**5600-S AMS KUDE S2613.3 - NOT FOR FLOOR USE**

**SSB 5600** - S AMD **318**

By Senator Kuderer

**ADOPTED 03/09/2019**

Strike everything after the enacting clause and insert the following:

"**Sec.**  RCW 59.12.030 and 1998 c 276 s 6 are each amended to read as follows:

A tenant of real property for a term less than life is ((~~guilty of~~)) liable for unlawful detainer either:

(1) When he or she holds over or continues in possession, in person or by subtenant, of the property or any part thereof after the expiration of the term for which it is let to him or her. When real property is leased for a specified term or period by express or implied contract, whether written or oral, the tenancy shall be terminated without notice at the expiration of the specified term or period;

(2) When he or she, having leased property for an indefinite time with monthly or other periodic rent reserved, continues in possession thereof, in person or by subtenant, after the end of any such month or period, when the landlord, more than twenty days prior to the end of such month or period, has served notice (in manner in RCW 59.12.040 provided) requiring him or her to quit the premises at the expiration of such month or period;

(3) When he or she continues in possession in person or by subtenant after a default in the payment of rent, and after notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises, served (in manner in RCW 59.12.040 provided) in behalf of the person entitled to the rent upon the person owing it, has remained uncomplied with for the period of three days after service thereof, or for the period of fourteen days after service for tenancies under chapter 59.18 RCW. The notice may be served at any time after the rent becomes due. For the purposes of this subsection and as applied to tenancies under chapter 59.18 RCW, "rent" has the same meaning as defined in RCW 59.18.030;

(4) When he or she continues in possession in person or by subtenant after a neglect or failure to keep or perform any ((~~other~~)) condition or covenant of the lease or agreement under which the property is held, including any covenant not to assign or sublet, other than one for the payment of rent, and after notice in writing requiring in the alternative the performance of such condition or covenant or the surrender of the property, served (in manner in RCW 59.12.040 provided) upon him or her, and if there is a subtenant in actual possession of the premises, also upon such subtenant, shall remain uncomplied with for ten days after service thereof. Within ten days after the service of such notice the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform such condition or covenant and thereby save the lease from such forfeiture. For the purposes of this subsection and as applied to tenancies under chapter 59.18 RCW, "rent" has the same meaning as defined in RCW 59.18.030;

(5) When he or she commits or permits waste upon the demised premises, or when he or she sets up or carries on thereon any unlawful business, or when he or she erects, suffers, permits, or maintains on or about the premises any nuisance, and remains in possession after the service (in manner in RCW 59.12.040 provided) upon him or her of three days' notice to quit;

(6) A person who, without the permission of the owner and without having color of title thereto, enters upon land of another and who fails or refuses to remove therefrom after three days' notice, in writing and served upon him or her in the manner provided in RCW 59.12.040. Such person may also be subject to the criminal provisions of chapter 9A.52 RCW; or

(7) When he or she commits or permits any gang-related activity at the premises as prohibited by RCW 59.18.130.

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

Every fourteen-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

"**FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES**

You are receiving the attached notice because the landlord alleges you are not in compliance with the terms of the lease agreement by failing to pay rent and/or utilities and/or recurring or periodic charges that are past due.

**(1) Monthly rent due for (list month(s)): $ (dollar amount)**

**AND/OR**

**(2) Utilities due for (list month(s)): $ (dollar amount)**

**AND/OR**

**(3) Other recurring or periodic charges identified in the lease for (list month(s)): $ (dollar amount)**

**TOTAL AMOUNT DUE: $ (dollar amount)**

**Note - payment must be by cash, cashier's check, money order, or certified funds.**

You must pay the total amount due to your landlord within fourteen (14) days after receipt of this notice or you must vacate the premises. Any payment you make to the landlord must first be applied to the total amount due as shown on this notice. Any failure to comply with this notice within fourteen (14) days after receipt of this notice may result in a judicial proceeding that leads to your eviction from the premises.

**The Washington state Attorney General's Office has this notice in multiple languages on its website. You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help pay your rent. Alternatively, call 2-1-1 to learn about these services.**

**State law provides you the right to receive interpreter services at court.**

OWNER/LANDLORD:\_\_\_\_\_\_\_\_\_\_\_DATE:\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**WHERE TOTAL AMOUNT DUE IS TO BE PAID: \_\_\_(owner/landlord name)\_\_\_**

 **\_\_\_\_\_\_\_\_\_\_\_(address)\_\_\_\_\_\_\_\_**"

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

(1) The attorney general's office shall produce and maintain on its web site translated versions of the notice under section 2 of this act in the top ten languages spoken in Washington state and, at the discretion of the attorney general's office, other languages. The notice must be made available upon request in printed form on one letter size paper, eight and one-half by eleven inches, and in an easily readable font size.

(2) The attorney general's office shall also provide on its web site information on where tenants can access legal or advocacy resources, including information on any immigrant and cultural organizations where tenants can receive assistance in their primary language.

**Sec.**  RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and amended to read as follows:

As used in this chapter:

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

(2) "Commercially reasonable manner," with respect to a sale of a deceased tenant's personal property, means a sale where every aspect of the sale, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a landlord may sell the tenant's property by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(3) "Comprehensive reusable tenant screening report" means a tenant screening report prepared by a consumer reporting agency at the direction of and paid for by the prospective tenant and made available directly to a prospective landlord at no charge, which contains all of the following: (a) A consumer credit report prepared by a consumer reporting agency within the past thirty days; (b) the prospective tenant's criminal history; (c) the prospective tenant's eviction history; (d) an employment verification; and (e) the prospective tenant's address and rental history.

(4) "Criminal history" means a report containing or summarizing (a) the prospective tenant's criminal convictions and pending cases, the final disposition of which antedates the report by no more than seven years, and (b) the results of a sex offender registry and United States department of the treasury's office of foreign assets control search, all based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

(5) "Designated person" means a person designated by the tenant under RCW 59.18.590.

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

(7) "Distressed home conveyance" has the same meaning as in RCW 61.34.020.

(8) "Distressed home purchaser" has the same meaning as in RCW 61.34.020.

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

(10) "Eviction history" means a report containing or summarizing the contents of any records of unlawful detainer actions concerning the prospective tenant that are reportable in accordance with state law, are lawful for landlords to consider, and are obtained after a search based on at least seven years of address history and alias information provided by the prospective tenant or available in the consumer credit report.

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

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

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

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

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

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

(i) The mortgagee;

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

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

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

(v) An attorney-at-law;

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) "Reasonable attorneys' fees," where authorized in this chapter, means an amount to be determined including the following factors: The time and labor required, the novelty and difficulty of the questions involved, the skill requisite to perform the legal service properly, the fee customarily charged in the locality for similar legal services, the amount involved and the results obtained, and the experience, reputation and ability of the lawyer or lawyers performing the services.

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

(25) "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. These terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees.

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

((~~(26)~~)) (27) A "single-family residence" is a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it shall be deemed a single-family residence if it has direct access to a street and shares neither heating facilities nor hot water equipment, nor any other essential facility or service, with any other dwelling unit.

((~~(27)~~)) (28) A "tenant" is any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

((~~(28)~~)) (29) "Tenant representative" means:

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

(b) If the landlord has no knowledge that a personal representative has been appointed for the deceased tenant's estate, a person claiming to be a successor of the deceased tenant who has provided the landlord with proof of death and an affidavit made by the person that meets the requirements of RCW 11.62.010(2);

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

(d) In the absence of a personal representative under (a) of this subsection, a person claiming to be a successor under (b) of this subsection, or a designated person under (c) of this subsection, any person who provides the landlord with reasonable evidence that he or she is a successor of the deceased tenant as defined in RCW 11.62.005. The landlord has no obligation to identify all of the deceased tenant's successors.

((~~(29)~~)) (30) "Tenant screening" means using a consumer report or other information about a prospective tenant in deciding whether to make or accept an offer for residential rental property to or from a prospective tenant.

((~~(30)~~)) (31) "Tenant screening report" means a consumer report as defined in RCW 19.182.010 and any other information collected by a tenant screening service.

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

Under this chapter:

(1) A landlord must first apply any payment made by a tenant toward rent before applying any payment toward late payments, damages, legal costs, or other fees, including attorneys' fees.

(2) Except as provided in RCW 59.18.410, the tenant's right to possession of the premises may not be conditioned on a tenant's payment or satisfaction of any monetary amount other than rent. However, this does not foreclose a landlord from pursuing other lawful remedies to collect late payments, legal costs, or other fees, including attorneys' fees.

**Sec.**  RCW 59.18.410 and 2011 c 132 s 20 are each amended to read as follows:

(1) If upon the trial the verdict of the jury or, if the case be tried without a jury, the finding of the court be in favor of the ((~~plaintiff~~)) landlord and against the ((~~defendant~~)) tenant, judgment shall be entered for the restitution of the premises; and if the proceeding be for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement, or tenancy. The jury, or the court, if the proceedings be tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the ((~~plaintiff~~)) landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and, if the alleged unlawful detainer be after default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the ((~~defendant guilty of~~)) tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed ((~~and~~)), for the rent, if any, found due, and late fees if such fees are due under the lease and do not exceed seventy-five dollars in total. In addition to the amount awarded under this subsection, the court may award statutory costs and reasonable ((~~attorney's~~)) attorneys' fees. However, the court shall not award attorneys' fees when judgment is entered after default for failure to appear, if the total amount of rent awarded in the judgment for rent is equal to or less than two months of the tenant's monthly contract rent or if the total amount of rent awarded in the judgment is less than one thousand two hundred dollars. In all cases, if a tenant seeks a stay pursuant to subsection (3) of this section after a default in the payment of rent, the court may award attorneys' fees only if the tenant prevails on the motion subject to the provisions of subsection (3) of this section, in which case the attorneys' fees may be included as a part of the tenant's right to reinstatement. No attorneys' fees may be awarded against the tenant if the landlord prevails at the hearing under subsection (3) of this section.

(2) When the ((~~proceeding~~)) tenant is liable for ((~~an~~)) unlawful detainer after a default in the payment of rent, ((~~and the lease or agreement under which the rent is payable has not by its terms expired,~~)) execution upon the judgment shall not be issued until the expiration of five court days after the entry of the judgment((~~, within which~~)). Before such time, the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court ((~~for~~)) or to the landlord the amount of the ((~~judgment and costs, and thereupon the judgment shall be satisfied and the~~)) rent due, any court costs incurred at the time of payment, late fees if such fees are due under the lease and do not exceed seventy-five dollars in total, and attorneys' fees if awarded under this section, in which event any judgment issued shall be satisfied and the tenant shall be restored to his or her tenancy((~~; but~~)). The tenant shall tender an additional fifty dollars for each time the tenant was reinstated pursuant to this subsection or subsection (3) of this section within the previous twelve months prior to payment. If payment((~~, as herein provided, be~~)) of the amount specified in this section is not made within five court days after the judgment, the judgment may be enforced for its full amount and for the possession of the premises.

(3)(a) Following the entry of a judgment in favor of the landlord and against the tenant for the restitution of the premises and forfeiture of the tenancy due to nonpayment of rent, the court, at the time of the show cause hearing or trial, or upon subsequent motion of the tenant but before the execution of the writ of restitution, may stay or vacate the writ of restitution upon good cause and on such terms that the court deems fair and just for both parties. In making this decision, the court shall consider the following factors:

(i) Evidence or lack of evidence of the tenant's willful or intentional default or intentional failure to pay rent;

(ii) Evidence that nonpayment of the rent was caused by exigent circumstances that were beyond the tenant's control and that are not likely to recur;

(iii) The tenant's ability to timely pay the judgment;

(iv) The tenant's payment history;

(v) The tenant is otherwise in substantial compliance with the rental agreement;

(vi) The relative burden on the parties resulting from reinstatement or refusal to reinstate;

(vii) Conduct related to other notices served contemporaneously with the notice to pay or vacate regardless of whether the other notices were part of the court's judgment; and

(viii) Whether the landlord can obtain disbursement from the landlord mitigation program as provided in RCW 43.31.605.

(b) The burden of proof for such relief under this subsection shall be on the tenant. If the tenant seeks relief pursuant to this subsection (3) at the time of the show cause hearing, the court shall hear the matter at the time of the show cause hearing or as expeditiously as possible as to avoid unnecessary delay or hardship on the parties. The court may issue an order pursuant to this subsection upon appropriate terms, which may include the payment or severing of all or part of the monetary judgment. Any severing of the judgment shall not preclude the landlord from pursuing other lawful remedies to collect the remainder of the judgment.

(c) In any order issued pursuant to this subsection (3):

(i) The court shall not stay the writ more than three months from the date of judgment, but may order repayment of the balance within such time;

(ii) The court shall require the tenant to tender to the landlord or deposit with the court one month's rent within five court days of the order, before which the sheriff may serve the writ of restitution upon the tenant for its execution in the event of default in the payment of the amount stated in this subsection (3)(c)(ii); however, the sheriff shall not execute upon the writ of restitution until after expiration of five court days in order for payment to be made pursuant to this subsection (3)(c)(ii).

(iii) In the event payment is timely made within (c)(ii) of this subsection, the writ of restitution shall be stayed without further order of the court in order for the tenant to make any remaining payment pursuant to the court order; in the event of default in payment by the tenant, the court shall require the sheriff to serve the writ of restitution again upon the tenant before execution of the writ of restitution or, in lieu of reservice of the writ by the sheriff, require the landlord to serve a notice of default in accordance with RCW 59.12.040 informing the tenant that he or she has defaulted on the payment plan arranged by the court and has three calendar days from the date of service to vacate the premises before the sheriff may execute the writ of restitution. If the landlord serves the notice of default described under this subsection (3)(c)(iii), an additional day shall not be included in calculating the time before the sheriff may execute the writ of restitution.

(iv) A tenant who seeks to satisfy a condition of this subsection (3)(c) by relying on an emergency rental assistance program provided by a government or nonprofit entity may stay the writ of restitution upon sufficient documentation to readily pay any balance set forth by the court order. The court shall stay the writ of restitution as necessary to afford the tenant an opportunity to satisfy the condition by the court.

(v) If payment to the court cannot be made due to the means of payment by the tenant, the court may order payment to be made directly to the landlord or landlord's agent.

(vi) The court shall extend the writ of restitution as necessary to enforce the order in the event of default.

(d) A tenant who has been served with three or more notices to pay or vacate for failure to pay rent as set forth in RCW 59.12.040 within twelve months prior to the notice to pay or vacate upon which the proceeding is based may not seek relief under this subsection (3).

(e)(i) If, at a hearing pursuant to this subsection (3), the landlord indicates that he or she will submit an application to the landlord mitigation program under RCW 43.31.605 in order to satisfy the outstanding judgment, the court shall restore the tenancy. The court shall then render an order sustaining the judgment for the landlord, denying or vacating the writ of restitution, in order for payment to be made to the landlord from the landlord mitigation program, and indicating that the landlord is entitled to disbursement from the landlord mitigation program for the amount entered within the judgment subject to the availability of amounts appropriated for this specific purpose. The monetary judgment entered pursuant to subsection (1) of this section remains in effect pending disbursal under this subsection (3)(e).

(ii) If the department of commerce fails to disburse payment to the landlord for the judgment pursuant to this subsection (3)(e), the landlord may renew an application for a writ of restitution pursuant to RCW 59.18.370 and for other rent owed by the tenant since the time of entry of the prior judgment. In such event, the tenant may exercise rights afforded under this section.

(iii) Upon payment by the department of commerce to the landlord for the amount of the judgment, the judgment is satisfied.

(4) In all other cases the judgment may be enforced immediately. If writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required.

(5) This section also applies if the writ of restitution is issued pursuant to a final judgment entered after a show cause hearing conducted in accordance with RCW 59.18.380.

**Sec.**  RCW 59.18.390 and 2011 c 132 s 19 are each amended to read as follows:

(1) The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the ((~~defendant~~)) tenant, his or her agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter((~~, and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of the court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of the premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. If the writ of restitution was issued after alternative service provided for in RCW 59.18.055, the court shall determine the amount of the bond after considering the rent claimed and any other factors the court deems relevant. The plaintiff, his or her agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon the bond before the bond shall be approved by the clerk~~)). After the issuance of a writ of restitution, acceptance of a payment by the landlord ((~~or plaintiff~~)) that only partially satisfies the judgment will not invalidate the writ unless pursuant to a written agreement executed by both parties. The eviction will not be postponed or stopped unless a copy of that written agreement is provided to the sheriff. It is the responsibility of the tenant ((~~or defendant~~)) to ensure a copy of the agreement is provided to the sheriff. Upon receipt of the agreement, the sheriff will cease action unless ordered to do otherwise by the court. The writ of restitution and the notice that accompanies the writ of restitution required under RCW 59.18.312 shall conspicuously state in bold face type, all capitals, not less than twelve points information about partial payments as set forth in subsection (2) of this section. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant((~~, the defendant,~~)) nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he or she shall be unable to find the ((~~defendant~~)) tenant, an agent or attorney, or a person in possession of the premises, by affixing a copy of the writ in a conspicuous place upon the premises: PROVIDED, That the sheriff shall not require any bond for the service or execution of the writ. The sheriff shall be immune from all civil liability for serving and enforcing writs of restitution unless the sheriff is grossly negligent in carrying out his or her duty.

(2) The notice accompanying a writ of restitution required under RCW 59.18.312 shall be substantially similar to the following:

**IMPORTANT NOTICE - PARTIAL PAYMENTS**

**YOUR LANDLORD'S ACCEPTANCE OF A PARTIAL PAYMENT FROM YOU AFTER SERVICE OF THIS WRIT OF RESTITUTION WILL NOT AUTOMATICALLY POSTPONE OR STOP YOUR EVICTION. IF YOU HAVE A WRITTEN AGREEMENT WITH YOUR LANDLORD THAT THE EVICTION WILL BE POSTPONED OR STOPPED, IT IS YOUR RESPONSIBILITY TO PROVIDE A COPY OF THE AGREEMENT TO THE SHERIFF. THE SHERIFF WILL NOT CEASE ACTION UNLESS YOU PROVIDE A COPY OF THE AGREEMENT. AT THE DIRECTION OF THE COURT THE SHERIFF MAY TAKE FURTHER ACTION.**

**Sec.**  RCW 59.18.365 and 2008 c 75 s 1 are each amended to read as follows:

(1) The summons must contain the names of the parties to the proceeding, the attorney or attorneys if any, the court in which the same is brought, the nature of the action, in concise terms, and the relief sought, and also the return day; and must notify the defendant to appear and answer within the time designated or that the relief sought will be taken against him or her. The summons must contain a street address for service of the notice of appearance or answer and, if available, a facsimile number for the plaintiff or the plaintiff's attorney, if represented. The summons must be served and returned in the same manner as a summons in other actions is served and returned.

(2) A defendant may serve a copy of an answer or notice of appearance by any of the following methods:

(a) By delivering a copy of the answer or notice of appearance to the person who signed the summons at the street address listed on the summons;

(b) By mailing a copy of the answer or notice of appearance addressed to the person who signed the summons to the street address listed on the summons;

(c) By facsimile to the facsimile number listed on the summons. Service by facsimile is complete upon successful transmission to the facsimile number listed upon the summons;

(d) As otherwise authorized by the superior court civil rules.

(3) The summons for unlawful detainer actions for tenancies covered by this chapter shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE

STATE OF WASHINGTON

IN AND

FOR . . . . . . COUNTY

|  |  |  |  |
| --- | --- | --- | --- |
|  | Plaintiff/Landlord/Owner, |  | NO. |
|  |  |  |
|  | vs. | EVICTION SUMMONS |
|  |  | (Residential) |
|  | Defendant/Tenant/Occupant. |  |

THIS IS ((~~NOTICE OF A LAWSUIT~~)) AN IMPORTANT LEGAL DOCUMENT TO EVICT YOU.

((~~PLEASE READ IT CAREFULLY.~~

~~THE DEADLINE FOR~~)) YOUR **WRITTEN**

RESPONSE ((~~IS~~)) MUST BE RECEIVED BY: 5:00 p.m., on . . . . . . . . .

TO: . . . . . . . . . . . . (Defendant's Name)

. . . . . . . . . . . . (Defendant's Address)

((~~This is notice of a lawsuit to evict you from the property which you are renting. Your landlord is asking the court to terminate your tenancy, direct the sheriff to remove you and your belongings from the property, enter a money judgment against you for unpaid rent and/or damages for your use of the property, and for court costs and attorneys' fees.~~

~~If you want to defend yourself in this lawsuit, you must respond to the eviction complaint in writing on or before the deadline stated above. You must respond in writing even if no case number has been assigned by the court yet.~~

~~You can respond to the complaint in writing by delivering a copy of a notice of appearance or answer to your landlord's attorney (or your landlord if there is no attorney) by personal delivery, mailing, or facsimile to the address or facsimile number stated below~~ **~~TO BE RECEIVED NO LATER THAN THE DEADLINE STATED ABOVE~~**~~. Service by facsimile is complete upon successful transmission to the facsimile number, if any, listed in the summons.~~

~~The notice of appearance or answer must include the name of this case (plaintiff(s) and defendant(s)), your name, the street address where further legal papers may be sent, your telephone number (if any), and your signature.~~

~~If there is a number on the upper right side of the eviction summons and complaint, you must also file your original notice of appearance or answer with the court clerk by the deadline for your written response.~~

~~You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the person signing the summons. Within fourteen days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.~~

~~If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.~~

~~You may also be instructed in a separate order to appear for a court hearing on your eviction. If you receive an order to show cause you must personally appear at the hearing on the date indicated in the order to show cause~~ **~~IN ADDITION~~** ~~to delivering and filing your notice of appearance or answer by the deadline stated above.~~

~~IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF THE PROPERTY.~~

~~The notice of appearance or answer must be delivered to:~~

|  |  |
| --- | --- |
|  |   |
|  | ~~Name~~ |
|  |   |
|  | ~~Street Address~~ |
|  |   |
|  | ~~Telephone Number~~ |
|  |   |
|  | ~~Facsimile Number (Required if Available)~~)) |

**GET HELP: If you do not respond by . . . (date) . . ., you will lose your right to defend yourself in court and could be evicted.** If you cannot afford a lawyer, you may call 2-1-1. They can refer you to free or low-cost legal help. They can help you find help to pay for a lawyer.

**HOW TO RESPOND: Phone calls to your Landlord or your Landlord's lawyer are not a response.** You may respond with a "notice of appearance." This is a letter that includes the following:

(1) A statement that you are appearing in the court case

(2) Names of the landlord(s) and the tenant(s) (as listed above)

(3) Your name, your address where legal documents may be sent, your signature, phone number (if any), and case number (if the case is filed)

This case □ is / □ is not filed with the court. If this case is filed, you need to also file your response with the court by delivering a copy to the clerk of the court at: . . . . . . . . . . . (Clerk's Office/Address/Room number/Business hours of court clerk)

**WHERE TO RESPOND:** You must mail, fax, or hand deliver your response letter to your Landlord's lawyer, or if no lawyer is named in the complaint, to your Landlord. If you mail the response letter, you must do it by . . . (3 days before deadline) . . . .. Get a proof of mailing from the post office. If you hand deliver or fax it, you must do it by . . . (date of deadline) . . . .. The address is:

. . . . . . . . . (Attorney/Landlord Name)

. . . . . . . . . (Address)

. . . . . . . . . (Fax - required if available)

**COURT DATE:** If you respond to this Summons, you will be notified of your hearing date in a document called an "Order to Show Cause." This is usually mailed to you. If you get notice of a hearing, **you must go to the hearing**. If you do not show up, your landlord can evict you. Your landlord might also charge you more money. If you move before the court date, you must tell your landlord or the landlord's attorney.

**Sec.**  RCW 59.18.290 and 2010 c 8 s 19028 are each amended to read as follows:

(1) It ((~~shall be~~)) is unlawful for the landlord to remove or exclude from the premises the tenant thereof except under a court order so authorizing. Any tenant so removed or excluded in violation of this section may recover possession of the property or terminate the rental agreement and, in either case, may recover the actual damages sustained. The prevailing party may recover the costs of suit or arbitration and reasonable ((~~attorney's~~)) attorneys' fees.

(2) It ((~~shall be~~)) is unlawful for the tenant to hold over in the premises or exclude the landlord therefrom after the termination of the rental agreement except under a valid court order so authorizing. Subject to RCW 59.18.410, any landlord so deprived of possession of premises in violation of this section may recover possession of the property and damages sustained by him or her, and the prevailing party may recover his or her costs of suit or arbitration and reasonable ((~~attorney's~~)) attorneys' fees.

**Sec.**  RCW 59.18.055 and 1997 c 86 s 1 are each amended to read as follows:

(1) When the ((~~plaintiff~~)) landlord, after the exercise of due diligence, is unable to personally serve the summons on the ((~~defendant~~)) tenant, the ((~~court~~)) landlord may ((~~authorize~~)) use the alternative means of service ((~~described herein. Upon filing of an affidavit from the person or persons attempting service describing those attempts, and the filing of an affidavit from the plaintiff, plaintiff's agent, or plaintiff's attorney stating the belief that the defendant cannot be found, the court may enter an order authorizing service of the summons~~)) as follows:

(a) The summons and complaint shall be posted in a conspicuous place on the premises unlawfully held, not less than nine days from the return date stated in the summons; and

(b) Copies of the summons and complaint shall be deposited in the mail, postage prepaid, by both regular mail and certified mail directed to the ((~~defendant's~~)) tenant's or ((~~defendants'~~)) tenants' last known address not less than nine days from the return date stated in the summons.

(2) When service on the ((~~defendant~~)) tenant or ((~~defendants~~)) tenants is accomplished by this alternative procedure, the court's jurisdiction is limited to restoring possession of the premises to the ((~~plaintiff~~)) landlord and no money judgment may be entered against the ((~~defendant~~)) tenant or ((~~defendants~~)) tenants until such time as jurisdiction over the ((~~defendant~~)) tenant or ((~~defendants~~)) tenants is obtained.

((~~(2)~~)) (3) Before the entry of any judgment or issuance of a writ of restitution due to the tenant's failure to appear, the landlord shall provide the court with an affidavit from the person or persons attempting service that describes the service achieved, or if by alternative service pursuant to this section, that describes the efforts at personal service before alternative service was used and an affidavit from the landlord, landlord's agent, or landlord's attorney stating his or her belief that the tenant cannot be found.

(4) For the purposes of subsection (1) of this section, the exercise of due diligence is met if the landlord attempts personal service on the tenant at least three times over not less than two days and at different times of the day.

(5) This section shall apply to this chapter and chapter 59.20 RCW.

**Sec.**  RCW 43.31.605 and 2018 c 66 s 2 are each amended to read as follows:

(1)(a) Subject to the availability of funds for this purpose, the landlord mitigation program is created and administered by the department. The department shall have such rule-making authority as the department deems necessary to administer the program.

(b) The following types of claims related to landlord mitigation for renting private market rental units to low-income tenants using a housing subsidy program are eligible for reimbursement from the landlord mitigation program account:

((~~(a)~~)) (i) Up to one thousand dollars for improvements identified in RCW 59.18.255(1)(a). In order to be eligible for reimbursement under this subsection (1)((~~(a)~~)) (b)(i), the landlord must pay for the first five hundred dollars for improvements, and rent to the tenant whose housing subsidy program was conditioned on the real property passing inspection. Reimbursement under this subsection (1)((~~(a)~~)) (b)(i) may also include up to fourteen days of lost rental income from the date of offer of housing to the applicant whose housing subsidy program was conditioned on the real property passing inspection until move in by that applicant;

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

((~~(c)~~)) (iii) Reimbursement for damages established pursuant to subsection (2) of this section; and

((~~(d)~~)) (iv) Reimbursement for unpaid rent and unpaid utilities, provided that the landlord can evidence it to the department's satisfaction.

(c) Claims related to landlord mitigation for an unpaid judgment for rent, late fees, attorneys' fees, and costs after a court order pursuant to RCW 59.18.410(3) are eligible for reimbursement from the landlord mitigation program account. Claims under this subsection are not subject to subsection (4) of this section.

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

(a) Have ensured that the rental property was inspected at the commencement of the tenancy by both the tenant and the landlord or landlord's agent and that a detailed written move-in property inspection report, as required in RCW 59.18.260, was prepared and signed by both the tenant and the landlord or landlord's agent;

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

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

(d) Submit to the department copies of the move-in property inspection report specified in (a) of this subsection and supporting materials including, but not limited to, before repair and after repair photographs, videos, copies of repair receipts for labor and materials, and such other documentation or information as the department may request.

(3) The department shall make reasonable efforts to review a claim within ten business days from the date it received properly submitted and complete claims to the satisfaction of the department. In reviewing a claim, and determining eligibility for reimbursement, the department must receive documentation, acceptable to the department in its sole discretion, that the claim involves a private market rental unit rented to a low-income tenant who is using a housing subsidy program.

(4) Claims related to a tenancy must total at least five hundred dollars in order for a claim to be eligible for reimbursement from the program. While claims or damages may exceed five thousand dollars, total reimbursement from the program may not exceed five thousand dollars per tenancy.

(5) Damages, beyond wear and tear, that are eligible for reimbursement include, but are not limited to: Interior wall gouges and holes; damage to doors and cabinets, including hardware; carpet stains or burns; cracked tiles or hard surfaces; broken windows; damage to household fixtures such as disposal, toilet, sink, sink handle, ceiling fan, and lighting. Other property damages beyond normal wear and tear may also be eligible for reimbursement at the department's discretion.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(14) When a landlord has been reimbursed pursuant to subsection (1)(c) of this section, the tenant shall have three months from the date that judgment is entered under RCW 59.18.410(3)(e) to reimburse the department by depositing the amount disbursed from the landlord mitigation program account into the court registry of the local superior court. The local superior court shall then forward such funds to the department. The tenant or other interested party may seek an ex parte order of the court under the unlawful detainer action to order such funds to be disbursed by the court. The court clerk shall include a case number with any payment issued to the department.

(15) As used in this section:

(a) "Housing subsidy program" means a housing voucher as established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other housing subsidy program including, but not limited to, valid short-term or long-term federal, state, or local government, private nonprofit, or other assistance program in which the tenant's rent is paid either partially by the program and partially by the tenant, or completely by the program directly to the landlord;

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

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

**Sec.**  RCW 43.31.615 and 2018 c 66 s 3 are each amended to read as follows:

(1) The landlord mitigation program account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments, private contributions, and all other sources must be deposited into the account. Expenditures from the account may only be used for the landlord mitigation program under this chapter to reimburse landlords for eligible claims related to private market rental units during the time of their rental to low-income tenants using housing subsidy programs as defined in RCW 43.31.605, for any unpaid judgment issued within an unlawful detainer action under chapter 59.18 RCW, and for the administrative costs identified in subsection (2) of this section. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

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

**SSB 5600** - S AMD **318**

By Senator Kuderer

**ADOPTED 03/09/2019**

On page 1, line 1 of the title, after "protections;" strike the remainder of the title and insert "amending RCW 59.12.030, 59.18.410, 59.18.390, 59.18.365, 59.18.290, 59.18.055, 43.31.605, and 43.31.615; reenacting and amending RCW 59.18.030; adding new sections to chapter 59.18 RCW; and prescribing penalties."

EFFECT: (1) Modifies the 14-day uniform notice to pay or vacate for default in payment of rent and/or utilities to include recurring or periodic charges, as appropriate, with itemized amounts owed for rent, utilities, and recurring or periodic charges identified in the lease.

(2) Transfers the notice publication requirements to the Attorney General's Office from the Department of Commerce.

(3) Modifies the definition of "rent" to mean recurring or periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities.

(4) Clarifies that a tenant's right to possession of the premises may not be conditioned on a tenant's payment other than the rent.

(5) Prohibits an award of attorneys' fees when judgment is entered after default for failure to appear, if the total amount of rent awarded in the judgment is equal to or less than two months of the tenant's monthly contract rent or is less than one thousand two hundred dollars.

(6) Authorizes the court to award attorneys' fees only if the tenant prevails on the motion to stay under judicial discretion, which may be included as a part of the tenant's right to reinstatement.

(7) Prohibits an award of attorneys' fees against the tenant if the landlord prevails at the hearing under judicial discretion.

(8) Requires the tenant to pay into court or to the landlord upon judgment for default in the payment of rent any rent found due, any court costs incurred at the time of payment, late fees that may not exceed $75 in total, and attorneys' fees if awarded.

(9) Requires the tenant to pay an additional $50 in late fees for each prior reinstatement of tenancy that occurred within the previous 12-month period.

(10) Limits use of judicial discretion to cases involving restitution of premises and forfeiture of tenancies due to nonpayment of rent, and requires consideration of the following factors:

(a) Evidence or lack thereof of tenant's willful or intentional default or failure to pay rent;

(b) Payment history of the tenant;

(c) Ability of tenant to timely pay judgment;

(d) Evidence that nonpayment was caused by exigent circumstances beyond tenant's control and are not likely to recur;

(e) If tenant is otherwise in substantial compliance with the lease;

(f) Relative burden on parties if tenancy is reinstated or not;

(g) Conduct related to other notices served with a notice to pay and vacate regardless if other notices were part of the court's judgment; and

(h) Whether the landlord can obtain disbursement from the landlord mitigation program.

(11) Requires the court, if the tenant seeks relief under judicial discretion at the show cause hearing, to hear the matter at that time or as soon as possible to avoid unnecessary delay or hardship.

(12) Authorizes the court to issue an order upon use of judicial discretion that may include the payment or severing of all or part of the monetary judgment, but affirms that any severing of the judgment does not preclude the landlord from pursuing other lawful remedies to collect the remainder of the judgment.

(13) Provides that in such an order:

(a) The court may not stay the writ of restitution more than 3 months from the date of judgment, but may order repayment of the balance within such time;

(b) The court must require the tenant to pay the landlord or into the court one month's rent within 5 court days of the order, and the sheriff may serve the writ in case of default but may not execute the writ until after expiration of 5 court days;

(c) The writ must be stayed if timely repayment of the balance is made by the tenant, but if the tenant is in default, the sheriff must serve the writ again before execution or the landlord must serve a notice of default indicating the tenant has 3 days to vacate the premises before execution of the writ;

(d) A tenant who seeks to satisfy the repayment conditions under the order by relying on emergency rental assistance from a government or nonprofit entity may stay the writ by providing sufficient documentation to readily pay any balance set forth in the order;

(e) The court may order payment to be made directly to the landlord or landlord's agent if payment to the court cannot be made by the tenant; and

(f) The court must extend the writ as necessary to enforce the order in case of default.

(14) Prohibits a tenant who has been served with three or more notices to pay or vacate within 12 months prior to the current notice to pay or vacate from seeking relief under judicial discretion.

(15) Expands the eligibility of the landlord mitigation program to landlord claims for reimbursement in unlawful detainer cases where judicial discretion is exercised and there is an unpaid judgment for rent, late fees, attorneys' fees, and costs.

(16) Authorizes landlords to renew an application for writs of restitution if the Department of Commerce fails to disburse payment to the landlord.

(17) Provides the tenant with 3 months to repay the disbursement made to the landlord based on the judgment back into the court registry, while requiring the court to send payments to the Department of Commerce.

(18) Removes conflicting language that would require a bond to be posted before a judge could hear a tenant's case to seek relief via judicial discretion.

(19) Replaces the eviction summons form in statute, including the following changes:

(a) How tenants can receive assistance by calling 2-1-1, which can refer the tenant to legal aid or assistance to help pay for a lawyer;

(b) How tenants should respond via a notice of appearance and how to file a response to the court;

(c) To whom tenants should respond, either the landlord's lawyer or to the landlord if a lawyer is not named on the complaint, and the method of response;

(d) By when tenants should respond, with warnings and consequences if the tenant does not respond.

(20) Modifies the alternative means of service process for landlords by requiring the landlord, before entry of judgment or issuance or a writ of restitution based on tenant's failure to appear, to provide the court with an affidavit by the person attempting service that: Describes the personal service achieved or the efforts at personal service using the alternative process and an affidavit by the landlord or their agent or attorney stating the belief the tenant cannot be found.

(21) Provides that due diligence under the alternative means of service is met when the landlord attempts personal service on the tenant at least three times over not less than two days and at different times of the day.

(22) Makes technical corrections to implement the new judicial discretion language and to achieve consistency when referring to tenants and landlords in affected provisions.