
SECOND SUBSTITUTE SENATE BILL 5407

State of Washington 65th Legislature 2018 Regular Session

By Senate Ways & Means (originally sponsored by Senators Frockt, Miloscia, Walsh, Mullet, Billig, Kuderer, Pedersen, Hasegawa, Darneille, and Keiser)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to ensuring housing options; amending RCW
2 36.22.178; amending 2017 3rd sp.s. c 4 s 1028 (uncodified); adding a
3 new section to chapter 59.18 RCW; adding new sections to chapter
4 43.31 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18
7 RCW to read as follows:

8 (1) A landlord may not, based on the source of income of an
9 otherwise eligible prospective tenant or current tenant:

10 (a) Refuse to lease or rent any real property to a prospective
11 tenant or current tenant, unless the: (i) Prospective tenant's or
12 current tenant's source of income is conditioned on the real property
13 passing inspection; (ii) written estimate of the cost of improvements
14 necessary to pass inspection is more than one thousand five hundred
15 dollars; and (iii) landlord has not received moneys from the landlord
16 mitigation program account to make the improvements;

17 (b) Expel a prospective tenant or current tenant from any real
18 property;

19 (c) Make any distinction, discrimination, or restriction against
20 a prospective tenant or current tenant in the price, terms,
21 conditions, fees, or privileges relating to the rental, lease, or

1 occupancy of real property or in the furnishing of any facilities or
2 services in connection with the rental, lease, or occupancy of real
3 property;

4 (d) Attempt to discourage the rental or lease of any real
5 property to a prospective tenant or current tenant;

6 (e) Assist, induce, incite, or coerce another person to commit an
7 act or engage in a practice that violates this section;

8 (f) Coerce, intimidate, threaten, or interfere with any person in
9 the exercise or enjoyment of, or on account of the person having
10 exercised or enjoyed or having aided or encouraged any other person
11 in the exercise or enjoyment of, any right granted or protected under
12 this section;

13 (g) Represent to a person that a dwelling unit is not available
14 for inspection or rental when the dwelling unit in fact is available
15 for inspection or rental; or

16 (h) Otherwise make unavailable or deny a dwelling unit to a
17 prospective tenant or current tenant that, but for his or her source
18 of income, would be eligible to rent real property.

19 (2) A landlord may not, based on the source of income of an
20 otherwise eligible prospective tenant or current tenant, publish,
21 circulate, issue, or display, or cause to be published, circulated,
22 issued, or displayed, any communication, notice, advertisement, or
23 sign of any kind relating to the rental or lease of real property
24 that indicates any source of income.

25 (3) If a landlord requires that a prospective tenant or current
26 tenant have a certain threshold level of income, any source of income
27 in the form of a rent voucher or subsidy must be subtracted from the
28 total of the monthly rent prior to calculating if the income criteria
29 have been met.

30 (4) A person in violation of this section shall be held liable in
31 a civil action up to four and one-half times the monthly rent of the
32 real property at issue, as well as court costs and reasonable
33 attorneys' fees.

34 (5) As used in this section, "source of income" includes benefits
35 or subsidy programs including housing assistance, public assistance,
36 emergency rental assistance, veterans benefits, social security,
37 supplemental security income or other retirement programs, and other
38 programs administered by any federal, state, local, or nonprofit
39 entity. "Source of income" does not include income derived in an
40 illegal manner.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.31
2 RCW to read as follows:

3 (1) Subject to the availability of funds for this purpose, the
4 landlord mitigation program is created and administered by the
5 department. The department shall have such rule-making authority as
6 the department deems necessary to administer the program. The
7 following types of claims related to private market rental units are
8 eligible for reimbursement from the landlord mitigation program
9 account:

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

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

24 (c) Reimbursement for damages established pursuant to subsection
25 (2) of this section.

26 (2) In order for a claim under subsection (1)(c) of this section
27 to be eligible for reimbursement from the landlord mitigation program
28 account, a landlord must:

29 (a) Have ensured that the rental property was inspected at the
30 commencement of the tenancy by both the tenant and the landlord and
31 that a detailed written move-in property inspection report was
32 prepared and signed by both the tenant and the landlord;

33 (b) Make repairs and then apply for reimbursement to the
34 department;

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

37 (d) Submit to the department copies of the move-in property
38 inspection report specified in (a) of this subsection, before repair
39 and after repair photographs, copies of repair receipts for labor and

1 materials, and such other documentation or information as the
2 department may request.

3 (3) The department shall make reasonable efforts to review a
4 claim within ten business days from the date it received properly
5 submitted and complete claims to the satisfaction of the department.
6 In reviewing a claim, and determining eligibility for reimbursement,
7 the department must receive documentation, acceptable to the
8 department in its sole discretion, that the claim involves a private
9 market rental unit rented to a low-income tenant whose source of
10 income is specified in section 1(5) of this act and who is using
11 public rental assistance to pay for rent, such as a housing choice
12 rental voucher.

13 (4) Damages from a tenancy must total at least five hundred
14 dollars in order for a claim to be eligible for reimbursement from
15 the program. Damages may exceed five thousand dollars, however,
16 reimbursement from the program may not exceed five thousand dollars
17 per tenancy.

18 (5) Damages, beyond wear and tear, that are eligible for
19 reimbursement include, but are not limited to: Interior wall gouges
20 and holes; damage to doors and cabinets, including hardware; carpet
21 stains or burns; cracked tiles or hard surfaces; broken windows;
22 damage to household fixtures such as disposal, toilet, sink, sink
23 handle, ceiling fan, and lighting. Other property damages beyond
24 normal wear and tear may also be eligible for reimbursement at the
25 department's discretion. Damages may also include unpaid rent,
26 provided that the landlord can evidence it to the department's
27 satisfaction, in an amount not to exceed twenty percent of the total
28 claim submitted.

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

33 (7) The department, in its sole discretion, may inspect the
34 property and the landlord's records related to a claim to assist in
35 making its claim review and determination of eligibility.

36 (8) A landlord in receipt of reimbursement from the program is
37 prohibited from:

38 (a) Taking legal action against the tenant for damages
39 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 tenant
3 for damages attributable to the same tenancy.

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

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

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

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

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

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

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

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

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

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

10 (vii) Any other modifications and recommendations made by
11 stakeholders to improve the effectiveness and applicability of the
12 program.

13 (14) "Private market rental unit" means any unit available for
14 rent that is owned by an individual, corporation, limited liability
15 company, nonprofit housing provider, or other entity structure, but
16 does not include housing acquired, or constructed by a public housing
17 agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018.

18 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.31
19 RCW to read as follows:

20 (1) The landlord mitigation program account is created in the
21 custody of the state treasury. All transfers and appropriations by
22 the legislature, repayments, private contributions, and all other
23 sources must be deposited into the account. Expenditures from the
24 account may only be used for the landlord mitigation program under
25 this chapter to reimburse landlords for eligible claims identified in
26 section 2 of this act related to private market rental units during
27 the time of their rental to tenants whose source of income is
28 specified in section 1(5) of this act. Only the director or the
29 director's designee may authorize expenditures from the account. The
30 account is subject to allotment procedures under chapter 43.88 RCW,
31 but an appropriation is not required for expenditures.

32 (2) Administrative costs associated with application,
33 distribution, and other program activities of the department may not
34 exceed ten percent of the annual funds available for the landlord
35 mitigation program. Reappropriations must not be included in the
36 calculation of the annual funds available for determining the
37 administrative costs.

1 **Sec. 4.** 2017 3rd sp.s. c 4 s 1028 (uncodified) is amended to
2 read as follows:

3 **FOR THE DEPARTMENT OF COMMERCE**

4 Rapid Housing Improvement Program (30000863)

5 The reappropriation in this section is subject to the following
6 conditions and limitations:

7 (1) Except as provided in subsection (2) of this section, the
8 reappropriation is subject to the provisions of section 1010, chapter
9 35, Laws of 2016 sp. sess.

10 (2) The department may use the reappropriation to implement this
11 act.

12 Reappropriation:

13	Washington Housing Trust Account—State.	\$194,000
14	Prior Biennia (Expenditures).	\$31,000
15	Future Biennia (Projected Costs).	\$0
16	TOTAL.	\$225,000

17 **Sec. 5.** RCW 36.22.178 and 2011 c 110 s 1 are each amended to
18 read as follows:

19 The surcharge provided for in this section shall be named the
20 affordable housing for all surcharge.

21 (1) Except as provided in subsection (3) of this section, a
22 surcharge of (~~ten~~) thirteen dollars per instrument shall be charged
23 by the county auditor for each document recorded, which will be in
24 addition to any other charge authorized by law. The county may retain
25 up to five percent of these funds collected solely for the
26 collection, administration, and local distribution of these funds. Of
27 the remaining funds, forty percent of the revenue generated through
28 this surcharge will be transmitted monthly to the state treasurer who
29 will deposit: (a) The portion of the funds attributable to ten
30 dollars of the surcharge into the affordable housing for all account
31 created in RCW 43.185C.190. The department of commerce must use these
32 funds to provide housing and shelter for extremely low-income
33 households, including but not limited to housing for victims of human
34 trafficking and their families and grants for building operation and
35 maintenance costs of housing projects or units within housing
36 projects that are affordable to extremely low-income households with
37 incomes at or below thirty percent of the area median income, and
38 that require a supplement to rent income to cover ongoing operating

1 expenses; and (b) the portion of the funds attributable to three
2 dollars of the surcharge into the landlord mitigation program account
3 created in section 3 of this act.

4 (2) All of the remaining funds generated by this surcharge will
5 be retained by the county and be deposited into a fund that must be
6 used by the county and its cities and towns for eligible housing
7 activities as described in this subsection that serve very low-income
8 households with incomes at or below fifty percent of the area median
9 income. The portion of the surcharge retained by a county shall be
10 allocated to eligible housing activities that serve extremely low and
11 very low-income households in the county and the cities within a
12 county according to an interlocal agreement between the county and
13 the cities within the county consistent with countywide and local
14 housing needs and policies. A priority must be given to eligible
15 housing activities that serve extremely low-income households with
16 incomes at or below thirty percent of the area median income.
17 Eligible housing activities to be funded by these county funds are
18 limited to:

19 (a) Acquisition, construction, or rehabilitation of housing
20 projects or units within housing projects that are affordable to very
21 low-income households with incomes at or below fifty percent of the
22 area median income, including units for homeownership, rental units,
23 seasonal and permanent farmworker housing units, units reserved for
24 victims of human trafficking and their families, and single room
25 occupancy units;

26 (b) Supporting building operation and maintenance costs of
27 housing projects or units within housing projects eligible to receive
28 housing trust funds, that are affordable to very low-income
29 households with incomes at or below fifty percent of the area median
30 income, and that require a supplement to rent income to cover ongoing
31 operating expenses;

32 (c) Rental assistance vouchers for housing units that are
33 affordable to very low-income households with incomes at or below
34 fifty percent of the area median income, including rental housing
35 vouchers for victims of human trafficking and their families, to be
36 administered by a local public housing authority or other local
37 organization that has an existing rental assistance voucher program,
38 consistent with or similar to the United States department of housing
39 and urban development's section 8 rental assistance voucher program
40 standards; and

1 (d) Operating costs for emergency shelters and licensed overnight
2 youth shelters.

3 (3) The surcharge imposed in this section does not apply to
4 assignments or substitutions of previously recorded deeds of trust.

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