
ENGROSSED SUBSTITUTE SENATE BILL 5577

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Keiser, Kline, Fraser, Poulsen and Kohl-Welles)

READ FIRST TIME 02/25/05.

1 AN ACT Relating to relocation assistance payments to tenants;
2 amending RCW 59.18.085 and 35.80.030; creating a new section; and
3 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 by which
16 displaced tenants would receive funds for relocation from landlords who
17 fail to provide safe and sanitary housing after due notice of building
18 code or health code violations. It is also the purpose of this act to
19 provide enforcement mechanisms to cities, towns, counties, or municipal

1 corporations including the ability to advance relocation funds to
2 tenants who are displaced as a result of a landlord's failure to remedy
3 building code or health code violations and later to collect the full
4 amounts of these relocation funds, along with interest and penalties,
5 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)(a) If a governmental agency responsible for the enforcement of
25 a building, housing, or other appropriate code has notified the
26 landlord that a dwelling will be condemned or will be unlawful to
27 occupy due to the existence of conditions that violate applicable
28 codes, statutes, ordinances, or regulations, a landlord shall be
29 required to pay relocation assistance to the displaced tenants except
30 that:

31 (i) A landlord shall not be required to pay relocation assistance
32 to any displaced tenant in a case in which the condemnation or no
33 occupancy order affects one or more dwelling units and directly results
34 from conditions caused by a tenant's or any third party's illegal
35 conduct without the landlord's prior knowledge; and

36 (ii) A landlord shall not be required to pay relocation assistance
37 to any displaced tenant in a case in which the condemnation or no

1 occupancy order affects one or more dwelling units and results from
2 conditions arising from a natural disaster such as, but not
3 exclusively, an earthquake, tsunami, wind storm, or hurricane.

4 (b) Relocation assistance provided to displaced tenants under this
5 subsection shall be the greater amount of two thousand dollars per
6 dwelling unit or three times the monthly rent. The amount of
7 relocation assistance shall be adjusted annually by the percentage
8 change in the housing component of the consumer price index as
9 published by the United States department of labor, bureau of labor
10 statistics. In addition to relocation assistance, the landlord shall
11 be required to pay to the displaced tenants the entire amount of any
12 deposit prepaid by the tenant and all prepaid rent.

13 (c) The landlord shall pay relocation assistance and any prepaid
14 deposit and prepaid rent to displaced tenants within seven days of the
15 governmental agency sending notice of the condemnation, eviction, or
16 displacement order to the landlord. The landlord shall pay relocation
17 assistance and any prepaid deposit and prepaid rent either by making
18 individual payments by certified check to displaced tenants or by
19 providing a certified check to the governmental agency ordering
20 condemnation, eviction, or displacement, for distribution to the
21 displaced tenants. If the landlord fails to complete payment of
22 relocation assistance within the period required under this subsection,
23 the city, town, county, or municipal corporation may advance the cost
24 of the relocation assistance payments to the displaced tenants.

25 (d) During the period from the date that a governmental agency
26 responsible for the enforcement of a building, housing, or other
27 appropriate code first notifies the landlord of conditions that violate
28 applicable codes, statutes, ordinances, or regulations to the time that
29 relocation assistance payments are paid to eligible tenants, or the
30 conditions leading to the notification are corrected, the landlord may
31 not:

- 32 (i) Evict, harass, or intimidate tenants into vacating their units
33 for the purpose of avoiding or diminishing application of this section;
34 (ii) Reduce services to any tenant; or
35 (iii) Materially increase or change the obligations of any tenant,
36 including but not limited to any rent increase.

37 (e) Displaced tenants shall be entitled to recover any relocation
38 assistance, prepaid deposits, and prepaid rent required by (b) of this

1 subsection. In addition, displaced tenants shall be entitled to
2 recover any actual damages sustained by them as a result of the
3 condemnation, eviction, or displacement that exceed the amount of
4 relocation assistance that is payable. In any action brought by
5 displaced tenants to recover any payments or damages required or
6 authorized by this subsection (3)(e) or (c) of this subsection that are
7 not paid by the landlord or advanced by the city, town, county, or
8 municipal corporation, the displaced tenants shall also be entitled to
9 recover their costs of suit or arbitration and reasonable attorneys'
10 fees.

11 (f) If, after thirty days from the date that the city, town,
12 county, or municipal corporation first advanced relocation assistance
13 funds to the displaced tenants, a landlord has failed to repay the
14 amount of relocation assistance advanced by the city, town, county, or
15 municipal corporation under (c) of this subsection, then the city,
16 town, county, or municipal corporation shall assess civil penalties in
17 the amount of fifty dollars per day for each tenant to whom the city,
18 town, county, or municipal corporation has advanced a relocation
19 assistance payment.

20 (g) In addition to the penalties set forth in (f) of this
21 subsection, interest will accrue on the amount of relocation assistance
22 paid by the city, town, county, or municipal corporation for which the
23 property owner has not reimbursed the city, town, county, or municipal
24 corporation. The rate of interest shall be the maximum legal rate of
25 interest permitted under RCW 19.52.020, commencing thirty days after
26 the date that the city first advanced relocation assistance funds to
27 the displaced tenants.

28 (h) If the city, town, county, or municipal corporation must
29 initiate legal action in order to recover the amount of relocation
30 assistance payments that it has advanced to low-income tenants,
31 including any interest and penalties under (f) and (g) of this
32 subsection, the city, town, county, or municipal corporation shall be
33 entitled to attorneys' fees and costs arising from its legal action.

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

1 (5) No payment received by a displaced tenant under this section
2 may be considered as income for the purpose of determining the
3 eligibility or extent of eligibility of any person for assistance under
4 any state law or for the purposes of any tax imposed under Title 82
5 RCW, and the payments shall not be deducted from any amount to which
6 any recipient would otherwise be entitled under Title 74 RCW.

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

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

14 (a) That an "improvement board" or officer be designated or
15 appointed to exercise the powers assigned to such board or officer by
16 the ordinance as specified (~~herein. Said~~) in this section. The
17 board or officer may be an existing municipal board or officer in the
18 municipality, or may be a separate board or officer appointed solely
19 for the purpose of exercising the powers assigned by (~~said~~) the
20 ordinance.

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

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

29 (c) That if, after a preliminary investigation of any dwelling,
30 building, structure, or premises, the board or officer finds that it is
31 unfit for human habitation or other use, he or she shall cause to be
32 served either personally or by certified mail, with return receipt
33 requested, upon all persons having any interest therein, as shown upon
34 the records of the auditor's office of the county in which such
35 property is located, and shall post in a conspicuous place on such
36 property, a complaint stating in what respects such dwelling, building,
37 structure, or premises is unfit for human habitation or other use. If

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

24 (d) That the board or officer may determine that a dwelling,
25 building, structure, or premises is unfit for human habitation or other
26 use if it finds that conditions exist in such dwelling, building,
27 structure, or premises which are dangerous or injurious to the health
28 or safety of the occupants of such dwelling, building, structure, or
29 premises, the occupants of neighboring dwellings, or other residents of
30 such municipality. Such conditions may include the following, without
31 limitations: Defects therein increasing the hazards of fire or
32 accident; inadequate ventilation, light, or sanitary facilities,
33 dilapidation, disrepair, structural defects, uncleanliness,
34 overcrowding, or inadequate drainage. The ordinance shall state
35 reasonable and minimum standards covering such conditions, including
36 those contained in ordinances adopted in accordance with
37 (~~subdivision~~) subsection (7)(a) (~~herein~~) of this section, to guide

1 the board or the public officer and the agents and employees of either,
2 in determining the fitness of a dwelling for human habitation, or
3 building, structure, or premises for other use.

4 (e) That the determination of whether a dwelling, building,
5 structure, or premises should be repaired or demolished, shall be based
6 on specific stated standards on (i) the degree of structural
7 deterioration of the dwelling, building, structure, or premises, or
8 (ii) the relationship that the estimated cost of repair bears to the
9 value of the dwelling, building, structure, or premises, with the
10 method of determining this value to be specified in the ordinance.

11 (f) That if, after the required hearing, the board or officer
12 determines that the dwelling is unfit for human habitation, or building
13 or structure or premises is unfit for other use, it shall state in
14 writing its findings of fact in support of such determination, and
15 shall issue and cause to be served upon the owner or party in interest
16 thereof, as is provided in (~~subdivision (1)~~) (c) of this subsection,
17 and shall post in a conspicuous place on (~~said~~) the property, an
18 order (~~which~~) that (i) requires the owner or party in interest,
19 within the time specified in the order, to repair, alter, or improve
20 such dwelling, building, structure, or premises to render it fit for
21 human habitation, or for other use, or to vacate and close the
22 dwelling, building, structure, or premises, if such course of action is
23 deemed proper on the basis of the standards set forth as required in
24 (~~subdivision (1)~~) (e) of this subsection; or (ii) requires the owner
25 or party in interest, within the time specified in the order, to remove
26 or demolish such dwelling, building, structure, or premises, if this
27 course of action is deemed proper on the basis of (~~said~~) those
28 standards. If no appeal is filed, a copy of such order shall be filed
29 with the auditor of the county in which the dwelling, building,
30 structure, or premises is located.

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

35 The local governing body of the municipality shall designate or
36 establish a municipal agency to serve as the appeals commission. The
37 local governing body shall also establish rules of procedure adequate
38 to assure a prompt and thorough review of matters submitted to the

1 appeals commission, and such rules of procedure shall include the
2 following, without being limited thereto: (i) All matters submitted to
3 the appeals commission must be resolved by the commission within sixty
4 days from the date of filing therewith and (ii) a transcript of the
5 findings of fact of the appeals commission shall be made available to
6 the owner or other party in interest upon demand.

7 The findings and orders of the appeals commission shall be reported
8 in the same manner and shall bear the same legal consequences as if
9 issued by the board, and shall be subject to review only in the manner
10 and to the extent provided in (~~subdivision~~) subsection (2) of this
11 section.

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

18 (h) That the amount of the cost of such repairs, alterations or
19 improvements; or vacating and closing; or removal or demolition by the
20 board or officer, shall be assessed against the real property upon
21 which such cost was incurred unless such amount is previously paid.
22 For purposes of this subsection, the cost of vacating and closing shall
23 include (i) the amount of relocation assistance payments that a
24 property owner has not repaid to a municipality or other local
25 government entity that has advanced relocation assistance payments to
26 tenants under RCW 59.18.085 and (ii) all penalties and interest that
27 accrue as a result of the failure of the property owner to timely repay
28 the amount of these relocation assistance payments under RCW 59.18.085.
29 Upon certification to him or her by the treasurer of the municipality
30 in cases arising out of the city or town or by the county improvement
31 board or officer, in cases arising out of the county, of the assessment
32 amount being due and owing, the county treasurer shall enter the amount
33 of such assessment upon the tax rolls against the property for the
34 current year and the same shall become a part of the general taxes for
35 that year to be collected at the same time and with interest at such
36 rates and in such manner as provided for in RCW 84.56.020(~~(, as now or~~
37 ~~hereafter amended,)~~) for delinquent taxes, and when collected to be
38 deposited to the credit of the general fund of the municipality. If

1 the dwelling, building, structure, or premises is removed or demolished
2 by the board or officer, the board or officer shall, if possible, sell
3 the materials of such dwelling, building, structure, (~~{or}~~) or
4 premises in accordance with procedures set forth in (~~said~~) the
5 ordinance, and shall credit the proceeds of such sale against the cost
6 of the removal or demolition and if there be any balance remaining, it
7 shall be paid to the parties entitled thereto, as determined by the
8 board or officer, after deducting the costs incident thereto.

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

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

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

24 (a)(i) To determine which dwellings within the municipality are unfit
25 for human habitation; (ii) to determine which buildings, structures, or
26 premises are unfit for other use; (b) to administer oaths and
27 affirmations, examine witnesses, and receive evidence; and (c) to
28 investigate the dwelling and other property conditions in the
29 municipality or county and to enter upon premises for the purpose of
30 making examinations when the board or officer has reasonable ground for
31 believing they are unfit for human habitation, or for other use:
32 PROVIDED, That such entries shall be made in such manner as to cause
33 the least possible inconvenience to the persons in possession, and to
34 obtain an order for this purpose after submitting evidence in support
35 of an application which is adequate to justify such an order from a
36 court of competent jurisdiction in the event entry is denied or
37 resisted.

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

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

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

14 (7) Any municipality may (~~(+)~~)by ordinance adopted by its governing
15 body(~~(+)~~) (a) prescribe minimum standards for the use and occupancy of
16 dwellings throughout the municipality(~~(+)~~) or county, (b) prescribe
17 minimum standards for the use or occupancy of any building, structure,
18 or premises used for any other purpose, (c) prevent the use or
19 occupancy of any dwelling, building, structure, or premises, (~~which~~)
20 that is injurious to the public health, safety, morals, or welfare, and
21 (d) prescribe punishment for the violation of any provision of such
22 ordinance.

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