

2SSB 5407 - S AMD 515

By Senator Mullet

ADOPTED 02/09/2018

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18
4 RCW to read as follows:

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

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

14 (b) Expel a prospective tenant or current tenant from any real
15 property;

16 (c) Make any distinction, discrimination, or restriction against
17 a prospective tenant or current tenant in the price, terms,
18 conditions, fees, or privileges relating to the rental, lease, or
19 occupancy of real property or in the furnishing of any facilities or
20 services in connection with the rental, lease, or occupancy of real
21 property;

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

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

26 (f) Coerce, intimidate, threaten, or interfere with any person in
27 the exercise or enjoyment of, or on account of the person having
28 exercised or enjoyed or having aided or encouraged any other person
29 in the exercise or enjoyment of, any right granted or protected under
30 this section;

1 (g) Represent to a person that a dwelling unit is not available
2 for inspection or rental when the dwelling unit in fact is available
3 for inspection or rental; or

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

7 (2) A landlord may not publish, circulate, issue, or display, or
8 cause to be published, circulated, issued, or displayed, any
9 communication, notice, advertisement, or sign of any kind relating to
10 the rental or lease of real property that indicates a preference,
11 limitation, or requirement based on any source of income.

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

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

21 (5) As used in this section, "source of income" includes benefits
22 or subsidy programs including housing assistance, public assistance,
23 emergency rental assistance, veterans benefits, social security,
24 supplemental security income or other retirement programs, and other
25 programs administered by any federal, state, local, or nonprofit
26 entity. "Source of income" does not include income derived in an
27 illegal manner.

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

30 (1) Subject to the availability of funds for this purpose, the
31 landlord mitigation program is created and administered by the
32 department. The department shall have such rule-making authority as
33 the department deems necessary to administer the program. The
34 following types of claims related to landlord mitigation for renting
35 private market rental units to low-income tenants using a source of
36 income in section 1(5) of this act are eligible for reimbursement
37 from the landlord mitigation program account:

38 (a) Up to one thousand dollars for improvements identified in
39 section 1(1)(a) of this act. In order to be eligible for

1 reimbursement under this subsection (1)(a), the landlord must pay for
2 the first five hundred dollars for improvements, and rent to the
3 tenant whose source of income was conditioned on the real property
4 passing inspection. Reimbursement under this subsection (1)(a) may
5 also include up to fourteen days of lost rental income from the date
6 of offer of housing to the applicant whose source of income was
7 conditioned on the real property passing inspection until move in by
8 that applicant;

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

13 (c) Reimbursement for damages established pursuant to subsection
14 (2) of this section.

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

18 (a) Have ensured that the rental property was inspected at the
19 commencement of the tenancy by both the tenant and the landlord or
20 landlord's agent and that a detailed written move-in property
21 inspection report was prepared and signed by both the tenant and the
22 landlord or landlord's agent;

23 (b) Make repairs and then apply for reimbursement to the
24 department;

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

27 (d) Submit to the department copies of the move-in property
28 inspection report specified in (a) of this subsection, before repair
29 and after repair photographs, videos, copies of repair receipts for
30 labor and materials, and such other documentation or information as
31 the department may request.

32 (3) The department shall make reasonable efforts to review a
33 claim within ten business days from the date it received properly
34 submitted and complete claims to the satisfaction of the department.
35 In reviewing a claim, and determining eligibility for reimbursement,
36 the department must receive documentation, acceptable to the
37 department in its sole discretion, that the claim involves a private
38 market rental unit rented to a low-income tenant whose source of
39 income is specified in section 1(5) of this act and who is using

1 public rental assistance to pay for rent, such as a housing choice
2 rental voucher.

3 (4) Damages from a tenancy must total at least five hundred
4 dollars in order for a claim to be eligible for reimbursement from
5 the program. While damages may exceed five thousand dollars,
6 reimbursement from the program may not exceed five thousand dollars
7 per tenancy.

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

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

23 (7) The department, in its sole discretion, may inspect the
24 property and the landlord's records related to a claim, including the
25 use of a third-party inspector as needed to investigate fraud, to
26 assist in making its claim review and determination of eligibility.

27 (8) A landlord in receipt of reimbursement from the program is
28 prohibited from:

29 (a) Taking legal action against the tenant for damages
30 attributable to the same tenancy; or

31 (b) Pursuing collection, or authorizing another entity to pursue
32 collection on the landlord's behalf, of a judgment against the tenant
33 for damages attributable to the same tenancy.

34 (9) A landlord denied reimbursement under subsection (1)(c) of
35 this section may seek to obtain a judgment from a court of competent
36 jurisdiction and, if successful, may resubmit a claim for damages
37 supported by the judgment, along with a certified copy of the
38 judgment. The department may reimburse the landlord for that portion
39 of such judgment that is based on damages reimbursable under the

1 landlord mitigation program, subject to the limitations set forth in
2 this section.

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

5 (11) The department must establish a web site that advertises the
6 landlord mitigation program, the availability of reimbursement from
7 the landlord mitigation program account, and maintains or links to
8 the agency rules and policies established pursuant to this section.

9 (12) Neither the state, the department, or persons acting on
10 behalf of the department, while acting within the scope of their
11 employment or agency, is liable to any person for any loss, damage,
12 harm, or other consequence resulting directly or indirectly from the
13 department's administration of the landlord mitigation program or
14 determinations under this section.

15 (13)(a) A report to the appropriate committees of the legislature
16 on the effectiveness of the program and recommended modifications
17 shall be submitted to the governor and the appropriate committees of
18 the legislature by January 1, 2021. In preparing the report, the
19 department shall convene and solicit input from a group of
20 stakeholders to include representatives of large multifamily housing
21 property owners or managers, small rental housing owners in both
22 rural and urban markets, a representative of tenant advocates, and a
23 representative of the housing authorities.

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

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

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

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

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

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

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

1 (vii) Any other modifications and recommendations made by
2 stakeholders to improve the effectiveness and applicability of the
3 program.

4 (14) As used in this section:

5 (a) "Low-income" means income that does not exceed eighty percent
6 of the median income for the standard metropolitan statistical area
7 in which the private market rental unit is located; and

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

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

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

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

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

36 **FOR THE DEPARTMENT OF COMMERCE**

37 Rapid Housing Improvement Program (30000863)

1 The reappropriation in this section is subject to the following
2 conditions and limitations:

3 (1) Except as provided in subsection (2) of this section, the
4 reappropriation is subject to the provisions of section 1010, chapter
5 35, Laws of 2016 sp. sess.

6 (2) The department may use the reappropriation to implement this
7 act.

8 Reappropriation:

9	Washington Housing Trust Account—State.	\$194,000
10	Prior Biennia (Expenditures).	\$31,000
11	Future Biennia (Projected Costs).	\$0
12	TOTAL.	\$225,000

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

15 The surcharge provided for in this section shall be named the
16 affordable housing for all surcharge.

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

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

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

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

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

38 (d) Operating costs for emergency shelters and licensed overnight
39 youth shelters.

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

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By Senator Mullet

ADOPTED 02/09/2018

3 On page 1, line 1 of the title, after "options;" strike the
4 remainder of the title and insert "amending RCW 36.22.178; amending
5 2017 3rd sp.s. c 4 s 1028 (uncodified); adding a new section to
6 chapter 59.18 RCW; adding new sections to chapter 43.31 RCW; and
7 prescribing penalties."

EFFECT: Clarifies the landlord mitigation program at the department of commerce may provide funding for claims submitted by landlords for renting private market rental units to low-income tenants using a qualified source of income. Low-income tenants are defined as income not exceeding 80 percent of median income. The department of commerce may use a third-party inspector as needed to investigate fraud to assist in making claim reviews and determining eligibility.

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