
SENATE BILL 5621

State of Washington

56th Legislature

1999 Regular Session

By Senators Roach and Heavey

Read first time 01/29/1999. Referred to Committee on Judiciary.

1 AN ACT Relating to writs of restitution; and amending RCW
2 59.18.390.

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

4 **Sec. 1.** RCW 59.18.390 and 1997 c 255 s 1 are each amended to read
5 as follows:

6 (1) The sheriff shall, upon receiving the writ of restitution,
7 forthwith serve a copy thereof upon the defendant, his or her agent, or
8 attorney, or a person in possession of the premises, and shall not
9 execute the same for three days thereafter, and the defendant, or
10 person in possession of the premises within three days after the
11 service of the writ of restitution may execute to the plaintiff a bond
12 to be filed with and approved by the clerk of the court in such sum as
13 may be fixed by the judge, with sufficient surety to be approved by the
14 clerk of the court, conditioned that they will pay to the plaintiff
15 such sum as the plaintiff may recover for the use and occupation of the
16 premises, or any rent found due, together with all damages the
17 plaintiff may sustain by reason of the defendant occupying or keeping
18 possession of the premises, together with all damages which the court
19 theretofore has awarded to the plaintiff as provided in this chapter,

1 and also all the costs of the action. The plaintiff, his or her agent
2 or attorneys, shall have notice of the time and place where the court
3 or judge thereof shall fix the amount of the defendant's bond, and
4 shall have notice and a reasonable opportunity to examine into the
5 qualification and sufficiency of the sureties upon the bond before the
6 bond shall be approved by the clerk. After the issuance of a writ of
7 restitution, acceptance of a payment by the landlord or plaintiff that
8 only partially satisfies the judgment will not invalidate the writ
9 unless pursuant to a written agreement executed by both parties. The
10 eviction will not be postponed or stopped unless a copy of that written
11 agreement is provided to the sheriff. It is the responsibility of the
12 tenant or defendant to ensure a copy of the agreement is provided to
13 the sheriff. Upon receipt of the agreement the sheriff will cease
14 action unless ordered to do otherwise by the court. The writ of
15 restitution and the notice that accompanies the writ of restitution
16 required under RCW 59.18.312 shall conspicuously state in bold face
17 type, all capitals, not less than twelve points information about
18 partial payments as set forth in subsection (2) of this section. If
19 the writ of restitution has been based upon a finding by the court that
20 the tenant, subtenant, sublessee, or a person residing at the rental
21 premises has engaged in drug-related activity or has allowed any other
22 person to engage in drug-related activity at those premises with his or
23 her knowledge or approval, neither the tenant, the defendant, nor a
24 person in possession of the premises shall be entitled to post a bond
25 in order to retain possession of the premises. The writ may be served
26 by the sheriff, in the event he or she shall be unable to find the
27 defendant, an agent or attorney, or a person in possession of the
28 premises, by affixing a copy of the writ in a conspicuous place upon
29 the premises: PROVIDED, That, notwithstanding any other provision of
30 law, the sheriff shall not require any bond for the service or
31 execution of the writ under this chapter or under chapter 59.20 RCW to
32 specifically include not requiring a bond for service and execution of
33 the writ to remove a mobile home, a mobile home tenant, or any personal
34 property of the mobile home tenant. The sheriff shall be immune from
35 all civil liability for serving and enforcing writs of restitution
36 unless the sheriff is grossly negligent in carrying out his or her
37 duty. The sheriff shall not require any person to hold harmless or
38 indemnify the sheriff for any violation by the sheriff of the service
39 and enforcement of a writ of restitution under this chapter or chapter

1 59.20 RCW. The sheriff shall execute the writ of restitution regarding
2 the tenant's mobile home, the tenant, the tenant's personal property,
3 or any combination of the three categories, as provided in the writ of
4 restitution.

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

7 **IMPORTANT NOTICE - PARTIAL PAYMENTS**

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

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