

ESB 6413 - H COMM AMD
By Committee on Judiciary

ADOPTED 03/02/2016

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 59.18.030 and 2015 c 264 s 1 are each reenacted and
4 amended to read as follows:

5 As used in this chapter:

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

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

29 (3) "Designated person" means a person designated by the tenant
30 under RCW 59.18.590.

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

1 (5) "Distressed home conveyance" has the same meaning as in RCW
2 61.34.020.

3 (6) "Distressed home purchaser" has the same meaning as in RCW
4 61.34.020.

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

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

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

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

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

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

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

26 (i) The mortgagee;

27 (ii) A person licensed or required to be licensed under chapter
28 19.134 RCW;

29 (iii) A person licensed or required to be licensed under chapter
30 19.146 RCW;

31 (iv) A person licensed or required to be licensed under chapter
32 18.85 RCW;

33 (v) An attorney-at-law;

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

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

37 (11) "Landlord" means the owner, lessor, or sublessor of the
38 dwelling unit or the property of which it is a part, and in addition
39 means any person designated as representative of the owner, lessor,

1 or sublessor including, but not limited to, an agent, a resident
2 manager, or a designated property manager.

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

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

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

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

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

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

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

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

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

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

36 (20) "Reasonable attorneys' fees," where authorized in this
37 chapter, means an amount to be determined including the following
38 factors: The time and labor required, the novelty and difficulty of
39 the questions involved, the skill requisite to perform the legal
40 service properly, the fee customarily charged in the locality for

1 similar legal services, the amount involved and the results obtained,
2 and the experience, reputation and ability of the lawyer or lawyers
3 performing the services.

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

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

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

19 (24) A "tenant" is any person who is entitled to occupy a
20 dwelling unit primarily for living or dwelling purposes under a
21 rental agreement.

22 (25) "Tenant representative" means:

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

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

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

33 (d) In the absence of a personal representative under (a) of this
34 subsection, a person claiming to be a successor under (b) of this
35 subsection, or a designated person under (c) of this subsection, any
36 person who provides the landlord with reasonable evidence that he or
37 she is a successor of the deceased tenant as defined in RCW
38 11.62.005. The landlord has no obligation to identify all of the
39 deceased tenant's successors.

1 (26) "Tenant screening" means using a consumer report or other
2 information about a prospective tenant in deciding whether to make or
3 accept an offer for residential rental property to or from a
4 prospective tenant.

5 (27) "Tenant screening report" means a consumer report as defined
6 in RCW 19.182.010 and any other information collected by a tenant
7 screening service.

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

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

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

32 **Sec. 2.** RCW 59.18.257 and 2012 c 41 s 3 are each amended to read
33 as follows:

34 (1)(a) Prior to obtaining any information about a prospective
35 tenant, the prospective landlord shall first notify the prospective
36 tenant in writing, or by posting, of the following:

37 (i) What types of information will be accessed to conduct the
38 tenant screening;

1 (ii) What criteria may result in denial of the application;
2 ((and))

3 (iii) If a consumer report is used, the name and address of the
4 consumer reporting agency and the prospective tenant's rights to
5 obtain a free copy of the consumer report in the event of a denial or
6 other adverse action, and to dispute the accuracy of information
7 appearing in the consumer report; and

8 (iv) Whether or not the landlord will accept a comprehensive
9 reusable tenant screening report made available to the landlord by a
10 consumer reporting agency. If the landlord indicates its willingness
11 to accept a comprehensive reusable tenant screening report, the
12 landlord may access the landlord's own tenant screening report
13 regarding a prospective tenant as long as the prospective tenant is
14 not charged for the landlord's own tenant screening report.

15 (b)(i) The landlord may charge a prospective tenant for costs
16 incurred in obtaining a tenant screening report only if the
17 prospective landlord provides the information as required in (a) of
18 this subsection.

19 (ii) If a prospective landlord conducts his or her own screening
20 of tenants, the prospective landlord may charge his or her actual
21 costs in obtaining the background information only if the prospective
22 landlord provides the information as required in (a) of this
23 subsection. The amount charged may not exceed the customary costs
24 charged by a screening service in the general area. The prospective
25 landlord's actual costs include costs incurred for long distance
26 phone calls and for time spent calling landlords, employers, and
27 financial institutions.

28 (c) If a prospective landlord takes an adverse action, the
29 prospective landlord shall provide a written notice of the adverse
30 action to the prospective tenant that states the reasons for the
31 adverse action. The adverse action notice must contain the following
32 information in a substantially similar format, including additional
33 information as may be required under chapter 19.182 RCW:

34 "ADVERSE ACTION NOTICE

- 35 Name
- 36 Address
- 37 City/State/Zip Code

38 This notice is to inform you that your application has been:
39 Rejected

- 1 Approved with conditions:
- 2 Residency requires an increased deposit
- 3 Residency requires a qualified guarantor
- 4 Residency requires last month's rent
- 5 Residency requires an increased monthly rent of \$.....
- 6 Other:

7 Adverse action on your application was based on the following:

- 8 Information contained in a consumer report (The prospective
- 9 landlord must include the name, address, and phone number of the
- 10 consumer reporting agency that furnished the consumer report that
- 11 contributed to the adverse action.)
- 12 The consumer credit report did not contain sufficient
- 13 information
- 14 Information received from previous rental history or reference
- 15 Information received in a criminal record
- 16 Information received in a civil record
- 17 Information received from an employment verification

18 Dated this day of, ((20))....(year)

19 Agent/Owner Signature"

20 (2) Any landlord who maintains a web site advertising the rental
21 of a dwelling unit or as a source of information for current or
22 prospective tenants must include a statement on the property's home
23 page stating whether or not the landlord will accept a comprehensive
24 reusable tenant screening report made available to the landlord by a
25 consumer reporting agency. If the landlord indicates its willingness
26 to accept a comprehensive reusable tenant screening report, the
27 landlord may access the landlord's own tenant screening report
28 regarding a prospective tenant as long as the prospective tenant is
29 not charged for the landlord's own tenant screening report.

30 (3) Any landlord or prospective landlord who violates subsection
31 (1) of this section may be liable to the prospective tenant for an
32 amount not to exceed one hundred dollars. The prevailing party may
33 also recover court costs and reasonable attorneys' fees.

34 ~~((3) A stakeholder work group comprised of landlords, tenant~~
35 ~~advocates, and representatives of consumer reporting and tenant~~
36 ~~screening companies shall convene for the purposes of addressing the~~
37 ~~issues of tenant screening including, but not limited to: A tenant's~~
38 ~~cost of obtaining a tenant screening report; the portability of~~

1 ~~tenant screening reports; criteria used to evaluate a prospective~~
2 ~~tenant's background, including which court records may or may not be~~
3 ~~considered; and the regulation of tenant screening services. Specific~~
4 ~~recommendations on these issues are due to the legislature by~~
5 ~~December 1, 2012.)~~)

6 (4) This section does not limit a prospective tenant's rights or
7 the duties of a screening service as otherwise provided in chapter
8 19.182 RCW.

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 59.18
10 RCW to read as follows:

11 (1) A court may order an unlawful detainer action to be of
12 limited dissemination for one or more persons if: (a) The court finds
13 that the plaintiff's case was sufficiently without basis in fact or
14 law; (b) the tenancy was reinstated under RCW 59.18.410 or other law;
15 or (c) other good cause exists for limiting dissemination of the
16 unlawful detainer action.

17 (2) An order to limit dissemination of an unlawful detainer
18 action must be in writing.

19 (3) When an order for limited dissemination of an unlawful
20 detainer action has been entered with respect to a person, a tenant
21 screening service provider must not: (a) Disclose the existence of
22 that unlawful detainer action in a tenant screening report pertaining
23 to the person for whom dissemination has been limited, or (b) use the
24 unlawful detainer action as a factor in determining any score or
25 recommendation to be included in a tenant screening report pertaining
26 to the person for whom dissemination has been limited.

27 **Sec. 4.** RCW 59.18.280 and 2010 c 8 s 19027 are each amended to
28 read as follows:

29 (1) Within ~~((fourteen))~~ twenty-one days after the termination of
30 the rental agreement and vacation of the premises or, if the tenant
31 abandons the premises as defined in RCW 59.18.310, within
32 ~~((fourteen))~~ twenty-one days after the landlord learns of the
33 abandonment, the landlord shall give a full and specific statement of
34 the basis for retaining any of the deposit together with the payment
35 of any refund due the tenant under the terms and conditions of the
36 rental agreement.

37 (a) No portion of any deposit shall be withheld on account of
38 wear resulting from ordinary use of the premises.

1 **(b)** The landlord complies with this section if the required
2 statement or payment, or both, are delivered to the tenant personally
3 or deposited in the United States mail properly addressed to the
4 tenant's last known address with first-class postage prepaid within
5 the ((fourteen)) twenty-one days.

6 (~~The notice shall be delivered to the tenant personally or by~~
7 ~~mail to his or her last known address.~~) **(2)** If the landlord fails to
8 give such statement together with any refund due the tenant within
9 the time limits specified above he or she shall be liable to the
10 tenant for the full amount of the deposit. The landlord is also
11 barred in any action brought by the tenant to recover the deposit
12 from asserting any claim or raising any defense for retaining any of
13 the deposit unless the landlord shows that circumstances beyond the
14 landlord's control prevented the landlord from providing the
15 statement within the ((fourteen)) twenty-one days or that the tenant
16 abandoned the premises as defined in RCW 59.18.310. The court may in
17 its discretion award up to two times the amount of the deposit for
18 the intentional refusal of the landlord to give the statement or
19 refund due. In any action brought by the tenant to recover the
20 deposit, the prevailing party shall additionally be entitled to the
21 cost of suit or arbitration including a reasonable attorneys' fee.

22 **(3)** Nothing in this chapter shall preclude the landlord from
23 proceeding against, and the landlord shall have the right to proceed
24 against a tenant to recover sums exceeding the amount of the tenant's
25 damage or security deposit for damage to the property for which the
26 tenant is responsible together with reasonable attorneys' fees."

27 Correct the title.

EFFECT: Provides that the consumer credit report contained within
a "comprehensive reusable tenant screening report" is prepared by a
consumer reporting agency and not necessarily one of the national
credit bureaus.

--- END ---