

**SHB 1453** - H AMD TO H AMD (H-2255.3/19) **194**

By Representative Barkis

**NOT ADOPTED 03/05/2019**

1 On page 10 of the striking amendment, at the beginning of line 5,  
2 beginning with "(3)(a)" strike all material through "(4)" on page 11,  
3 line 5 and insert the following:

4 "(3)(a) Following the entry of a judgment in favor of the  
5 plaintiff and against the defendant after a default in the payment of  
6 rent or utilities for the restitution of the premises and forfeiture  
7 of the lease, agreement, or tenancy, upon a motion of the tenant made  
8 before the execution of the writ of restitution and payment of one  
9 month's rent into the court registry, the court may stay or vacate the  
10 writ of restitution upon good cause and on such terms that the court  
11 deems fair and just for both parties. In making this decision, the  
12 court shall consider the following factors:

13 (i) The defendant's payment history;

14 (ii) Evidence the non-payment was caused by exigent circumstances  
15 that were beyond the defendant's control and that are not likely to  
16 recur;

17 (iii) Evidence or lack of evidence of the defendant's willful or  
18 intentional failure to pay rent or utilities;

19 (iv) The defendant's ability to timely pay the judgment;

20 (v) Whether the defendant is otherwise in substantial compliance  
21 with the rental agreement;

22 (vi) The relative burden on the parties and on neighbors of the  
23 defendant resulting from reinstatement or refusal to reinstate.

24 (b) The burden of proof for such relief under this subsection (3)  
25 shall be on the tenant. If the court stays or vacates the writ of  
26 restitution under this subsection (3), the court shall enter an order  
27 pursuant to this subsection providing: that the payment already made

1 into the court registry shall forthwith be disbursed to the plaintiff  
2 or plaintiff's attorney; that the balance of the judgment shall be  
3 paid in three consecutive, equal monthly installments due when the  
4 next three rent payments are due; that the defendant shall pay all  
5 rent and utilities that accrue after judgment and before the tenant  
6 pays the full judgment balance on time and in full; and, that if the  
7 defendant misses any payment required by this order, the plaintiff may  
8 obtain an order issuing a new writ of restitution ex parte and without  
9 notice to the defendant upon such proof as the court deems  
10 appropriate. In no case shall the court authorize or permit a  
11 defendant to reinstate under this subsection (3) more than once in a  
12 twelve month period.

13 (4) If the writ of restitution is granted after alternative  
14 service provided for in RCW 59.18.055 and is based on a default in  
15 payment of rent and the defendant asks that execution of the writ of  
16 restitution be stayed or vacated, the court shall consider such a  
17 request as seeking affirmative relief that submits the defendant to  
18 personal jurisdiction and before considering the defendant's request,  
19 the court shall enter judgment in favor of the plaintiff and against  
20 the defendant for the amount of damages assessed and for the rent due,  
21 and the court shall award statutory costs and may award reasonable  
22 attorney's fees.

23 (5)"

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EFFECT: Makes the following changes to the procedure by which a tenant may request that the court stay or vacate a writ of restitution:

- Requires that a motion by the tenant be accompanied by payment of one month's rent into the court registry, rather than providing that the tender of one month's rent be made within 5 court days of a court order on the motion.
- Changes one of the factors the court is to consider in making a determination on such a motion *from* conduct related to other notices to whether the defendant is otherwise in substantial compliance with the rental agreement.

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- Requires that if the court issues a stay or vacates, the court shall order that the payment made into the registry be immediately disbursed to the plaintiff, that the balance of the judgment must be paid in 3 equal and consecutive monthly installments, that the defendant shall pay all rent and utilities that accrue after judgment and before the judgment balance is paid in full in a timely manner and in full, and that if the defendant misses any payment required by the order, the plaintiff may obtain a new writ of restitution ex parte and without notice.
- Provides that, in no case may the court permit reinstatement under this provision more than once in a 12 month period.

Provides that if a writ of restitution is granted after alternative service of process and is based on a default in payment of rent, and the defendant requests the court to stay or vacate the writ, the court shall consider such a request to be one for affirmative relief that submits the defendant to personal jurisdiction of the court and, before considering the request, the court shall enter judgment in favor of the plaintiff for any damages and rent due, together with statutory costs, and may award reasonable attorneys' fees.

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