

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 5986

Chapter 38, Laws of 1992

52nd Legislature
1992 Regular Session

LANDLORD AND TENANT--HAZARDOUS OR THREATENING BEHAVIOR

EFFECTIVE DATE: 6/1/92

Passed by the Senate March 7, 1992
Yeas 47 Nays 0

JOEL PRITCHARD

President of the Senate

Passed by the House March 3, 1992
Yeas 96 Nays 0

JOE KING

**Speaker of the
House of Representatives**

Approved March 26, 1992

BOOTH GARDNER

Governor of the State of Washington

CERTIFICATE

I, Gordon Golob, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5986** as passed by the Senate and the House of Representatives on the dates hereon set forth.

GORDON A. GOLOB

Secretary

FILED

March 26, 1992 - 11:25 a.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5986

AS AMENDED BY THE HOUSE

Passed Legislature - 1992 Regular Session

State of Washington 52nd Legislature 1991 1st Special Session

By Senate Committee on Law & Justice (originally sponsored by Senators
Wojahn, Newhouse and Rasmussen).

Read first time June 24, 1991. Referred to Committee on Law & Justice.

1 AN ACT Relating to tenant duties under the landlord-tenant act;
2 amending RCW 59.18.130, 59.18.180, and 59.18.075; adding new sections
3 to chapter 59.18 RCW; adding a new section to chapter 63.29 RCW; adding
4 a new section to chapter 7.48 RCW; prescribing penalties; and providing
5 an effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

1 to evict those tenants who threaten the well-being of other tenants
2 even after an arrest has been made for the threatening behavior. The
3 legislature also finds that some tenants who hold protective orders are
4 still subjected to threats and acts of domestic violence. These
5 tenants with protective orders must sometimes move quickly so that the
6 person being restrained does not know where they reside. Tenants who
7 move out of dwelling units because they fear for their safety often
8 forfeit their damage deposit and last month's rent because they did not
9 provide the requisite notice to terminate the tenancy. Some tenants
10 remain in unsafe situations because they cannot afford to lose the
11 money held as a deposit by the landlord. There is no current mechanism
12 that authorizes the suspension of the tenant's duty to give the
13 requisite notice before terminating a tenancy if they are endangered by
14 others. There also is no current mechanism that imposes a duty on the
15 tenant to pay drayage and storage costs when the landlord stores his or
16 her property after an eviction. It is the intent of the legislature
17 to provide a mechanism for tenants who are threatened to terminate
18 their tenancies without suffering undue economic loss, to provide
19 additional mechanisms to allow landlords to evict tenants who endanger
20 others, and to establish a mechanism for tenants to pay drayage and
21 storage costs under certain circumstances when the landlord stores the
22 tenant's property after an eviction.

23 **Sec. 2.** RCW 59.18.130 and 1991 c 154 s 3 are each amended to read
24 as follows:

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

- 1 (1) Keep that part of the premises which he or she occupies and
2 uses as clean and sanitary as the conditions of the premises permit;
- 3 (2) Properly dispose from his or her dwelling unit all rubbish,
4 garbage, and other organic or flammable waste, in a clean and sanitary
5 manner at reasonable and regular intervals, and assume all costs of
6 extermination and fumigation for infestation caused by the tenant;
- 7 (3) Properly use and operate all electrical, gas, heating, plumbing
8 and other fixtures and appliances supplied by the landlord;
- 9 (4) Not intentionally or negligently destroy, deface, damage,
10 impair, or remove any part of the structure or dwelling, with the
11 appurtenances thereto, including the facilities, equipment, furniture,
12 furnishings, and appliances, or permit any member of his or her family,
13 invitee, licensee, or any person acting under his or her control to do
14 so. Violations may be prosecuted under chapter 9A.48 RCW if the
15 destruction is intentional and malicious;
- 16 (5) Not permit a nuisance or common waste;
- 17 (6) Not engage in drug-related activity at the rental premises, or
18 allow a subtenant, sublessee, resident, or anyone else to engage in
19 drug-related activity at the rental premises with the knowledge or
20 consent of the tenant. "Drug-related activity" means that activity
21 which constitutes a violation of chapter 69.41, 69.50, or 69.52 RCW;
- 22 (7) Maintain the smoke detection device in accordance with the
23 manufacturer's recommendations, including the replacement of batteries
24 where required for the proper operation of the smoke detection device,
25 as required in RCW 48.48.140(3); ~~((and))~~
- 26 (8) Not engage in any activity at the rental premises that is:
- 27 (a) Imminently hazardous to the physical safety of other persons on
28 the premises; and
- 29 (b)(i) Entails physical assaults upon another person which result
30 in an arrest; or

1 (ii) Entails the unlawful use of a firearm or other deadly weapon
2 as defined in RCW 9A.04.110 which results in an arrest, including
3 threatening another tenant or the landlord with a firearm or other
4 deadly weapon under section 5 of this act. Nothing in this subsection
5 (8) shall authorize the termination of tenancy and eviction of the
6 victim of a physical assault or the victim of the use or threatened use
7 of a firearm or other deadly weapon; and

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

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

15 If the tenant fails to comply with any portion of RCW 59.18.130 or
16 59.18.140, and such noncompliance can substantially affect the health
17 and safety of the tenant or other tenants, or substantially increase
18 the hazards of fire or accident that can be remedied by repair,
19 replacement of a damaged item, or cleaning, the tenant shall comply
20 within thirty days after written notice by the landlord specifying the
21 noncompliance, or, in the case of emergency as promptly as conditions
22 require. If the tenant fails to remedy the noncompliance within that
23 period the landlord may enter the dwelling unit and cause the work to
24 be done and submit an itemized bill of the actual and reasonable cost
25 of repair, to be payable on the next date when periodic rent is due, or
26 on terms mutually agreed to by the landlord and tenant, or immediately
27 if the rental agreement has terminated. Any substantial noncompliance
28 by the tenant of RCW 59.18.130 or 59.18.140 shall constitute a ground
29 for commencing an action in unlawful detainer in accordance with the

1 provisions of chapter 59.12 RCW, and a landlord may commence such
2 action at any time after written notice pursuant to such chapter. The
3 tenant shall have a defense to an unlawful detainer action filed solely
4 on this ground if it is determined at the hearing authorized under the
5 provisions of chapter 59.12 RCW that the tenant is in substantial
6 compliance with the provisions of this section, or if the tenant
7 remedies the noncomplying condition within the thirty day period
8 provided for above or any shorter period determined at the hearing to
9 have been required because of an emergency: PROVIDED, That if the
10 defective condition is remedied after the commencement of an unlawful
11 detainer action, the tenant may be liable to the landlord for statutory
12 costs and reasonable attorney's fees.

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

17 If activity on the premises that creates an imminent hazard to the
18 physical safety of other persons on the premises as defined in RCW
19 59.18.130(8) is alleged to be the basis for termination of the tenancy,
20 and the tenant is arrested as a result of this activity, then the
21 compliance provisions of this section do not apply and the landlord may
22 proceed directly to an unlawful detainer action against the tenant who
23 was arrested for this activity.

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

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

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

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

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.18 RCW
21 to read as follows:

22 If a tenant notifies the landlord that he or she, or another tenant
23 who shares that particular dwelling unit has been threatened by another
24 tenant, and:

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

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

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

7 A tenant who terminates a rental agreement under this section is
8 discharged from payment of rent for any period following the quitting
9 date, and is entitled to a pro rata refund of any prepaid rent, and
10 shall receive a full and specific statement of the basis for retaining
11 any of the deposit together with any refund due in accordance with RCW
12 59.18.280.

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

15 NEW SECTION. **Sec. 6.** A new section is added to chapter 59.18 RCW
16 to read as follows:

17 If a tenant is threatened by the landlord with a firearm or other
18 deadly weapon as defined in RCW 9A.04.110, and the threat leads to an
19 arrest of the landlord, then the tenant may terminate the rental
20 agreement and quit the premises without further obligation under the
21 rental agreement. The tenant is discharged from payment of rent for
22 any period following the quitting date, and is entitled to a pro rata
23 refund of any prepaid rent, and shall receive a full and specific
24 statement of the basis for retaining any of the deposit together with
25 any refund due in accordance with RCW 59.18.280.

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 59.18 RCW
27 to read as follows:

28 If a tenant notifies the landlord in writing that:

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

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

5 (3) The tenant has notified the sheriff of the county or the peace
6 officers of the municipality in which the tenant resides of the
7 violation; and

8 (4) A copy of the order for protection is available for the
9 landlord;

10 then the tenant may terminate the rental agreement and quit the
11 premises without further obligation under the rental agreement. A
12 tenant who terminates a rental agreement under this section is
13 discharged from the payment of rent for any period following the
14 quitting date, and is entitled to a pro rata refund of any prepaid
15 rent, and shall receive a full and specific statement of the basis for
16 retaining any of the deposit together with any refund due in accordance
17 with RCW 59.18.280.

18 NEW SECTION. **Sec. 8.** A new section is added to chapter 59.18 RCW
19 to read as follows:

20 (1) A landlord may, upon the execution of a writ of restitution by
21 the sheriff, enter and take possession of any property of the tenant
22 found on the premises and store the property in any reasonably secure
23 place. If, however, the tenant or the tenant's representative objects
24 to the storage of the property, the property shall be deposited upon
25 the nearest public property and may not be moved and stored by the
26 landlord. If the tenant is not present at the time the writ of
27 restitution is executed, it shall be presumed that the tenant does not
28 object to the storage of the property as provided in this section. RCW

1 59.18.310 shall apply to the moving and storage of a tenant's property
2 when the premises are abandoned by the tenant.

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

8 (3) Prior to the sale or disposal of property stored pursuant to
9 this section with a cumulative value of over fifty dollars, the
10 landlord shall notify the tenant of the pending sale or disposal.
11 After forty-five days from the date the notice of the sale or disposal
12 is mailed or personally delivered to the tenant, the landlord may sell
13 or dispose of the property, including personal papers, family pictures,
14 and keepsakes.

15 If the property that is being stored has a cumulative value of
16 fifty dollars or less, then the landlord may sell or dispose of the
17 property in the manner provided in this section, except for personal
18 papers, family pictures, and keepsakes. Prior to the sale or disposal
19 of property stored pursuant to this section with a cumulative value of
20 fifty dollars or less, the landlord shall notify the tenant of the
21 pending sale or disposal. The notice shall either be mailed or
22 personally delivered to the tenant. After seven days from the date the
23 notice is mailed or delivered to the tenant, the landlord may sell or
24 dispose of the property.

25 The landlord may apply any income derived from the sale of the
26 tenant's property against moneys due the landlord for drayage and
27 storage of the property. The amount of sale proceeds that the landlord
28 may apply towards such costs may not exceed the actual or reasonable
29 costs for drayage and storage of the property, whichever is less. Any
30 excess income derived from the sale of such property shall be held by

1 the landlord for the benefit of the tenant for a period of one year
2 from the date of the sale. If no claim is made or action commenced by
3 the tenant for the recovery of the excess income prior to the
4 expiration of that period of time, then the balance shall be treated as
5 abandoned property and deposited by the landlord with the department of
6 revenue pursuant to chapter 63.29 RCW.

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

9 (5) When serving a tenant with a writ of restitution pursuant to
10 RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice
11 to the tenant that: (a) Upon execution of the writ, the landlord may
12 store the tenant's property; (b) if the property is stored, it may not
13 be returned to the tenant unless the tenant pays the actual or
14 reasonable costs of drayage and storage, whichever is less; (c) if the
15 tenant objects to storage of the property, it will not be stored but
16 will be placed on the nearest public property; and (d) if the tenant is
17 not present at the time of the execution of the writ, it shall be
18 presumed the tenant does not object to storage of the property.

19 NEW SECTION. **Sec. 9.** A new section is added to chapter 63.29 RCW
20 to read as follows:

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

24 NEW SECTION. **Sec. 10.** A new section is added to chapter 7.48 RCW
25 to read as follows:

26 The unlawful use of a firearm or other deadly weapon by a person
27 in, or adjacent to his or her dwelling, that imminently threatens the
28 physical safety of other people in the adjacent area, so as to

1 essentially interfere with the comfortable enjoyment of their
2 residences, is a nuisance and may be abated, and the person who
3 unlawfully used the firearm or deadly weapon is subject to the
4 punishment provided in this chapter. This section does not apply
5 unless the person who unlawfully used the firearm or other deadly
6 weapon is arrested for this activity.

7 NEW SECTION. **Sec. 11.** This act shall take effect June 1, 1992.

Passed the Senate March 7, 1992.

Passed the House March 3, 1992.

Approved by the Governor March 26, 1992.

Filed in Office of Secretary of State March 26, 1992.