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SUBSTITUTE SENATE BILL 6275

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State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators Long, Smith and Schow)

Read first time 02/02/96.

1 AN ACT Relating to obtaining an order staying execution of a writ  
2 of restitution; and amending RCW 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 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, may within three days after the  
11 service of the writ (~~of restitution may execute to the plaintiff a~~  
12 ~~bond to be filed with and approved by the clerk of the court in such~~  
13 ~~sum as may be fixed by the judge, with sufficient surety to be approved~~  
14 ~~by the clerk of said 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 with~~  
17 ~~all damages the plaintiff may sustain by reason of the defendant~~  
18 ~~occupying or keeping possession of said premises, together with all~~  
19 ~~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 agent or attorneys, shall have notice of the time and  
3 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 bond before said bond shall be approved by the clerk)), apply to  
7 the court for an order staying execution of the writ. An order staying  
8 execution of the writ shall not be granted unless the defendant  
9 certifies in writing as to the reasonable efforts that have been made  
10 to give written or oral notice to the plaintiff or his or her attorney.  
11 An order staying execution of the writ shall not issue except upon the  
12 giving of security by the defendant for the payment of such costs,  
13 attorneys' fees, and damages, if any, as were awarded to the plaintiff  
14 in the order or judgment for issuance of the writ of restitution.  
15 Every order staying execution of a writ of restitution shall expire by  
16 its terms within such time after entry, not to exceed seven days, as  
17 the court fixes, unless within the time so fixed the order, for good  
18 cause shown, is extended for a like period or unless the plaintiff  
19 consents that it may be extended for a longer period. Every order  
20 staying execution of the writ shall set a date and time for a hearing  
21 to be conducted in the manner prescribed in RCW 59.18.380, and a copy  
22 of the order and any copies of any pleadings presented to the court in  
23 obtaining the stay order shall be served on the plaintiff or  
24 plaintiff's attorney or agent at least three days before the date of  
25 the hearing.

26 If the writ of restitution has been based upon a finding by the  
27 court that the tenant, subtenant, sublessee, or a person residing at  
28 the rental premises has engaged in drug-related activity or has allowed  
29 any other person to engage in drug-related activity at those premises  
30 with his or her knowledge or approval, neither the tenant, the  
31 defendant, nor a person in possession of the premises shall be entitled  
32 to post a bond in order to retain possession of the premises.

33 The writ may be served by the sheriff, in the event he or she shall  
34 be unable to find the defendant, an agent or attorney, or a person in  
35 possession of the premises, by affixing a copy of ((said)) the writ in  
36 a conspicuous place upon the premises: PROVIDED, That the sheriff  
37 shall not require any bond for the service or execution of the writ.  
38 The sheriff shall be immune from all civil liability for serving and

- 1 enforcing writs of restitution unless the sheriff is grossly negligent
- 2 in carrying out his or her duty.

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