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**SUBSTITUTE SENATE BILL 5538**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senate Financial Institutions & Insurance (originally sponsored by Senators Angel and Sheldon)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to deceased tenants; amending RCW 59.18.310;  
2 reenacting and amending RCW 59.18.030; and adding new sections to  
3 chapter 59.18 RCW.

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

5 **Sec. 1.** RCW 59.18.030 and 2012 c 41 s 2 are each reenacted and  
6 amended to read as follows:

7 As used in this chapter:

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

1 increase the risk of injury to occupants, and (h) conditions that  
2 increase the risk of fire.

3 (2) "Distressed home" has the same meaning as in RCW 61.34.020.

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

6 (4) "Distressed home purchaser" has the same meaning as in RCW  
7 61.34.020.

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

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

17 (7) "Gang-related activity" means any activity that occurs within  
18 the gang or advances a gang purpose.

19 (8) "In danger of foreclosure" means any of the following:

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

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

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

29 (i) The mortgagee;

30 (ii) A person licensed or required to be licensed under chapter  
31 19.134 RCW;

32 (iii) A person licensed or required to be licensed under chapter  
33 19.146 RCW;

34 (iv) A person licensed or required to be licensed under chapter  
35 18.85 RCW;

36 (v) An attorney-at-law;

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

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

1 (9) "Landlord" means the owner, lessor, or sublessor of the  
2 dwelling unit or the property of which it is a part, and in addition  
3 means any person designated as representative of the owner, lessor,  
4 or sublessor including, but not limited to, an agent, a resident  
5 manager, or a designated property manager.

6 (10) "Mortgage" is used in the general sense and includes all  
7 instruments, including deeds of trust, that are used to secure an  
8 obligation by an interest in real property.

9 (11) "Owner" means one or more persons, jointly or severally, in  
10 whom is vested:

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

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

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

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

22 (14) "Property" or "rental property" means all dwelling units on  
23 a contiguous quantity of land managed by the same landlord as a  
24 single, rental complex.

25 (15) "Prospective landlord" means a landlord or a person who  
26 advertises, solicits, offers, or otherwise holds a dwelling unit out  
27 as available for rent.

28 (16) "Prospective tenant" means a tenant or a person who has  
29 applied for residential housing that is governed under this chapter.

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

39 (18) "Reasonable attorneys' fees," where authorized in this  
40 chapter, means an amount to be determined including the following

1 factors: The time and labor required, the novelty and difficulty of  
2 the questions involved, the skill requisite to perform the legal  
3 service properly, the fee customarily charged in the locality for  
4 similar legal services, the amount involved and the results obtained,  
5 and the experience, reputation and ability of the lawyer or lawyers  
6 performing the services.

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

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

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

20 (22) "Tenant screening" means using a consumer report or other  
21 information about a prospective tenant in deciding whether to make or  
22 accept an offer for residential rental property to or from a  
23 prospective tenant.

24 (23) "Tenant screening report" means a consumer report as defined  
25 in RCW 19.182.010 and any other information collected by a tenant  
26 screening service.

27 (24) "Designated person" means a person designated by the tenant  
28 under section 2 of this act.

29 (25) "Reasonable manner" means to dispose of a deceased tenant's  
30 personal property by donation to a not-for-profit charitable  
31 organization, by removal of the property by a trash hauler or  
32 recycler, or by any other method that is reasonable under the  
33 circumstances.

34 (26) "Tenant representative" means:

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

37 (b) If the landlord has no knowledge that a personal  
38 representative has been appointed for the deceased tenant's estate, a  
39 person claiming to be a successor of the deceased tenant who has

1 provided the landlord with proof of death and an affidavit made by  
2 the person that meets the requirements of RCW 11.62.010(2);

3 (c) In the absence of a personal representative under (a) of this  
4 subsection or a person claiming to be a successor under (b) of this  
5 subsection, a designated person; or

6 (d) In the absence of a personal representative under (a) of this  
7 subsection, a person claiming to be a successor under (b) of this  
8 subsection, or a designated person under (c) of this subsection, a  
9 person reasonably known to the landlord to be a successor as defined  
10 in RCW 11.62.005.

11 NEW SECTION. Sec. 2. A new section is added to chapter 59.18  
12 RCW to read as follows:

13 (1)(a) At a landlord's request, the tenant may designate a person  
14 to act for the tenant on the tenant's death when the tenant is the  
15 sole occupant of the property.

16 (b) Any designation must be in writing, be separate from the  
17 rental agreement, and include:

18 (i) The name of the designated person and the mailing address,  
19 any address used for the receipt of electronic communications, and  
20 the telephone number of the designated person;

21 (ii) A signed statement authorizing the landlord in the event of  
22 the tenant's death when the tenant is the sole occupant of the  
23 property to: Grant the designated person access to the tenant's  
24 dwelling unit, remove the tenant's property, receive refunds of  
25 amounts due to the tenant, and dispose of the tenant's property  
26 consistent with the tenant's last will and testament and any  
27 applicable intestate succession law; and

28 (iii) A conspicuous statement that the designation remains in  
29 effect until it is revoked in writing by the tenant or replaced with  
30 a new designation.

31 (2) A tenant may, without request from the landlord, designate a  
32 person to act for the tenant on the tenant's death when the tenant is  
33 the sole occupant of the property by providing the landlord with the  
34 information and signing a statement as provided in subsection (1) of  
35 this section.

36 (3) The tenant may change the designated person or revoke any  
37 previous designation in writing at any time prior to his or her  
38 death.

1 (4) Once the landlord or the designated person knows of the  
2 appointment of a personal representative for the deceased tenant's  
3 estate or of a person claiming to be a successor of the deceased  
4 tenant who has provided the landlord with proof of death and an  
5 affidavit made by the person that meets the requirements of RCW  
6 11.62.010(2), the designated person's authority to act under this  
7 section terminates.

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

10 (1) In the event of the death of a tenant who is the sole  
11 occupant of the leased premises:

12 (a) The landlord must mail or personally deliver written notice  
13 to any known personal representative, known designated person,  
14 emergency contact identified by the tenant on the rental application,  
15 known person reasonably believed to be a successor of the tenant as  
16 defined in RCW 11.62.005, and to the deceased tenant at the address  
17 of the leased premises. If the landlord knows of any address used for  
18 the receipt of electronic communications, the landlord must email the  
19 notice to that address as well. The notice must include:

20 (i) The name of the deceased tenant and address of the dwelling  
21 unit;

22 (ii) The approximate date of the deceased tenant's death;

23 (iii) The rental amount and date through which rent is paid;

24 (iv) A statement that the tenancy will terminate fifteen days  
25 from the date the notice is mailed or personally delivered or the  
26 date through which rent is paid, whichever comes later, and that the  
27 tenant representative must remove the tenant's property from the  
28 leased premises during that time period or make written arrangements  
29 acceptable to the landlord for removal of the tenant's property at a  
30 later date. Acceptable arrangements include the payment of rent in  
31 advance for no more than sixty days from the date of the tenant's  
32 death to allow a tenant representative to arrange for orderly removal  
33 of the tenant's property. At the end of the period for which the rent  
34 has been paid pursuant to this subsection, the tenancy ends and the  
35 landlord may sell or dispose of any property that may remain in the  
36 leased premises;

37 (v) A statement that failure to remove the tenant's property or  
38 to make acceptable arrangements within the specified time period will  
39 allow the landlord to remove the tenant's property from the leased

1 premises, store it in a reasonably secure place, and charge the  
2 actual or reasonable costs, whichever is less, of drayage and storage  
3 of the property; and

4 (vi) A copy of any designation executed by the tenant pursuant to  
5 section 2 of this act;

6 (b) The landlord must turn over possession of the tenant's  
7 property to a tenant representative if a request is made in writing  
8 within the specified time period or any subsequent date agreed to by  
9 the parties;

10 (c) The landlord must refund any unearned rent and the tenant's  
11 deposits, less lawful deductions, including the actual or reasonable  
12 costs, whichever is less, of removing and storing the property, to  
13 the tenant representative; and

14 (d) Any tenant representative who removes property from the  
15 tenant's leased premises must, at the time of removal, provide to the  
16 landlord an inventory of the removed property and signed  
17 acknowledgment that he or she has only been given possession and not  
18 ownership of the property.

19 (2) If the landlord places the property in storage pursuant to  
20 subsection (1)(a) of this section, the landlord must mail a second  
21 written notice to any known personal representative, known designated  
22 person, emergency contact identified by the tenant on the rental  
23 application, known person reasonably believed to be a successor of  
24 the tenant as defined in RCW 11.62.005, and to the deceased tenant at  
25 the leased premises. The second notice must state that the landlord  
26 may sell or dispose of the property on or after a specified date that  
27 is at least forty-five days after the second notice is mailed if a  
28 tenant representative does not claim and remove the property in  
29 accordance with this subsection.

30 (a) If the landlord has no knowledge that a personal  
31 representative has been appointed for the deceased tenant's estate  
32 and no person claiming to be a successor of the deceased tenant has  
33 provided the landlord with proof of death and an affidavit made by  
34 the person that meets the requirements of RCW 11.62.010(2), the  
35 landlord may turn over possession of the tenant's property to the  
36 designated person or to any person the landlord reasonably believes  
37 to be a successor of the deceased tenant under RCW 11.62.005. The  
38 landlord has no obligation to identify all of the deceased tenant's  
39 devisees or heirs and may give possession to any individual who

1 provides the landlord with reasonable evidence that they are a  
2 successor of the deceased tenant under RCW 11.62.005.

3 (i) Upon removal of the property, the landlord must refund any  
4 unearned rent and the tenant's deposits, less lawful deductions,  
5 including the actual or reasonable costs, whichever is less, of  
6 drayage and storage of the deceased tenant's property, to the  
7 tenant's representative.

8 (ii) Any person who removes property from the tenant's leased  
9 premises must, at the time of removal, provide to the landlord an  
10 inventory of the removed property and signed acknowledgment that he  
11 or she has only been given possession and not ownership of the  
12 property.

13 (b) If the landlord is not contacted within the forty-five day  
14 notice period by a tenant representative entitled to remove the  
15 property under this section, the landlord may sell or dispose of the  
16 deceased tenant's personal property, except for personal papers and  
17 personal photographs, as provided in this section.

18 (i) If the landlord reasonably estimates the fair market value of  
19 the stored property to be more than one thousand dollars and a  
20 commercially reasonable method of sale is available through a third  
21 party, the landlord must arrange to sell the property in a  
22 commercially reasonable manner and dispose of any property that  
23 remains unsold.

24 (ii) If the value of the stored property does not meet the  
25 threshold provided in (b)(i) of this subsection, the landlord may  
26 dispose of the property in a reasonable manner.

27 (iii) The landlord may apply any income derived from the sale of  
28 the property pursuant to this section against any costs of sale and  
29 moneys due the landlord, including actual or reasonable costs,  
30 whichever is less, of drayage and storage of the deceased tenant's  
31 property. Any excess income derived from the sale of such property  
32 under this section must be held by the landlord for a period of one  
33 year from the date of sale, and if no claim is made for recovery of  
34 the property before the expiration of that one-year period, the  
35 balance must be treated as abandoned property and deposited by the  
36 landlord with the department of revenue pursuant to chapter 63.29  
37 RCW.

38 (c) Personal papers and personal photographs that are not claimed  
39 by a tenant representative within sixty days of a sale or other

1 disposition of the deceased tenant's other personal property may be  
2 disposed of.

3 (d) No landlord or employee of a landlord, or his or her family  
4 members, may acquire, directly or indirectly, the property sold  
5 pursuant to (b)(i) of this subsection or disposed of pursuant to  
6 (b)(ii) of this subsection, or personal papers and personal  
7 photographs disposed of under (c) of this subsection.

8 (3) Upon learning of the death of the tenant, the landlord may  
9 enter the deceased tenant's dwelling unit and immediately dispose of  
10 any perishable food, hazardous materials, and garbage and turn over  
11 animals to a tenant representative or to an animal control officer,  
12 humane society, or other individual or organization willing to care  
13 for the animals.

14 (4) Any notices sent by the landlord under this section must  
15 include a mailing address, any address used for the receipt of  
16 electronic communications, and a telephone number of the landlord.

17 (5) If a landlord knowingly violates this section, the landlord  
18 is liable to the deceased tenant's estate for actual damages. The  
19 prevailing party in any action pursuant to this subsection may  
20 recover costs and reasonable attorneys' fees.

21 (6) A landlord who complies with this section is relieved from  
22 any liability relating to the deceased tenant's property.

23 **Sec. 4.** RCW 59.18.310 and 2011 c 132 s 16 are each amended to  
24 read as follows:

25 (1) If the tenant defaults in the payment of rent and reasonably  
26 indicates by words or actions the intention not to resume tenancy,  
27 the tenant shall be liable for the following for such abandonment:  
28 PROVIDED, That upon learning of such abandonment of the premises the  
29 landlord shall make a reasonable effort to mitigate the damages  
30 resulting from such abandonment:

31 ~~((1))~~ (a) When the tenancy is month-to-month, the tenant shall  
32 be liable for the rent for the thirty days following either the date  
33 the landlord learns of the abandonment, or the date the next regular  
34 rental payment would have become due, whichever first occurs.

35 ~~((2))~~ (b) When the tenancy is for a term greater than month-to-  
36 month, the tenant shall be liable for the lesser of the following:

37 ~~((a))~~ (i) The entire rent due for the remainder of the term; or

38 ~~((b))~~ (ii) All rent accrued during the period reasonably  
39 necessary to rerent the premises at a fair rental, plus the

1 difference between such fair rental and the rent agreed to in the  
2 prior agreement, plus actual costs incurred by the landlord in  
3 rerenting the premises together with statutory court costs and  
4 reasonable attorneys' fees.

5       (2) In the event of such abandonment of tenancy and an  
6 accompanying default in the payment of rent by the tenant, the  
7 landlord may immediately enter and take possession of any property of  
8 the tenant found on the premises and may store the same in any  
9 reasonably secure place. A landlord shall make reasonable efforts to  
10 provide the tenant with a notice containing the name and address of  
11 the landlord and the place where the property is stored and informing  
12 the tenant that a sale or disposition of the property shall take  
13 place pursuant to this section, and the date of the sale or disposal,  
14 and further informing the tenant of the right under RCW 59.18.230 to  
15 have the property returned prior to its sale or disposal. The  
16 landlord's efforts at notice under this subsection shall be satisfied  
17 by the mailing by first-class mail, postage prepaid, of such notice  
18 to the tenant's last known address and to any other address provided  
19 in writing by the tenant or actually known to the landlord where the  
20 tenant might receive the notice. The landlord shall return the  
21 property to the tenant after the tenant has paid the actual or  
22 reasonable drayage and storage costs whichever is less if the tenant  
23 makes a written request for the return of the property before the  
24 landlord has sold or disposed of the property. After forty-five days  
25 from the date the notice of such sale or disposal is mailed or  
26 personally delivered to the tenant, the landlord may sell or dispose  
27 of such property, including personal papers, family pictures, and  
28 keepsakes. The landlord may apply any income derived therefrom  
29 against moneys due the landlord, including actual or reasonable costs  
30 whichever is less of drayage and storage of the property. If the  
31 property has a cumulative value of two hundred fifty dollars or less,  
32 the landlord may sell or dispose of the property in the manner  
33 provided in this section, except for personal papers, family  
34 pictures, and keepsakes, after seven days from the date the notice of  
35 sale or disposal is mailed or personally delivered to the tenant:  
36 PROVIDED, That the landlord shall make reasonable efforts, as defined  
37 in this section, to notify the tenant. Any excess income derived from  
38 the sale of such property under this section shall be held by the  
39 landlord for the benefit of the tenant for a period of one year from  
40 the date of sale, and if no claim is made or action commenced by the

1 tenant for the recovery thereof prior to the expiration of that  
2 period of time, the balance shall be the property of the landlord,  
3 including any interest paid on the income.

4 (3) This section does not apply to the disposition of property of  
5 a deceased tenant. The disposition of property on the death of a  
6 tenant when the tenant is the sole occupant of the property must be  
7 as provided in section 3 of this act.

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