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5 Strike everything after the enacting clause and insert the  
6 following:

7 "NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18

8 RCW to read as follows:

9 The legislature recognizes that tenants have a number of duties  
10 under the residential landlord tenant act. These duties include the  
11 duty to pay rent and give sufficient notice before terminating the  
12 tenancy, the duty to pay drayage and storage costs under certain  
13 circumstances, and the duty to not create a nuisance or common waste.  
14 The legislature finds that tenants are sometimes threatened by other  
15 tenants with firearms or other deadly weapons. Some landlords refuse  
16 to evict those tenants who threaten the well-being of other tenants  
17 even after an arrest has been made for the threatening behavior. The  
18 legislature also finds that some tenants who hold protective orders are  
19 still subjected to threats and acts of domestic violence. These  
20 tenants with protective orders must sometimes move quickly so that the  
21 person being restrained does not know where they reside. Tenants who  
22 move out of dwelling units because they fear for their safety often  
23 forfeit their damage deposit and last month's rent because they did not  
24 provide the requisite notice to terminate the tenancy. Some tenants  
25 remain in unsafe situations because they cannot afford to lose the  
26 money held as a deposit by the landlord. There is no current mechanism  
27 that authorizes the suspension of the tenant's duty to give the  
28 requisite notice before terminating a tenancy if they are endangered by

1 others. There also is no current mechanism that imposes a duty on the  
2 tenant to pay drayage and storage costs when the landlord stores his or  
3 her property after an eviction. It is the intent of the legislature  
4 to provide a mechanism for tenants who are threatened to terminate  
5 their tenancies without suffering undue economic loss, to provide  
6 additional mechanisms to allow landlords to evict tenants who endanger  
7 others, and to establish a mechanism for tenants to pay drayage and  
8 storage costs under certain circumstances when the landlord stores the  
9 tenant's property after an eviction."

10 "Sec. 2. RCW 59.18.130 and 1991 c 154 s 3 are each amended to read  
11 as follows:

12 Each tenant shall pay the rental amount at such times and in such  
13 amounts as provided for in the rental agreement or as otherwise  
14 provided by law and comply with all obligations imposed upon tenants by  
15 applicable provisions of all municipal, county, and state codes,  
16 statutes, ordinances, and regulations, and in addition shall:

17 (1) Keep that part of the premises which he or she occupies and  
18 uses as clean and sanitary as the conditions of the premises permit;

19 (2) Properly dispose from his or her dwelling unit all rubbish,  
20 garbage, and other organic or flammable waste, in a clean and sanitary  
21 manner at reasonable and regular intervals, and assume all costs of  
22 extermination and fumigation for infestation caused by the tenant;

23 (3) Properly use and operate all electrical, gas, heating, plumbing  
24 and other fixtures and appliances supplied by the landlord;

25 (4) Not intentionally or negligently destroy, deface, damage,  
26 impair, or remove any part of the structure or dwelling, with the  
27 appurtenances thereto, including the facilities, equipment, furniture,  
28 furnishings, and appliances, or permit any member of his or her family,  
29 invitee, licensee, or any person acting under his or her control to do

1 so. Violations may be prosecuted under chapter 9A.48 RCW if the  
2 destruction is intentional and malicious;

3 (5) Not permit a nuisance or common waste;

4 (6) Not engage in drug-related activity at the rental premises, or  
5 allow a subtenant, sublessee, resident, or anyone else to engage in  
6 drug-related activity at the rental premises with the knowledge or  
7 consent of the tenant. "Drug-related activity" means that activity  
8 which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW;

9 (7) Maintain the smoke detection device in accordance with the  
10 manufacturer's recommendations, including the replacement of batteries  
11 where required for the proper operation of the smoke detection device,  
12 as required in RCW 48.48.140(3); ((and))

13 (8) Not engage in any activity at the rental premises that is:

14 (a) Imminently hazardous to the physical safety of other persons on  
15 the premises; and

16 (b)(i) Entails physical assaults upon another person which result  
17 in an arrest; or

18 (ii) Entails the unlawful use of a firearm or other deadly weapon  
19 as defined in RCW 9A.04.110 which results in an arrest, including  
20 threatening another tenant or the landlord with a firearm or other  
21 deadly weapon under section 5 of this act. Nothing in this subsection

22 (8) shall authorize the termination of tenancy and eviction of the  
23 victim of a physical assault or the victim of the use or threatened use  
24 of a firearm or other deadly weapon; and

25 (9) Upon termination and vacation, restore the premises to their  
26 initial condition except for reasonable wear and tear or conditions  
27 caused by failure of the landlord to comply with his or her obligations  
28 under this chapter: PROVIDED, That the tenant shall not be charged for  
29 normal cleaning if he or she has paid a nonrefundable cleaning fee."

1       **"Sec. 3.** RCW 59.18.180 and 1988 c 150 s 7 are each amended to read  
2 as follows:

3       If the tenant fails to comply with any portion of RCW 59.18.130 or  
4 59.18.140, and such noncompliance can substantially affect the health  
5 and safety of the tenant or other tenants, or substantially increase  
6 the hazards of fire or accident that can be remedied by repair,  
7 replacement of a damaged item, or cleaning, the tenant shall comply  
8 within thirty days after written notice by the landlord specifying the  
9 noncompliance, or, in the case of emergency as promptly as conditions  
10 require. If the tenant fails to remedy the noncompliance within that  
11 period the landlord may enter the dwelling unit and cause the work to  
12 be done and submit an itemized bill of the actual and reasonable cost  
13 of repair, to be payable on the next date when periodic rent is due, or  
14 on terms mutually agreed to by the landlord and tenant, or immediately  
15 if the rental agreement has terminated. Any substantial noncompliance  
16 by the tenant of RCW 59.18.130 or 59.18.140 shall constitute a ground  
17 for commencing an action in unlawful detainer in accordance with the  
18 provisions of chapter 59.12 RCW, and a landlord may commence such  
19 action at any time after written notice pursuant to such chapter. The  
20 tenant shall have a defense to an unlawful detainer action filed solely  
21 on this ground if it is determined at the hearing authorized under the  
22 provisions of chapter 59.12 RCW that the tenant is in substantial  
23 compliance with the provisions of this section, or if the tenant  
24 remedies the noncomplying condition within the thirty day period  
25 provided for above or any shorter period determined at the hearing to  
26 have been required because of an emergency: PROVIDED, That if the  
27 defective condition is remedied after the commencement of an unlawful  
28 detainer action, the tenant may be liable to the landlord for statutory  
29 costs and reasonable attorney's fees.

1 If drug-related activity is alleged to be a basis for termination  
2 of tenancy under RCW 59.18.130(6), 59.12.030(5), or 59.20.140(5), the  
3 compliance provisions of this section do not apply and the landlord may  
4 proceed directly to an unlawful detainer action.

5 If activity on the premises that creates an imminent hazard to the  
6 physical safety of other persons on the premises as defined in RCW  
7 59.18.130(8) is alleged to be the basis for termination of the tenancy,  
8 and the tenant is arrested as a result of this activity, then the  
9 compliance provisions of this section do not apply and the landlord may  
10 proceed directly to an unlawful detainer action against the tenant who  
11 was arrested for this activity.

12 A landlord may not be held liable in any cause of action for  
13 bringing an unlawful detainer action against a tenant for drug-related  
14 activity or for creating an imminent hazard to the physical safety of  
15 others under this section, if the unlawful detainer action was brought  
16 in good faith. Nothing in this section shall affect a landlord's  
17 liability under RCW 59.18.380 to pay all damages sustained by the  
18 tenant should the writ of restitution be wrongfully sued out."

19 **"Sec. 4.** RCW 59.18.075 and 1988 c 150 s 11 are each amended to  
20 read as follows:

21 (1) Any law enforcement agency which seizes a legend drug pursuant  
22 to a violation of chapter 69.41 RCW, a controlled substance pursuant to  
23 a violation of chapter 69.50 RCW, or an imitation controlled substance  
24 pursuant to a violation of chapter 69.52 RCW, shall make a reasonable  
25 attempt to discover the identity of the landlord and shall notify the  
26 landlord in writing, at the last address listed in the property tax  
27 records and at any other address known to the law enforcement agency,  
28 of the seizure and the location of the seizure of the illegal drugs or  
29 substances.

1       (2) Any law enforcement agency which arrests a tenant for  
2 threatening another tenant with a firearm or other deadly weapon, or  
3 for some other unlawful use of a firearm or other deadly weapon on the  
4 rental premises, or for physically assaulting another person on the  
5 rental premises, shall make a reasonable attempt to discover the  
6 identity of the landlord and notify the landlord about the arrest in  
7 writing, at the last address listed in the property tax records and at  
8 any other address known to the law enforcement agency."

9       "NEW SECTION. **Sec. 5.** A new section is added to chapter 59.18 RCW  
10 to read as follows:

11       If a tenant notifies the landlord that he or she, or another tenant  
12 who shares that particular dwelling unit has been threatened by another  
13 tenant, and:

14       (1) The threat was made with a firearm or other deadly weapon as  
15 defined in RCW 9A.04.110; and

16       (2) The tenant who made the threat is arrested as a result of the  
17 threatening behavior; and

18       (3) The landlord fails to file an unlawful detainer action against  
19 the tenant who threatened another tenant within seven calendar days  
20 after receiving notice of the arrest from a law enforcement agency;  
21 then the tenant who was threatened may terminate the rental agreement  
22 and quit the premises upon written notice to the landlord without  
23 further obligation under the rental agreement.

24       A tenant who terminates a rental agreement under this section is  
25 discharged from payment of rent for any period following the quitting  
26 date, and is entitled to a pro rata refund of any prepaid rent, and  
27 shall receive a full and specific statement of the basis for retaining  
28 any of the deposit together with any refund due in accordance with RCW  
29 59.18.280.

1           Nothing in this section shall be construed to require a landlord to  
2 terminate a rental agreement or file an unlawful detainer action."

3           "NEW SECTION. **Sec. 6.** A new section is added to chapter 59.18 RCW  
4 to read as follows:

5           If a tenant is threatened by the landlord with a firearm or other  
6 deadly weapon as defined in RCW 9A.04.110, and the threat leads to an  
7 arrest of the landlord, then the tenant may terminate the rental  
8 agreement and quit the premises without further obligation under the  
9 rental agreement. The tenant is discharged from payment of rent for  
10 any period following the quitting date, and is entitled to a pro rata  
11 refund of any prepaid rent, and shall receive a full and specific  
12 statement of the basis for retaining any of the deposit together with  
13 any refund due in accordance with RCW 59.18.280."

14           "NEW SECTION. **Sec. 7.** A new section is added to chapter 59.18 RCW  
15 to read as follows:

16           If a tenant notifies the landlord in writing that:

17           (1) He or she has a valid order for protection under chapter 26.50  
18 RCW; and

19           (2) The person to be restrained has violated the order since the  
20 tenant occupied the dwelling unit; and

21           (3) The tenant has notified the sheriff of the county or the peace  
22 officers of the municipality in which the tenant resides of the  
23 violation; and

24           (4) A copy of the order for protection is available for the  
25 landlord;

26 then the tenant may terminate the rental agreement and quit the  
27 premises without further obligation under the rental agreement. A  
28 tenant who terminates a rental agreement under this section is

1 discharged from the payment of rent for any period following the  
2 quitting date, and is entitled to a pro rata refund of any prepaid  
3 rent, and shall receive a full and specific statement of the basis for  
4 retaining any of the deposit together with any refund due in accordance  
5 with RCW 59.18.280."

6       "NEW SECTION. **Sec. 8.** A new section is added to chapter 59.18 RCW  
7 to read as follows:

8       (1) A landlord may, upon the execution of a writ of restitution by  
9 the sheriff, enter and take possession of any property of the tenant  
10 found on the premises and store the property in any reasonably secure  
11 place. If, however, the tenant or the tenant's representative objects  
12 to the storage of the property, the property shall be deposited upon  
13 the nearest public property and may not be moved and stored by the  
14 landlord. If the tenant is not present at the time the writ of  
15 restitution is executed, it shall be presumed that the tenant does not  
16 object to the storage of the property as provided in this section. RCW  
17 59.18.310 shall apply to the moving and storage of a tenant's property  
18 when the premises are abandoned by the tenant.

19       (2) Property moved and stored under this section shall be returned  
20 to the tenant after the tenant has paid the actual or reasonable  
21 drayage and storage costs, whichever is less, or until it is sold or  
22 disposed of by the landlord in accordance with subsection (3) of this  
23 section.

24       (3) Prior to the sale or disposal of property stored pursuant to  
25 this section with a cumulative value of over fifty dollars, the  
26 landlord shall notify the tenant of the pending sale or disposal.  
27 After forty-five days from the date the notice of the sale or disposal  
28 is mailed or personally delivered to the tenant, the landlord may sell



1 or dispose of the property, including personal papers, family pictures,  
2 and keepsakes.

3 If the property that is being stored has a cumulative value of  
4 fifty dollars or less, then the landlord may sell or dispose of the  
5 property in the manner provided in this section, except for personal  
6 papers, family pictures, and keepsakes. Prior to the sale or disposal  
7 of property stored pursuant to this section with a cumulative value of  
8 fifty dollars or less, the landlord shall notify the tenant of the  
9 pending sale or disposal. The notice shall either be mailed or  
10 personally delivered to the tenant. After seven days from the date the  
11 notice is mailed or delivered to the tenant, the landlord may sell or  
12 dispose of the property.

13 The landlord may apply any income derived from the sale of the  
14 tenant's property against moneys due the landlord for drayage and  
15 storage of the property. The amount of sale proceeds that the landlord  
16 may apply towards such costs may not exceed the actual or reasonable  
17 costs for drayage and storage of the property, whichever is less. Any  
18 excess income derived from the sale of such property shall be held by  
19 the landlord for the benefit of the tenant for a period of one year  
20 from the date of the sale. If no claim is made or action commenced by  
21 the tenant for the recovery of the excess income prior to the  
22 expiration of that period of time, then the balance shall be treated as  
23 abandoned property and deposited by the landlord with the department of  
24 revenue pursuant to chapter 63.29 RCW.

25 (4) Nothing in this section shall be construed as creating a right  
26 of distress for rent.

27 (5) When serving a tenant with a writ of restitution pursuant to  
28 RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice  
29 to the tenant that: (a) Upon execution of the writ, the landlord may  
30 store the tenant's property; (b) if the property is stored, it may not

1 be returned to the tenant unless the tenant pays the actual or  
2 reasonable costs of drayage and storage, whichever is less; (c) if the  
3 tenant objects to storage of the property, it will not be stored but  
4 will be placed on the nearest public property; and (d) if the tenant is  
5 not present at the time of the execution of the writ, it shall be  
6 presumed the tenant does not object to storage of the property."

7       "NEW SECTION. Sec. 9. A new section is added to chapter 63.29 RCW  
8 to read as follows:

9       Intangible property held by a landlord as a result of a sheriff's  
10 sale pursuant to section 8 of this act that remains unclaimed for a  
11 period of one year from the date of the sale is presumed abandoned."

12       "NEW SECTION. Sec. 10. A new section is added to chapter 7.48 RCW  
13 to read as follows:

14       The unlawful use of a firearm or other deadly weapon by a person  
15 in, or adjacent to his or her dwelling, that imminently threatens the  
16 physical safety of other people in the adjacent area, so as to  
17 essentially interfere with the comfortable enjoyment of their  
18 residences, is a nuisance and may be abated, and the person who  
19 unlawfully used the firearm or deadly weapon is subject to the  
20 punishment provided in this chapter. This section does not apply  
21 unless the person who unlawfully used the firearm or other deadly  
22 weapon is arrested for this activity."

23       "NEW SECTION. Sec. 11. This act shall take effect June 1,  
24 1992."

1 **ESSB 5986** - H COMM AMD  
2 By Committee on Housing

3  
4 On page 1, line 1 of the title, after "act;" strike the remainder  
5 of the title and insert "amending RCW 59.18.130, 59.18.180, and  
6 59.18.075; adding new sections to chapter 59.18 RCW; adding a new  
7 section to chapter 63.29 RCW; adding a new section to chapter 7.48 RCW;  
8 prescribing penalties; and providing an effective date."