

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1865

Chapter 43, Laws of 2008

(partial veto)

60th Legislature
2008 Regular Session

WRITS OF RESTITUTION--LANDLORD OBLIGATIONS

EFFECTIVE DATE: 06/12/08

Passed by the House February 13, 2008
Yeas 96 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 7, 2008
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved March 17, 2008, 3:09 p.m.,
with the exception of section 2 which
is vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is
**ENGROSSED SUBSTITUTE HOUSE BILL
1865** as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

March 18, 2008

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1865

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By House Committee on Judiciary (originally sponsored by
Representatives Williams, O'Brien, Springer, Fromhold, Warnick and
McCune)

READ FIRST TIME 02/23/07.

1 AN ACT Relating to limiting the obligations of landlords under
2 writs of restitution; amending RCW 59.18.312; and declaring an
3 emergency.

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

5 **Sec. 1.** RCW 59.18.312 and 1992 c 38 s 8 are each amended to read
6 as follows:

7 (1) A landlord (~~may~~) shall, upon the execution of a writ of
8 restitution by the sheriff, enter and take possession of any property
9 of the tenant found on the premises (~~and store the property in any~~
10 ~~reasonably secure place~~). The landlord may store the property in any
11 reasonably secure place, including the premises, and sell or dispose of
12 the property as provided under subsection (3) of this section. The
13 landlord must store the property if the tenant serves a written request
14 to do so on the landlord or the landlord's representative by any of the
15 methods described in RCW 59.18.365 no later than three days after
16 service of the writ. A landlord may elect to store the property
17 without such a request unless the tenant or the tenant's representative
18 objects to the storage of the property. If (~~, however,~~) the tenant or
19 the tenant's representative objects to the storage of the property or

1 the landlord elects not to store the property because the tenant has
2 not served a written request on the landlord to do so, the property
3 shall be deposited upon the nearest public property and may not be
4 ((moved and)) stored by the landlord. ((If the tenant is not present
5 at the time the writ of restitution is executed, it shall be presumed
6 that the tenant does not object to the storage of the property as
7 provided in this section. RCW 59.18.310 shall apply to the moving and
8 storage of a tenant's property when the premises are abandoned by the
9 tenant.)) If the landlord knows that the tenant is a person with a

10 disability as defined in RCW 49.60.040 (as amended by chapter 317, Laws
11 of 2007) and the disability impairs or prevents the tenant or the
12 tenant's representative from making a written request for storage, it
13 must be presumed that the tenant has requested the storage of the
14 property as provided in this section unless the tenant objects in
15 writing.

16 (2) Property ((moved and)) stored under this section shall be
17 returned to the tenant after the tenant has paid the actual or
18 reasonable drayage and storage costs, whichever is less, or until it is
19 sold or disposed of by the landlord in accordance with subsection (3)
20 of this section.

21 (3) Prior to the sale ((or disposal)) of property stored pursuant
22 to this section with a cumulative value of over ((fifty)) one hundred
23 dollars, the landlord shall notify the tenant of the pending sale ((or
24 disposal)). After ((forty five)) thirty days from the date the notice

25 of the sale ((or disposal)) is mailed or personally delivered to the
26 tenant's last known address, the landlord may sell ((or dispose of))
27 the property, including personal papers, family pictures, and
28 keepsakes, and dispose of any property not sold.

29 If the property that is being stored has a cumulative value of
30 ((fifty)) one hundred dollars or less, then the landlord may sell or
31 dispose of the property in the manner provided in this section, except
32 for personal papers, family pictures, and keepsakes. Prior to the sale
33 or disposal of property stored pursuant to this section with a
34 cumulative value of ((fifty)) one hundred dollars or less, the landlord
35 shall notify the tenant of the pending sale or disposal. The notice
36 shall either be mailed to the tenant's last known address or personally
37 delivered to the tenant. After seven days from the date the notice is

1 mailed or delivered to the tenant, the landlord may sell or dispose of
2 the property.

3 The landlord may apply any income derived from the sale of the
4 tenant's property against moneys due the landlord for drayage and
5 storage of the property. The amount of sale proceeds that the landlord
6 may apply towards such costs may not exceed the actual or reasonable
7 costs for drayage and storage of the property, whichever is less. Any
8 excess income derived from the sale of such property shall be held by
9 the landlord for the benefit of the tenant for a period of one year
10 from the date of the sale. If no claim is made or action commenced by
11 the tenant for the recovery of the excess income prior to the
12 expiration of that period of time, then the balance shall be treated as
13 abandoned property and deposited by the landlord with the department of
14 revenue pursuant to chapter 63.29 RCW.

15 (4) Nothing in this section shall be construed as creating a right
16 of distress for rent.

17 (5) When serving a tenant with a writ of restitution pursuant to
18 RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice
19 to the tenant that: (a) Upon execution of the writ, the landlord
20 (~~may~~) must store the tenant's property only if the tenant serves a
21 written request on the landlord to do so no later than three days after
22 service of the writ; (b) the notice to the landlord requesting storage
23 may be served by personally delivering or mailing a copy of the request
24 to the landlord at the address identified in, or by facsimile to the
25 facsimile number listed on, the form described under subsection (6) of
26 this section; (c) if the tenant has not made such a written request to
27 the landlord, the landlord may elect to either store the tenant's
28 property or place the tenant's property on the nearest public property
29 unless the tenant objects; (~~(b)~~) (d) if the property is stored, it
30 may not be returned to the tenant unless the tenant pays the actual or
31 reasonable costs of drayage and storage, whichever is less, within
32 thirty days; (~~(c)~~) (e) if the tenant or the tenant's representative
33 objects to storage of the property, it will not be stored but will be
34 placed on the nearest public property; and (~~(d) if the tenant is not~~
35 present at the time of the execution of the writ, it shall be presumed
36 the tenant does not object to storage of the property)) (f) the
37 landlord may sell or otherwise dispose of the property as provided in

1 subsection (3) of this section if the landlord provides written notice
2 to the tenant first.

3 (6) When serving a tenant with a writ of restitution under
4 subsection (5) of this section, the sheriff shall also serve the tenant
5 with a form provided by the landlord that can be used to request the
6 landlord to store the tenant's property, which must be substantially in
7 the following form:

8
9
10 REQUEST FOR STORAGE OF PERSONAL PROPERTY

11

12 Name of Plaintiff

13

14 Name(s) of Tenant(s)

15
16
17 I/we hereby request the landlord to store our personal property.
18 I/we understand that I/we am/are responsible for the actual or
19 reasonable costs of moving and storing the property, whichever is less.
20 If I/we fail to pay these costs, the landlord may sell or dispose of
21 the property pursuant to and within the time frame permitted under RCW
22 59.18.312(3).

23
24
25 Any notice of sale required under RCW 59.18.312(3) must be sent to
26 the tenants at the following address:

27
28
29

30 IF NO ADDRESS IS PROVIDED, NOTICE OF SALE WILL BE SENT TO THE LAST
31 KNOWN ADDRESS OF THE TENANT(S)

32
33
34
35 Dated:

36

37 Tenant-Print Name

1

2 Tenant-Print Name

3

4 This notice may be delivered or mailed to the landlord or the
5 landlord's representative at the following address:

6

7

8

9

10 This notice may also be served by facsimile to the landlord or the
11 landlord's representative at:

12

13

14 Facsimile Number

15

16 IMPORTANT

17

18

19 IF YOU WANT YOUR LANDLORD TO STORE YOUR PROPERTY, THIS WRITTEN REQUEST
20 MUST BE RECEIVED BY THE LANDLORD NO LATER THAN THREE (3) DAYS AFTER THE
21 SHERIFF SERVES THE WRIT OF RESTITUTION. YOU SHOULD RETAIN PROOF OF
22 SERVICE.

23 ****NEW SECTION. Sec. 2. This act is necessary for the immediate***
24 ***preservation of the public peace, health, or safety, or support of the***
25 ***state government and its existing public institutions, and takes effect***
26 ***immediately.***

**Sec. 2 was vetoed. See message at end of chapter.*

Passed by the House February 13, 2008.
Passed by the Senate March 7, 2008.
Approved by the Governor March 17, 2008, with the exception of
certain items that were vetoed.
Filed in Office of Secretary of State March 18, 2008.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Section 2, Engrossed
Substitute House Bill 1865 entitled:

"AN ACT Relating to limiting the obligations of landlords under
writs of restitution."

Section 2 is an emergency clause. An emergency clause is to be used
where it is necessary for the immediate preservation of the public
peace, health or safety or whenever it is necessary for the support
of state government. Engrossed Substitute House Bill 1865 clarifies
the rights and obligations of landlords and tenants, while including

new rights for tenants. Consequently, I do not believe that an emergency clause is necessary.

For this reason, I have vetoed Section 2 of Engrossed Substitute House Bill 1865.

With the exception of Section 2, Engrossed Substitute House Bill 1865 is approved."