faith efforts to obtain the
2 tenant's signature, the landlord may solely submit the form but must
3 attest to the amount of money owed and sign the form under penalty
4 of perjury.

5 (iii) When a landlord has been reimbursed pursuant to this
6 subsection (1)(c), the tenant for whom payment was made shall
7 reimburse the department by depositing the amount disbursed from the
8 landlord mitigation program account into the court registry of the
9 superior court in which the judgment was entered. The tenant or
10 other interested party may seek an ex parte order of the court under
11 the unlawful detainer action to order such funds to be disbursed by
12 the court. Upon entry of the order, the court clerk shall disburse
13 the funds and include a case number with any payment issued to the
14 department. If directed by the court, a clerk shall issue any
15 payments made by a tenant to the department without further court
16 order.

17 (iv) The department may deny an application made by a tenant who
18 has failed to reimburse the department for prior payments issued
19 pursuant to this subsection (1)(c).

20 (v) With any disbursement from the account to the landlord, the
21 department shall notify the tenant at the address provided within
22 the application that a disbursement has been made to the landlord on
23 the tenant's behalf and that failure to reimburse the account for
24 the payment through the court registry may result in a denial of a
25 future application to the account pursuant to this subsection (1)
26 (c). The department may include any other additional information
27 about how to reimburse the account it deems necessary to fully
28 inform the tenant.

29 (vi) The department's duties with respect to obtaining
30 reimbursement from the tenant to the account are limited to those
31 specified within this subsection (1)(c).

32 (vii) If at any time funds do not exist in the landlord
33 mitigation program account to reimburse claims submitted under this
34 subsection (1)(c), the department must create and maintain a

1 waitlist and distribute funds in the order the claims are received
2 pursuant to subsection (6) of this section. Payment of any claims on
3 the waitlist shall be made only from the landlord mitigation program
4 account. The department shall not be civilly or criminally liable
5 and may not have any penalty or cause of action of any nature arise
6 against it regarding the provision or lack of provision of funds for
7 reimbursement.

8 (d)(i) Claims related to landlord mitigation for:

9 (A) Up to \$15,000 in unpaid rent that accrued between March 1,
10 2020, and six months following the expiration of the eviction
11 moratorium and the tenant being low-income, limited resourced or
12 experiencing hardship, voluntarily vacated or abandoned the tenancy;
13 or

14 (B) Up to \$15,000 in remaining unpaid rent if a tenant defaults
15 on a repayment plan entered into under RCW 59.18.630 are eligible
16 for reimbursement from the landlord mitigation program account
17 subject to the program requirements under this section, provided the
18 tenancy has not been terminated at the time of reimbursement.

19 (ii) A landlord is ineligible for reimbursement under this
20 subsection (1)(d) where the tenant vacated the tenancy because of an
21 unlawful detainer action under RCW 59.12.030(3).

22 (iii) A landlord in receipt of reimbursement from the program
23 pursuant to this subsection (1)(d) is prohibited from:

24 (A) Taking legal action against the tenant for damages or any
25 remaining unpaid rent accrued between March 1, 2020, and six months
26 following the expiration of the eviction moratorium attributable to
27 the same tenancy; or

28 (B) Pursuing collection, or authorizing another entity to pursue
29 collection on the landlord's behalf, of a judgment against the
30 tenant for damages or any remaining unpaid rent accrued between
31 March 1, 2020, and six months following the expiration of the
32 eviction moratorium attributable to the same tenancy.

33 (e)(i) Claims for lost rental payments due to a vacancy caused
34 by a tenant terminating a tenancy pursuant to sections 1 or 6 of

1 this act are eligible for reimbursement from the landlord mitigation
2 program account.

3 (ii) Any claim for reimbursement under this subsection (1)(e) is
4 not an entitlement.

5 (iii) If at any time funds do not exist in the landlord
6 mitigation program account to reimburse claims submitted under this
7 subsection (1)(e), the department must create and maintain a
8 waitlist and distribute funds in the order the claims are received.
9 Payment of any claims on the waitlist shall be made only from the
10 landlord mitigation program account. The department is not civilly
11 or criminally liable and may not have any penalty or cause of action
12 of any nature arise against it regarding the provision or lack of
13 provision of funds for reimbursement.

14 (iv) The department shall provide for a form on its website for
15 landlords to apply for reimbursement funds for the landlord pursuant
16 to this subsection (1)(e).

17 (2) In order for a claim under subsection (1)(b)(iii) of this
18 section to be eligible for reimbursement from the landlord
19 mitigation program account, a landlord must:

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

25 (b) Make repairs and then apply for reimbursement to the
26 department;

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

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

1 (3) The department shall make reasonable efforts to review a
2 claim within ten business days from the date it received properly
3 submitted and complete claims to the satisfaction of the department.
4 In reviewing a claim pursuant to subsection (1)(b) of this section,
5 and determining eligibility for reimbursement, the department must
6 receive documentation, acceptable to the department in its sole
7 discretion, that the claim involves a private market rental unit
8 rented to a low-income tenant who is using a housing subsidy program.

9 (4) Claims pursuant to subsection (1)(b) of this section related
10 to a tenancy must total at least five hundred dollars in order for a
11 claim to be eligible for reimbursement from the program. While
12 claims or damages may exceed five thousand dollars, total
13 reimbursement from the program may not exceed five thousand dollars
14 per tenancy.

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

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

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

31 (8) A landlord in receipt of reimbursement from the program
32 pursuant to subsection (1)(b) of this section is prohibited from:

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

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

4 (9) A landlord denied reimbursement under subsection (1)(b)(iii)
5 of this section may seek to obtain a judgment from a court of
6 competent jurisdiction and, if successful, may resubmit a claim for
7 damages supported by the judgment, along with a certified copy of
8 the judgment. The department may reimburse the landlord for that
9 portion of such judgment that is based on damages reimbursable under
10 the landlord mitigation program, subject to the limitations set
11 forth in this section.

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

14 (11) The department must establish a website that advertises the
15 landlord mitigation program, the availability of reimbursement from
16 the landlord mitigation program account, and maintains or links to
17 the agency rules and policies established pursuant to this section.

18 (12) Neither the state, the department, or persons acting on
19 behalf of the department, while acting within the scope of their
20 employment or agency, is liable to any person for any loss, damage,
21 harm, or other consequence resulting directly or indirectly from the
22 department's administration of the landlord mitigation program or
23 determinations under this section.

24 (13)(a) A report to the appropriate committees of the
25 legislature on the effectiveness of the program and recommended
26 modifications shall be submitted to the governor and the appropriate
27 committees of the legislature by January 1, 2021. In preparing the
28 report, the department shall convene and solicit input from a group
29 of stakeholders to include representatives of large multifamily
30 housing property owners or managers, small rental housing owners in
31 both rural and urban markets, a representative of tenant advocates,
32 and a representative of the housing authorities.

33

34

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

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

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

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

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

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

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

18 (vii) Any other modifications and recommendations made by
19 stakeholders to improve the effectiveness and applicability of the
20 program.

21 (14) As used in this section:

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

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

33 (c) "Private market rental unit" means any unit available for
34 rent that is owned by an individual, corporation, limited liability

1 company, nonprofit housing provider, or other entity structure, but
2 does not include housing acquired, or constructed by a public
3 housing agency under 42 U.S.C. Sec. 1437 as it existed on January 1,
4 2018.

5
6 **Sec. 8.** RCW 43.31.615 and 2021 c 115 s 6 are each amended to
7 read as follows:

8 (1) The landlord mitigation program account is created in the
9 custody of the state treasury. All transfers and appropriations by
10 the legislature, repayments, private contributions, and all other
11 sources must be deposited into the account. Expenditures from the
12 account may only be used for the landlord mitigation program under
13 this chapter to reimburse landlords for eligible claims related to
14 private market rental units during the time of their rental to low-
15 income tenants using housing subsidy programs as defined in RCW
16 43.31.605, for any unpaid judgment issued within an unlawful
17 detainer action after a court order pursuant to RCW 59.18.410(3) as
18 described in RCW 43.31.605(1)(c), for any unpaid rent as described
19 in RCW 43.31.605(1)(d), for lost rental payments due to a vacancy
20 caused by a tenant terminating a tenancy pursuant to sections 1 or 6
21 of this act, and for the administrative costs identified in
22 subsection (2) of this section. Only the director or the director's
23 designee may authorize expenditures from the account. The account is
24 subject to allotment procedures under chapter 43.88 RCW, but an
25 appropriation is not required for expenditures.

26 (2) Administrative costs associated with application,
27 distribution, and other program activities of the department may not
28 exceed twenty percent of the annual funds available for the landlord
29 mitigation program. Reappropriations must not be included in the
30 calculation of the annual funds available for determining the
31 administrative costs.

32 (3) Funds deposited into the landlord mitigation program account
33 shall be prioritized by the department for allowable costs under RCW
34 43.31.605(1)(b), and may only be used for other allowable costs when

1 funding available in the account exceeds the amount needed to pay
2 claims under RCW 43.31.605(1)(b)."

3

4 Correct the title.

EFFECT: Allows a landlord to submit claims for reimbursement from the Landlord Mitigation Program Account for lost rental payments due to a vacancy caused by a tenant terminating a tenancy after receiving notice of a rent increase greater than 7.5 percent for tenancies covered by the Residential Landlord-Tenant Act and greater than 4 percent for tenancies covered under the Manufactured/Mobile Home Tenant Act.

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