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**SUBSTITUTE HOUSE BILL 2870**

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**State of Washington                      58th Legislature                      2004 Regular Session**

**By** House Committee on Local Government (originally sponsored by Representatives Romero, Murray, Edwards, Wood, Upthegrove and Santos)

READ FIRST TIME 02/06/04.

1            AN ACT Relating to relocation assistance payments to low-income  
2 tenants; amending RCW 59.18.085 and 35.80.030; creating a new section;  
3 and prescribing penalties.

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

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

15            The purpose of this act is to establish a process, consistent  
16 throughout the state, by which tenants would receive funds for  
17 relocation from landlords who fail to provide safe and sanitary housing  
18 after due notice of building code or health code violations. It is  
19 also the purpose of this act to provide enforcement mechanisms to

1 cities, towns, counties, or municipal corporations including the  
2 ability to advance relocation funds to tenants who are displaced as a  
3 result of a landlord's failure to remedy building code or health code  
4 violations and later to collect the full amounts of these relocation  
5 funds, along with interest and penalties, from landlords.

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

8 (1) If a governmental agency responsible for the enforcement of a  
9 building, housing, or other appropriate code has notified the landlord  
10 that a dwelling is condemned or unlawful to occupy due to the existence  
11 of conditions that violate applicable codes, statutes, ordinances, or  
12 regulations, a landlord shall not enter into a rental agreement for the  
13 dwelling unit until the conditions are corrected.

14 (2) If a landlord knowingly violates subsection (1) of this  
15 section, the tenant shall recover either three months' periodic rent or  
16 up to treble the actual damages sustained as a result of the violation,  
17 whichever is greater, costs of suit, or arbitration and reasonable  
18 attorneys' fees. If the tenant elects to terminate the tenancy as a  
19 result of the conditions leading to the posting, or if the appropriate  
20 governmental agency requires that the tenant vacate the premises, the  
21 tenant also shall recover:

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

24 (3) If a governmental agency responsible for the enforcement of a  
25 building, housing, or other appropriate code has notified the landlord  
26 that a dwelling will be condemned or will be unlawful to occupy due to  
27 the existence of conditions that violate applicable codes, statutes,  
28 ordinances, or regulations, a landlord shall be required to pay  
29 relocation assistance to the displaced tenants, except that a landlord  
30 shall not be required to pay relocation assistance to any displaced  
31 tenant in a case in which the condemnation or no occupancy order  
32 affects one or more units and results from conditions arising from a  
33 tenant's illegal conduct without the landlord's knowledge.

34 (a) Relocation assistance provided to tenants under this subsection  
35 shall be the greater amount of two thousand dollars per dwelling unit  
36 or three times the monthly rent. The amount of relocation assistance  
37 shall be adjusted annually by the percentage change in the housing

1 component of the consumer price index as published by the United States  
2 department of labor, bureau of labor statistics. In addition to  
3 relocation assistance, the landlord shall be required to pay to the  
4 displaced tenants the entire amount of any deposit prepaid by the  
5 tenant and all prepaid rent.

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

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

- 24 (i) Evict, harass, or intimidate tenants into vacating their units  
25 for the purpose of avoiding or diminishing application of this section;  
26 (ii) Reduce services to any tenant; or  
27 (iii) Materially increase or change the obligations of any tenant.

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

37 (e) In addition to the penalties set forth in (d) of this  
38 subsection, interest will accrue on the amount of relocation assistance

1 paid by the city, town, county, or municipal corporation for which the  
2 property owner has not reimbursed the city, town, county, or municipal  
3 corporation. The rate of interest shall be the maximum legal rate of  
4 interest permitted under RCW 19.52.020, commencing thirty days after  
5 the date that the city first advanced relocation assistance funds to  
6 the displaced tenants.

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

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

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

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

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

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

35 (b) That if a board is created, a public officer, other than a  
36 member of the improvement board, may be designated to work with the

1 board and carry out the duties and exercise the powers assigned to  
2 ((said)) the public officer by the ordinance.

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

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

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

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

21 (f) That if, after the required hearing, the board or officer  
22 determines that the dwelling is unfit for human habitation, or building  
23 or structure or premises is unfit for other use, it shall state in  
24 writing its findings of fact in support of such determination, and  
25 shall issue and cause to be served upon the owner or party in interest  
26 thereof, as is provided in (~~subdivision (1)~~) (c) of this subsection,  
27 and shall post in a conspicuous place on (~~said~~) the property, an  
28 order (~~which~~) that (i) requires the owner or party in interest,  
29 within the time specified in the order, to repair, alter, or improve  
30 such dwelling, building, structure, or premises to render it fit for  
31 human habitation, or for other use, or to vacate and close the  
32 dwelling, building, structure, or premises, if such course of action is  
33 deemed proper on the basis of the standards set forth as required in  
34 (~~subdivision (1)~~) (e) of this subsection; or (ii) requires the owner  
35 or party in interest, within the time specified in the order, to remove  
36 or demolish such dwelling, building, structure, or premises, if this  
37 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  
38 accrue as a result of the failure of the property owner to timely repay

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

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

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

30 (3) An ordinance adopted by the local governing body of the  
31 municipality may authorize the board or officer to exercise such powers  
32 as may be necessary or convenient to carry out and effectuate the  
33 purposes and provisions of this section. These powers shall include  
34 the following in addition to others (~~herein~~) granted in this section:

35 (a)(i) To determine which dwellings within the municipality are unfit  
36 for human habitation; (ii) to determine which buildings, structures, or  
37 premises are unfit for other use; (b) to administer oaths and  
38 affirmations, examine witnesses, and receive evidence; and (c) to



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

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

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

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

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

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