
SENATE BILL 6143

State of Washington

63rd Legislature

2014 Regular Session

By Senators Padden and Sheldon

Read first time 01/16/14. Referred to Committee on Law & Justice.

1 AN ACT Relating to tenant remedies upon landlord's failure to
2 perform duties; amending RCW 59.18.070; and creating new sections.

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

4 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
5 address the decision of the Washington court of appeals in *Landis &*
6 *Landis Constr. LLC v. Nation*, 171 Wn. App. 157 (2012) and its
7 interpretation of the Washington supreme court case *Foisy v. Wyman*, 83
8 Wn.2d 22 (1973). The decision allows a tenant to state a common law
9 cause of action for a defective condition at the rental premises. The
10 tenant may decide to unilaterally walk away from the lease without
11 putting the landlord on notice regarding the defective condition and
12 allowing the landlord to remedy it.

13 By contrast, RCW 59.18.070, a part of the residential
14 landlord-tenant act, gives the tenant a remedy for defective conditions
15 at the rental premises, but requires the tenant to notify the landlord
16 and to afford the landlord varying periods of time to remedy specific
17 defective conditions.

18 The court of appeals opinion and its interpretation of *Foisy v.*

1 Wyman create an irreconcilable conflict between the judge-created
2 remedy for defective conditions at the premises and the remedy created
3 by the legislature in RCW 59.18.070.

4 It is the intent of the legislature to establish that the remedy
5 for defective conditions at residential rental premises in Washington
6 under RCW 59.18.070 is paramount.

7 **Sec. 2.** RCW 59.18.070 and 2010 c 8 s 19018 are each amended to
8 read as follows:

9 (1) If at any time during the tenancy the landlord fails to carry
10 out the duties required by RCW 59.18.060 or by the rental agreement,
11 the tenant may, in addition to pursuit of remedies otherwise provided
12 him or her by law except as provided in subsection (2) of this section,
13 deliver written notice to the person designated in RCW
14 59.18.060(~~((+14))~~) (15), or to the person who collects the rent, which
15 notice shall specify the premises involved, the name of the owner, if
16 known, and the nature of the defective condition. The landlord shall
17 commence remedial action after receipt of such notice by the tenant as
18 soon as possible but not later than the following time periods, except
19 where circumstances are beyond the landlord's control:

20 ~~((+1))~~ (a) Not more than twenty-four hours, where the defective
21 condition deprives the tenant of hot or cold water, heat, or
22 electricity, or is imminently hazardous to life;

23 ~~((+2))~~ (b) Not more than seventy-two hours, where the defective
24 condition deprives the tenant of the use of a refrigerator, range and
25 oven, or a major plumbing fixture supplied by the landlord; and

26 ~~((+3))~~ (c) Not more than ten days in all other cases.

27 In each instance the burden shall be on the landlord to see that
28 remedial work under this section is completed promptly. If completion
29 is delayed due to circumstances beyond the landlord's control,
30 including the unavailability of financing, the landlord shall remedy
31 the defective condition as soon as possible.

32 (2) The remedies provided under subsection (1) of this section
33 supersede those provided under an implied warranty of habitability.

34 NEW SECTION. **Sec. 3.** This act applies to all causes of action
35 commenced on or after the effective date of this section, regardless of

1 when the cause of action arose. To this extent, this act applies
2 retroactively, but in all other respects it applies prospectively.

--- END ---