
SUBSTITUTE SENATE BILL 5318

State of Washington

55th Legislature

1997 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Haugen, Winsley and Goings)

Read first time 03/05/97.

1 AN ACT Relating to writs of restitution; and amending RCW
2 59.18.390.

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

4 **Sec. 1.** RCW 59.18.390 and 1989 c 342 s 11 are each amended to read
5 as follows:

6 (1) The sheriff shall, upon receiving the writ of restitution,
7 forthwith serve a copy thereof upon the defendant, his or her agent, or
8 attorney, or a person in possession of the premises, and shall not
9 execute the same for three days thereafter, and the defendant, or
10 person in possession of the premises within three days after the
11 service of the writ of restitution may execute to the plaintiff a bond
12 to be filed with and approved by the clerk of the court in such sum as
13 may be fixed by the judge, with sufficient surety to be approved by the
14 clerk of (~~said~~) the court, conditioned that they will pay to the
15 plaintiff such sum as the plaintiff may recover for the use and
16 occupation of the (~~said~~) premises, or any rent found due, together
17 with all damages the plaintiff may sustain by reason of the defendant
18 occupying or keeping possession of (~~said~~) the premises, together with
19 all damages which the court theretofore has awarded to the plaintiff as

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

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

37 **IMPORTANT NOTICE - PARTIAL PAYMENTS**

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

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