

SHB 2870 - H AMD 857

By Representative Romero

WITHDRAWN 02/16/2004

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The people of the state of Washington
4 deserve decent, safe, and sanitary housing. Certain tenants in the
5 state of Washington have remained in rental housing that does not meet
6 the state's minimum standards for health and safety because they cannot
7 afford to pay the costs of relocation in advance of occupying new,
8 safe, and habitable housing. In egregious cases, authorities have been
9 forced to condemn property when landlords have failed to remedy
10 building code or health code violations after repeated notice, and, as
11 a result, families with limited financial resources have been displaced
12 and left with nowhere to go.

13 The purpose of this act is to establish a process, consistent
14 throughout the state, by which low-income tenants would receive funds
15 for relocation from landlords who fail to provide safe and sanitary
16 housing after due notice of building code or health code violations.
17 It is also the purpose of this act to provide enforcement mechanisms to
18 cities, towns, counties, or municipal corporations including the
19 ability to advance relocation funds to tenants who are displaced as a
20 result of a landlord's failure to remedy building code or health code
21 violations and later to collect the full amounts of these relocation
22 funds, along with interest and penalties, from landlords.

23 **Sec. 2.** RCW 59.18.085 and 1989 c 342 s 13 are each amended to read
24 as follows:

25 (1) If a governmental agency responsible for the enforcement of a
26 building, housing, or other appropriate code has notified the landlord
27 that a dwelling is condemned or unlawful to occupy due to the existence
28 of conditions that violate applicable codes, statutes, ordinances, or

1 regulations, a landlord shall not enter into a rental agreement for the
2 dwelling unit until the conditions are corrected.

3 (2) If a landlord knowingly violates subsection (1) of this
4 section, the tenant shall recover either three months' periodic rent or
5 up to treble the actual damages sustained as a result of the violation,
6 whichever is greater, costs of suit, or arbitration and reasonable
7 attorneys' fees. If the tenant elects to terminate the tenancy as a
8 result of the conditions leading to the posting, or if the appropriate
9 governmental agency requires that the tenant vacate the premises, the
10 tenant also shall recover:

- 11 (a) The entire amount of any deposit prepaid by the tenant; and
- 12 (b) All prepaid rent.

13 (3) If a governmental agency responsible for the enforcement of a
14 building, housing, or other appropriate code has notified the landlord
15 that a dwelling will be condemned or will be unlawful to occupy due to
16 the existence of conditions that violate applicable codes, statutes,
17 ordinances, or regulations, a landlord shall be required to pay
18 relocation assistance to the displaced low-income tenants, except that
19 a landlord shall not be required to pay relocation assistance to any
20 displaced tenant in a case in which the condemnation or no occupancy
21 order affects one or more units and results from conditions arising
22 from a tenant's illegal conduct without the landlord's knowledge.

23 (a) Relocation assistance provided to low-income tenants under this
24 subsection shall be the greater amount of two thousand dollars per
25 dwelling unit or three times the monthly rent. The amount of
26 relocation assistance shall be adjusted annually by the percentage
27 change in the housing component of the consumer price index as
28 published by the United States department of labor, bureau of labor
29 statistics. In addition to relocation assistance, the landlord shall
30 be required to pay to the displaced tenants the entire amount of any
31 deposit prepaid by the tenant and all prepaid rent.

32 (b) "Low-income tenants" means tenants whose combined total income
33 per dwelling unit is at or below fifty percent of the median income,
34 adjusted for family size, in the county where the tenants reside.

35 The department of community, trade, and economic development shall
36 adopt rules defining county median income in accordance with the

1 definitions promulgated by the federal department of housing and urban
2 development.

3 (c) The landlord shall pay relocation assistance to eligible
4 tenants within seven days of the governmental agency sending notice of
5 the condemnation, eviction, or displacement order to the landlord. The
6 landlord shall pay relocation assistance either by making individual
7 payments by certified check to eligible tenants or by providing a
8 certified check to the governmental agency ordering condemnation,
9 eviction, or displacement, for distribution to tenants. If the
10 landlord fails to complete payment of relocation assistance within the
11 period required under this subsection, the city, town, county, or
12 municipal corporation may advance the cost of the relocation assistance
13 payments to the eligible tenants.

14 (d) During the period from the date that a governmental agency
15 responsible for the enforcement of a building, housing, or other
16 appropriate code first notifies the landlord of conditions that violate
17 applicable codes, statutes, ordinances, or regulations to the time that
18 relocation assistance payments are paid to eligible tenants, or the
19 conditions leading to the notification are corrected, the landlord may
20 not:

21 (i) Evict, harass, or intimidate tenants into vacating their units
22 for the purpose of avoiding or diminishing application of this section;

23 (ii) Reduce services to any tenant; or

24 (iii) Materially increase or change the obligations of any tenant.

25 (e) If, after thirty days from the date that the city, town,
26 county, or municipal corporation first advanced relocation assistance
27 funds to the displaced tenants, a landlord has failed to repay the
28 amount of relocation assistance advanced by the city, town, county, or
29 municipal corporation under this section, then the city, town, county,
30 or municipal corporation shall assess civil penalties in the amount of
31 fifty dollars per day for each tenant to whom the city, town, county,
32 or municipal corporation has advanced a relocation assistance payment.

33 (f) In addition to the penalties set forth in (e) of this
34 subsection, interest will accrue on the amount of relocation assistance
35 paid by the city, town, county, or municipal corporation for which the
36 property owner has not reimbursed the city, town, county, or municipal
37 corporation. The rate of interest shall be the maximum legal rate of

1 interest permitted under RCW 19.52.020, commencing thirty days after
2 the date that the city first advanced relocation assistance funds to
3 the displaced tenants.

4 (g) If the city, town, county, or municipal corporation must
5 initiate legal action in order to recover the amount of relocation
6 assistance payments that it has advanced to low-income tenants,
7 including any interest and penalties under (e) and (f) of this
8 subsection, the city, town, county, or municipal corporation shall be
9 entitled to attorneys' fees and costs arising from its legal action.

10 (4) The government agency that has notified the landlord that a
11 dwelling will be condemned or will be unlawful to occupy shall notify
12 the displaced tenants that they may be entitled to relocation
13 assistance under this section.

14 **Sec. 3.** RCW 35.80.030 and 1989 c 133 s 3 are each amended to read
15 as follows:

16 (1) Whenever the local governing body of a municipality finds that
17 one or more conditions of the character described in RCW 35.80.010
18 exist within its territorial limits, (~~said~~) that governing body may
19 adopt ordinances relating to such dwellings, buildings, structures, or
20 premises. Such ordinances may provide for the following:

21 (a) That an "improvement board" or officer be designated or
22 appointed to exercise the powers assigned to such board or officer by
23 the ordinance as specified (~~herein. Said~~) in this section. The
24 board or officer may be an existing municipal board or officer in the
25 municipality, or may be a separate board or officer appointed solely
26 for the purpose of exercising the powers assigned by (~~said~~) the
27 ordinance.

28 If a board is created, the ordinance shall specify the terms,
29 method of appointment, and type of membership of (~~said~~) the board,
30 which may be limited, if the local governing body chooses, to public
31 officers (~~as herein defined~~) under this section.

32 (b) That if a board is created, a public officer, other than a
33 member of the improvement board, may be designated to work with the
34 board and carry out the duties and exercise the powers assigned to
35 (~~said~~) the public officer by the ordinance.

1 (c) That if, after a preliminary investigation of any dwelling,
2 building, structure, or premises, the board or officer finds that it is
3 unfit for human habitation or other use, he or she shall cause to be
4 served either personally or by certified mail, with return receipt
5 requested, upon all persons having any interest therein, as shown upon
6 the records of the auditor's office of the county in which such
7 property is located, and shall post in a conspicuous place on such
8 property, a complaint stating in what respects such dwelling, building,
9 structure, or premises is unfit for human habitation or other use. If
10 the whereabouts of any of such persons is unknown and the same cannot
11 be ascertained by the board or officer in the exercise of reasonable
12 diligence, and the board or officer makes an affidavit to that effect,
13 then the serving of such complaint or order upon such persons may be
14 made either by personal service or by mailing a copy of the complaint
15 and order by certified mail, postage prepaid, return receipt requested,
16 to each such person at the address of the building involved in the
17 proceedings, and mailing a copy of the complaint and order by first
18 class mail to any address of each such person in the records of the
19 county assessor or the county auditor for the county where the property
20 is located. Such complaint shall contain a notice that a hearing will
21 be held before the board or officer, at a place therein fixed, not less
22 than ten days nor more than thirty days after the serving of ((~~said~~))
23 the complaint; and that all parties in interest shall be given the
24 right to file an answer to the complaint, to appear in person, or
25 otherwise, and to give testimony at the time and place in the
26 complaint. The rules of evidence prevailing in courts of law or equity
27 shall not be controlling in hearings before the board or officer. A
28 copy of such complaint shall also be filed with the auditor of the
29 county in which the dwelling, building, structure, or ((~~premise~~
30 ~~premises~~)) premises is located, and such filing of the complaint or
31 order shall have the same force and effect as other lis pendens notices
32 provided by law.

33 (d) That the board or officer may determine that a dwelling,
34 building, structure, or premises is unfit for human habitation or other
35 use if it finds that conditions exist in such dwelling, building,
36 structure, or premises which are dangerous or injurious to the health
37 or safety of the occupants of such dwelling, building, structure, or

1 premises, the occupants of neighboring dwellings, or other residents of
2 such municipality. Such conditions may include the following, without
3 limitations: Defects therein increasing the hazards of fire or
4 accident; inadequate ventilation, light, or sanitary facilities,
5 dilapidation, disrepair, structural defects, uncleanliness,
6 overcrowding, or inadequate drainage. The ordinance shall state
7 reasonable and minimum standards covering such conditions, including
8 those contained in ordinances adopted in accordance with
9 (~~subdivision~~) subsection (7)(a) (~~herein~~) of this section, to guide
10 the board or the public officer and the agents and employees of either,
11 in determining the fitness of a dwelling for human habitation, or
12 building, structure, or premises for other use.

13 (e) That the determination of whether a dwelling, building,
14 structure, or premises should be repaired or demolished, shall be based
15 on specific stated standards on (i) the degree of structural
16 deterioration of the dwelling, building, structure, or premises, or
17 (ii) the relationship that the estimated cost of repair bears to the
18 value of the dwelling, building, structure, or premises, with the
19 method of determining this value to be specified in the ordinance.

20 (f) That if, after the required hearing, the board or officer
21 determines that the dwelling is unfit for human habitation, or building
22 or structure or premises is unfit for other use, it shall state in
23 writing its findings of fact in support of such determination, and
24 shall issue and cause to be served upon the owner or party in interest
25 thereof, as is provided in (~~subdivision (1)~~) (c) of this subsection,
26 and shall post in a conspicuous place on (~~said~~) the property, an
27 order (~~which~~) that (i) requires the owner or party in interest,
28 within the time specified in the order, to repair, alter, or improve
29 such dwelling, building, structure, or premises to render it fit for
30 human habitation, or for other use, or to vacate and close the
31 dwelling, building, structure, or premises, if such course of action is
32 deemed proper on the basis of the standards set forth as required in
33 (~~subdivision (1)~~) (e) of this subsection; or (ii) requires the owner
34 or party in interest, within the time specified in the order, to remove
35 or demolish such dwelling, building, structure, or premises, if this
36 course of action is deemed proper on the basis of (~~said~~) those

1 standards. If no appeal is filed, a copy of such order shall be filed
2 with the auditor of the county in which the dwelling, building,
3 structure, or premises is located.

4 (g) That the owner or any party in interest, within thirty days
5 from the date of service upon the owner and posting of an order issued
6 by the board under (~~the provisions of subdivision~~) (c) of this
7 subsection, may file an appeal with the appeals commission.

8 The local governing body of the municipality shall designate or
9 establish a municipal agency to serve as the appeals commission. The
10 local governing body shall also establish rules of procedure adequate
11 to assure a prompt and thorough review of matters submitted to the
12 appeals commission, and such rules of procedure shall include the
13 following, without being limited thereto: (i) All matters submitted to
14 the appeals commission must be resolved by the commission within sixty
15 days from the date of filing therewith and (ii) a transcript of the
16 findings of fact of the appeals commission shall be made available to
17 the owner or other party in interest upon demand.

18 The findings and orders of the appeals commission shall be reported
19 in the same manner and shall bear the same legal consequences as if
20 issued by the board, and shall be subject to review only in the manner
21 and to the extent provided in (~~subdivision~~) subsection (2) of this
22 section.

23 If the owner or party in interest, following exhaustion of his or
24 her rights to appeal, fails to comply with the final order to repair,
25 alter, improve, vacate, close, remove, or demolish the dwelling,
26 building, structure, or premises, the board or officer may direct or
27 cause such dwelling, building, structure, or premises to be repaired,
28 altered, improved, vacated, and closed, removed, or demolished.

29 (h) That the amount of the cost of such repairs, alterations or
30 improvements; or vacating and closing; or removal or demolition by the
31 board or officer, shall be assessed against the real property upon
32 which such cost was incurred unless such amount is previously paid.
33 For purposes of this subsection, the cost of vacating and closing shall
34 include (i) the amount of relocation assistance payments that a
35 property owner has not repaid to a municipality or other local
36 government entity that has advanced relocation assistance payments to
37 tenants under RCW 59.18.085 and (ii) all penalties and interest that

1 accrue as a result of the failure of the property owner to timely repay
2 the amount of these relocation assistance payments under RCW 59.18.085.
3 Upon certification to him or her by the treasurer of the municipality
4 in cases arising out of the city or town or by the county improvement
5 board or officer, in cases arising out of the county, of the assessment
6 amount being due and owing, the county treasurer shall enter the amount
7 of such assessment upon the tax rolls against the property for the
8 current year and the same shall become a part of the general taxes for
9 that year to be collected at the same time and with interest at such
10 rates and in such manner as provided for in RCW 84.56.020(~~(, as now or~~
11 ~~hereafter amended,~~)) for delinquent taxes, and when collected to be
12 deposited to the credit of the general fund of the municipality. If
13 the dwelling, building, structure, or premises is removed or demolished
14 by the board or officer, the board or officer shall, if possible, sell
15 the materials of such dwelling, building, structure, (~~{or}~~) or
16 premises in accordance with procedures set forth in (~~said~~) the
17 ordinance, and shall credit the proceeds of such sale against the cost
18 of the removal or demolition and if there be any balance remaining, it
19 shall be paid to the parties entitled thereto, as determined by the
20 board or officer, after deducting the costs incident thereto.

21 The assessment shall constitute a lien against the property which
22 shall be of equal rank with state, county and municipal taxes.

23 (2) Any person affected by an order issued by the appeals
24 commission pursuant to (~~subdivision (1)(f) hereof~~) subsection (1)(g)
25 of this section may, within thirty days after the posting and service
26 of the order, petition to the superior court for an injunction
27 restraining the public officer or members of the board from carrying
28 out the provisions of the order. In all such proceedings the court is
29 authorized to affirm, reverse, or modify the order and such trial shall
30 be heard de novo.

31 (3) An ordinance adopted by the local governing body of the
32 municipality may authorize the board or officer to exercise such powers
33 as may be necessary or convenient to carry out and effectuate the
34 purposes and provisions of this section. These powers shall include
35 the following in addition to others (~~herein~~) granted in this section:
36 (a)(i) To determine which dwellings within the municipality are unfit
37 for human habitation; (ii) to determine which buildings, structures, or

1 premises are unfit for other use; (b) to administer oaths and
2 affirmations, examine witnesses, and receive evidence; and (c) to
3 investigate the dwelling and other property conditions in the
4 municipality or county and to enter upon premises for the purpose of
5 making examinations when the board or officer has reasonable ground for
6 believing they are unfit for human habitation, or for other use:
7 PROVIDED, That such entries shall be made in such manner as to cause
8 the least possible inconvenience to the persons in possession, and to
9 obtain an order for this purpose after submitting evidence in support
10 of an application which is adequate to justify such an order from a
11 court of competent jurisdiction in the event entry is denied or
12 resisted.

13 (4) The local governing body of any municipality adopting an
14 ordinance pursuant to this chapter may appropriate the necessary funds
15 to administer such ordinance.

16 (5) (~~Nothing in~~) This section (~~shall be construed to~~) does not
17 abrogate or impair the powers of the courts or of any department of any
18 municipality to enforce any provisions of its charter or its ordinances
19 or regulations, nor to prevent or punish violations thereof; and the
20 powers conferred by this section shall be in addition and supplemental
21 to the powers conferred by any other law.

22 (6) (~~Nothing in~~) This section (~~shall be construed to~~) does not
23 impair or limit in any way the power of the municipality to define and
24 declare nuisances and to cause their removal or abatement, by summary
25 proceedings or otherwise.

26 (7) Any municipality may (~~(+)~~)by ordinance adopted by its governing
27 body(~~(+)~~) (a) prescribe minimum standards for the use and occupancy of
28 dwellings throughout the municipality(~~(+)~~) or county, (b) prescribe
29 minimum standards for the use or occupancy of any building, structure,
30 or premises used for any other purpose, (c) prevent the use or
31 occupancy of any dwelling, building, structure, or premises, (~~which~~)
32 that is injurious to the public health, safety, morals, or welfare, and
33 (d) prescribe punishment for the violation of any provision of such
34 ordinance."

35 Correct the title.

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