

**ESHB 2414** - S COMM AMD

By Committee on Government Operations & Elections

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

3 "Sec. 1. RCW 59.18.075 and 1992 c 38 s 4 are each amended to read  
4 as follows:

5 (1) Any law enforcement agency which seizes a legend drug pursuant  
6 to a violation of chapter 69.41 RCW, a controlled substance pursuant to  
7 a violation of chapter 69.50 RCW, or an imitation controlled substance  
8 pursuant to a violation of chapter 69.52 RCW, shall make a reasonable  
9 attempt to discover the identity of the landlord and shall notify the  
10 landlord in writing, at the last address listed in the property tax  
11 records and at any other address known to the law enforcement agency,  
12 of the seizure and the location of the seizure of the illegal drugs or  
13 substances.

14 (2) Any law enforcement agency which arrests a tenant for  
15 threatening another tenant with a firearm or other deadly weapon, or  
16 for some other unlawful use of a firearm or other deadly weapon on the  
17 rental premises, or for physically assaulting another person on the  
18 rental premises, shall make a reasonable attempt to discover the  
19 identity of the landlord and notify the landlord about the arrest in  
20 writing, at the last address listed in the property tax records and at  
21 any other address known to the law enforcement agency.

22 (3)(a) A law enforcement agency that has probable cause to believe  
23 that a tenant or other occupant of a rental unit has committed a  
24 criminal street gang-related offense as defined in RCW 9.94A.030 shall  
25 make a reasonable attempt to discover the identity of the landlord and  
26 notify the landlord in writing, at the last address listed in the  
27 property tax records and at any other address known to the law  
28 enforcement agency, of the criminal street gang-related offense on the  
29 rental premises.

1       (b) For the purposes of this subsection, the law enforcement agency  
2 shall include the following information with the notice:

3       (i) The name of the tenant and the individual or individuals who  
4 were involved in the criminal street gang-related offense;

5       (ii) The rental unit where the incident occurred;

6       (iii) The date of the incident;

7       (iv) Actions taken by the law enforcement agency in response to the  
8 incident;

9       (v) A statement outlining the authority of a landlord under chapter  
10 59.12 RCW to commence an unlawful detainer action against a tenant who  
11 has committed or permitted gang-related activity at the premises; and

12       (vi) Penalties the landlord may face for failure to abate a  
13 nuisance.

14       NEW SECTION. Sec. 2. The definitions in this section apply  
15 throughout this chapter unless the context clearly requires otherwise.

16       (1) "Building" includes, but is not limited to, any structure or  
17 separate part or portion thereof, whether permanent or not, or the  
18 ground itself.

19       (2) "Criminal street gang activity" means a pattern of criminal  
20 street gang activity as defined in RCW 9.94A.030.

21       NEW SECTION. Sec. 3. Every building or unit within a building  
22 used for the purpose of aiding, promoting, or conducting criminal  
23 street gang activity is a nuisance that must be enjoined, abated, and  
24 prevented, whether it is a public or private nuisance. In a multiunit  
25 building, only the offending unit may be declared a nuisance, and only  
26 the offending unit must be enjoined, abated, and prevented. Nothing in  
27 this chapter applies to property used for the purpose of, or activity  
28 involved in, providing health services, food and financial assistance,  
29 treatment, counseling, training, religious services, education, civic  
30 involvement, or any social service or charitable assistance.

31       NEW SECTION. Sec. 4. (1) Any person who resides, works in, or  
32 owns property in the same multifamily building, apartment complex, or  
33 within a one-block radius of the property where the nuisance is alleged  
34 to exist may bring an action under this chapter by filing a complaint

1 in the county superior court in which the property is located alleging  
2 the facts constituting the nuisance. The action may also be brought by  
3 any public agency.

4 (2) Any complaint filed under this chapter must be verified or  
5 accompanied by an affidavit. A copy of the complaint and affidavit  
6 must be served on the occupant and the owner of the property according  
7 to the rules of civil procedure. In addition to showing that the  
8 occupant and the owner or his or her agent has had an opportunity to  
9 abate the nuisance, the affidavit must contain a description of all  
10 attempts by the applicant to notify and locate the occupant and the  
11 owner of the property or the owner's agent, including at least one  
12 attempt to notify the occupant and the owner or owner's agent by  
13 registered mail.

14 (3) The affidavit filed under subsection (2) of this section must  
15 describe in detail the adverse impact associated with the property on  
16 the surrounding neighborhood. For the purposes of this chapter,  
17 "adverse impact" includes, but is not limited to, the following:  
18 Seizure of property pursuant to search warrants issued as a result of  
19 criminal street gang activity; recent arrests of persons who frequent  
20 the property for purposes of criminal street gang activity; a recent  
21 increase in the number of complaints made to law enforcement of illegal  
22 activity associated with the property which result in arrests for  
23 criminal street gang activity; and recent increases in arrests for  
24 weapons violations of persons who frequent the property.

25 (4) Upon receipt of the complaint filed under this chapter, the  
26 court shall grant a hearing as soon as practicable.

27 NEW SECTION. **Sec. 5.** (1) If the complaint under this chapter is  
28 filed by a citizen, the complaint may not be dismissed by the citizen  
29 for want of prosecution except upon a sworn statement made by the  
30 citizen and the citizen's attorney, if the citizen has one. The  
31 statement must set forth the reasons why the action should be  
32 dismissed. The case may only be dismissed if so ordered by the court.

33 (2) In case of failure to prosecute the action with reasonable  
34 diligence, or at the request of the plaintiff, the court may substitute  
35 any other citizen consenting to be substituted for the plaintiff.

1        NEW SECTION.    **Sec. 6.** A copy of the complaint, together with a  
2 notice of the time and place of the hearing of the action, must be  
3 served upon the occupant and the owner at least six business days  
4 before the hearing.

5        NEW SECTION.    **Sec. 7.** (1) Except as provided in subsection (2) of  
6 this section, if the existence of the nuisance is established in the  
7 action, an order of abatement must be entered as part of the final  
8 judgment in the case. The plaintiff's costs in the action, including  
9 those of abatement, are a lien upon the building or unit within a  
10 building to the extent of the owner's interest. The lien must be filed  
11 as a judgment summary stating the name of the owner and the legal  
12 description of the real property. The lien must be recorded and  
13 enforced as a judgment summary.

14        (2) If the court finds and concludes that the occupant or the owner  
15 of the building or unit within a building:

16        (a) Had no knowledge of the existence of the nuisance or has been  
17 making reasonable efforts to abate the nuisance;

18        (b) Has not been guilty of any contempt of court in the  
19 proceedings; and

20        (c) Will immediately make reasonable efforts to abate any such  
21 nuisance that may exist at the building or unit within a building and  
22 prevent it from being a nuisance within a period of one year  
23 thereafter, the court shall, if satisfied with the occupant's or the  
24 owner's good faith, order the building or unit within a building to be  
25 delivered to the occupant or the owner, and no order of abatement may  
26 be entered. If an order of abatement has been entered and the occupant  
27 or the owner subsequently meets the requirements of this subsection,  
28 the order of abatement must be canceled.

29        (3) For the purposes of determining whether the occupant or owner  
30 of the building or unit within a building made reasonable efforts to  
31 abate the nuisance, the court shall consider such factors as whether  
32 the occupant or owner:

33        (a) Terminated or attempted to terminate the tenancy or lease of a  
34 tenant or leaseholder where the nuisance is occurring if the tenant or  
35 leaseholder is involved in the criminal street gang activity;

36        (b) Placed restrictions on the rental agreement or lease;

1 (c) Adopted feasible measures on the property to try to prevent the  
2 criminal street gang activity;

3 (d) Cooperated with law enforcement to attempt to stop the criminal  
4 street gang activity; and

5 (e) Made other efforts the court finds relevant.

6 (4) If the court finds there is insufficient evidence to establish  
7 the existence of the nuisance, the court may order the person or public  
8 agency who filed the complaint to pay the occupant and the owner their  
9 reasonable attorneys' fees and costs to defend the action, any loss of  
10 rent or revenue experienced as a result of the action, restraining  
11 order, or preliminary injunction, and damages up to five hundred  
12 dollars each.

13 NEW SECTION. **Sec. 8.** Any final order of abatement issued under  
14 this chapter must:

15 (1) Direct the removal of all personal property subject to seizure  
16 and forfeiture under RCW 69.50.505 or other law from the building or  
17 unit within a building, and direct the commencement of proceedings to  
18 forfeit the property under the forfeiture provisions of RCW 69.50.505  
19 or other law;

20 (2) If the building or unit is not subject to the interests of  
21 innocent occupants or innocent legal owners, provide for the immediate  
22 closure of the building or unit within a building against its use for  
23 any purpose, and for keeping it closed for a period of one year unless  
24 released sooner as provided in this chapter; and

25 (3) State that while the order of abatement remains in effect the  
26 building or unit within a building must remain in the custody of the  
27 court.

28 NEW SECTION. **Sec. 9.** (1) In all actions brought under this  
29 chapter, the proceeds and all moneys forfeited under the forfeiture  
30 provisions of RCW 69.50.505 or other law must be applied as follows:

31 (a) First, to the fees and costs of the removal and sale;

32 (b) Second, to the allowances and costs of closing and keeping  
33 closed the building or unit within a building;

34 (c) Third, to the payment of the plaintiff's costs in the action;  
35 and

1 (d) Fourth, the balance, if any, to the owner of the forfeited  
2 property.

3 (2)(a) Except as provided in (b) of this subsection, if the  
4 proceeds of the sale of items subject to seizure and forfeiture do not  
5 fully discharge all of the costs, fees, and allowances, the building or  
6 unit within a building must be sold under execution issued upon the  
7 order of the court, and the proceeds of the sale must be applied in a  
8 like manner.

9 (b) A building or unit within a building may not be sold under this  
10 section unless the court finds and concludes by clear and convincing  
11 evidence that the owner of the building or unit within a building had  
12 knowledge or notice of the existence of the nuisance. However, this  
13 subsection may not be construed as limiting or prohibiting the entry of  
14 any final order of abatement as provided in this chapter.

15 NEW SECTION. **Sec. 10.** Whenever the owner of a building or unit  
16 within a building has been found in contempt of court and fined in any  
17 proceedings under this chapter, the fine is a lien upon the building or  
18 unit within a building to the extent of the owner's interest. The lien  
19 must be filed as a judgment summary stating the name of the owner and  
20 the legal description of the real property. The lien must be recorded  
21 and enforced as a judgment summary.

22 NEW SECTION. **Sec. 11.** The abatement of a nuisance under this  
23 chapter does not prejudice the right of any person to recover damages  
24 for its past existence.

25 NEW SECTION. **Sec. 12.** If any provision of this act or its  
26 application to any person or circumstance is held invalid, the  
27 remainder of the act or the application of the provision to other  
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 13.** Sections 2 through 12 of this act  
30 constitute a new chapter in Title 7 RCW."

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1        On page 1, line 2 of the title, after "activity;" strike the  
2 remainder of the title and insert "amending RCW 59.18.075; adding a new  
3 chapter to Title 7 RCW; and prescribing penalties."

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