

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2578

Chapter 66, Laws of 2018

65th Legislature
2018 Regular Session

HOUSING--SOURCE OF INCOME

EFFECTIVE DATE: June 7, 2018—Except for section 1, which becomes effective September 30, 2018.

Passed by the House March 6, 2018
Yeas 67 Nays 31

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 1, 2018
Yeas 36 Nays 13

CYRUS HABIB

President of the Senate

Approved March 15, 2018 11:14 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2578** as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 16, 2018

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2578

AS AMENDED BY THE SENATE

Passed Legislature - 2018 Regular Session

State of Washington **65th Legislature** **2018 Regular Session**

By House Appropriations (originally sponsored by Representatives Riccelli, Kirby, Macri, Peterson, Appleton, McBride, Frame, Doglio, Stanford, Goodman, Senn, Gregerson, Wylie, Sawyer, Kloba, Santos, Ormsby, Robinson, and Bergquist)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to ensuring housing options; amending RCW
2 36.22.178; amending 2017 3rd sp.s. c 4 s 1028 (uncodified); adding a
3 new section to chapter 59.18 RCW; adding new sections to chapter
4 43.31 RCW; prescribing penalties; and providing an effective date.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18
7 RCW to read as follows:

8 (1) A landlord may not, based on the source of income of an
9 otherwise eligible prospective tenant or current tenant:

10 (a) Refuse to lease or rent any real property to a prospective
11 tenant or current tenant, unless the: (i) Prospective tenant's or
12 current tenant's source of income is conditioned on the real property
13 passing inspection; (ii) written estimate of the cost of improvements
14 necessary to pass inspection is more than one thousand five hundred
15 dollars; and (iii) landlord has not received moneys from the landlord
16 mitigation program account to make the improvements;

17 (b) Expel a prospective tenant or current tenant from any real
18 property;

19 (c) Make any distinction, discrimination, or restriction against
20 a prospective tenant or current tenant in the price, terms,
21 conditions, fees, or privileges relating to the rental, lease, or

1 occupancy of real property or in the furnishing of any facilities or
2 services in connection with the rental, lease, or occupancy of real
3 property;

4 (d) Attempt to discourage the rental or lease of any real
5 property to a prospective tenant or current tenant;

6 (e) Assist, induce, incite, or coerce another person to commit an
7 act or engage in a practice that violates this section;

8 (f) Coerce, intimidate, threaten, or interfere with any person in
9 the exercise or enjoyment of, or on account of the person having
10 exercised or enjoyed or having aided or encouraged any other person
11 in the exercise or enjoyment of, any right granted or protected under
12 this section;

13 (g) Represent to a person that a dwelling unit is not available
14 for inspection or rental when the dwelling unit in fact is available
15 for inspection or rental; or

16 (h) Otherwise make unavailable or deny a dwelling unit to a
17 prospective tenant or current tenant that, but for his or her source
18 of income, would be eligible to rent real property.

19 (2) A landlord may not publish, circulate, issue, or display, or
20 cause to be published, circulated, issued, or displayed, any
21 communication, notice, advertisement, or sign of any kind relating to
22 the rental or lease of real property that indicates a preference,
23 limitation, or requirement based on any source of income.

24 (3) If a landlord requires that a prospective tenant or current
25 tenant have a certain threshold level of income, any source of income
26 in the form of a rent voucher or subsidy must be subtracted from the
27 total of the monthly rent prior to calculating if the income criteria
28 have been met.

29 (4) A person in violation of this section shall be held liable in
30 a civil action up to four and one-half times the monthly rent of the
31 real property at issue, as well as court costs and reasonable
32 attorneys' fees.

33 (5) As used in this section, "source of income" includes benefits
34 or subsidy programs including housing assistance, public assistance,
35 emergency rental assistance, veterans benefits, social security,
36 supplemental security income or other retirement programs, and other
37 programs administered by any federal, state, local, or nonprofit
38 entity. "Source of income" does not include income derived in an
39 illegal manner.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.31
2 RCW to read as follows:

3 (1) Subject to the availability of funds for this purpose, the
4 landlord mitigation program is created and administered by the
5 department. The department shall have such rule-making authority as
6 the department deems necessary to administer the program. The
7 following types of claims related to landlord mitigation for renting
8 private market rental units to low-income tenants using a housing
9 subsidy program are eligible for reimbursement from the landlord
10 mitigation program account:

11 (a) Up to one thousand dollars for improvements identified in
12 section 1(1)(a) of this act. In order to be eligible for
13 reimbursement under this subsection (1)(a), the landlord must pay for
14 the first five hundred dollars for improvements, and rent to the
15 tenant whose housing subsidy program was conditioned on the real
16 property passing inspection. Reimbursement under this subsection
17 (1)(a) may also include up to fourteen days of lost rental income
18 from the date of offer of housing to the applicant whose housing
19 subsidy program was conditioned on the real property passing
20 inspection until move in by that applicant;

21 (b) Reimbursement for damages as reflected in a judgment obtained
22 against the tenant through either an unlawful detainer proceeding, or
23 through a civil action in a court of competent jurisdiction after a
24 hearing;

25 (c) Reimbursement for damages established pursuant to subsection
26 (2) of this section; and

27 (d) Reimbursement for unpaid rent and unpaid utilities, provided
28 that the landlord can evidence it to the department's satisfaction.

29 (2) In order for a claim under subsection (1)(c) of this section
30 to be eligible for reimbursement from the landlord mitigation program
31 account, a landlord must:

32 (a) Have ensured that the rental property was inspected at the
33 commencement of the tenancy by both the tenant and the landlord or
34 landlord's agent and that a detailed written move-in property
35 inspection report, as required in RCW 59.18.260, was prepared and
36 signed by both the tenant and the landlord or landlord's agent;

37 (b) Make repairs and then apply for reimbursement to the
38 department;

39 (c) Submit a claim on a form to be determined by the department,
40 signed under penalty of perjury; and

1 (d) Submit to the department copies of the move-in property
2 inspection report specified in (a) of this subsection and supporting
3 materials including, but not limited to, before repair and after
4 repair photographs, videos, copies of repair receipts for labor and
5 materials, and such other documentation or information as the
6 department may request.

7 (3) The department shall make reasonable efforts to review a
8 claim within ten business days from the date it received properly
9 submitted and complete claims to the satisfaction of the department.
10 In reviewing a claim, and determining eligibility for reimbursement,
11 the department must receive documentation, acceptable to the
12 department in its sole discretion, that the claim involves a private
13 market rental unit rented to a low-income tenant who is using a
14 housing subsidy program.

15 (4) Claims related to a tenancy must total at least five hundred
16 dollars in order for a claim to be eligible for reimbursement from
17 the program. While claims or damages may exceed five thousand
18 dollars, total reimbursement from the program may not exceed five
19 thousand dollars per tenancy.

20 (5) Damages, beyond wear and tear, that are eligible for
21 reimbursement include, but are not limited to: Interior wall gouges
22 and holes; damage to doors and cabinets, including hardware; carpet
23 stains or burns; cracked tiles or hard surfaces; broken windows;
24 damage to household fixtures such as disposal, toilet, sink, sink
25 handle, ceiling fan, and lighting. Other property damages beyond
26 normal wear and tear may also be eligible for reimbursement at the
27 department's discretion.

28 (6) All reimbursements for eligible claims shall be made on a
29 first-come, first-served basis, to the extent of available funds. The
30 department shall use best efforts to notify the tenant of the amount
31 and the reasons for any reimbursements made.

32 (7) The department, in its sole discretion, may inspect the
33 property and the landlord's records related to a claim, including the
34 use of a third-party inspector as needed to investigate fraud, to
35 assist in making its claim review and determination of eligibility.

36 (8) A landlord in receipt of reimbursement from the program is
37 prohibited from:

38 (a) Taking legal action against the tenant for damages
39 attributable to the same tenancy; or

1 (b) Pursuing collection, or authorizing another entity to pursue
2 collection on the landlord's behalf, of a judgment against the tenant
3 for damages attributable to the same tenancy.

4 (9) A landlord denied reimbursement under subsection (1)(c) of
5 this section may seek to obtain a judgment from a court of competent
6 jurisdiction and, if successful, may resubmit a claim for damages
7 supported by the judgment, along with a certified copy of the
8 judgment. The department may reimburse the landlord for that portion
9 of such judgment that is based on damages reimbursable under the
10 landlord mitigation program, subject to the limitations set forth in
11 this section.

12 (10) Determinations regarding reimbursements shall be made by the
13 department in its sole discretion.

14 (11) The department must establish a web site that advertises the
15 landlord mitigation program, the availability of reimbursement from
16 the landlord mitigation program account, and maintains or links to
17 the agency rules and policies established pursuant to this section.

18 (12) Neither the state, the department, or persons acting on
19 behalf of the department, while acting within the scope of their
20 employment or agency, is liable to any person for any loss, damage,
21 harm, or other consequence resulting directly or indirectly from the
22 department's administration of the landlord mitigation program or
23 determinations under this section.

24 (13)(a) A report to the appropriate committees of the legislature
25 on the effectiveness of the program and recommended modifications
26 shall be submitted to the governor and the appropriate committees of
27 the legislature by January 1, 2021. In preparing the report, the
28 department shall convene and solicit input from a group of
29 stakeholders to include representatives of large multifamily housing
30 property owners or managers, small rental housing owners in both
31 rural and urban markets, a representative of tenant advocates, and a
32 representative of the housing authorities.

33 (b) The report shall include discussion of the effectiveness of
34 the program as well as the department's recommendations to improve
35 the program, and shall include the following:

36 (i) The number of total claims and total amount reimbursed to
37 landlords by the fund;

38 (ii) Any indices of fraud identified by the department;

39 (iii) Any reports by the department regarding inspections
40 authorized by and conducted on behalf of the department;

1 (iv) An outline of the process to obtain reimbursement for
2 improvements and for damages from the fund;

3 (v) An outline of the process to obtain reimbursement for lost
4 rent due to the rental inspection and tenant screening process,
5 together with the total amount reimbursed for such damages;

6 (vi) An evaluation of the feasibility for expanding the use of
7 the mitigation fund to provide up to ninety-day no interest loans to
8 landlords who have not received timely rental payments from a housing
9 authority that is administering section 8 rental assistance;

10 (vii) Any other modifications and recommendations made by
11 stakeholders to improve the effectiveness and applicability of the
12 program.

13 (14) As used in this section:

14 (a) "Housing subsidy program" means a housing voucher as
15 established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other
16 housing subsidy program including, but not limited to, valid short-
17 term or long-term federal, state, or local government, private
18 nonprofit, or other assistance program in which the tenant's rent is
19 paid either partially by the program and partially by the tenant, or
20 completely by the program directly to the landlord;

21 (b) "Low-income" means income that does not exceed eighty percent
22 of the median income for the standard metropolitan statistical area
23 in which the private market rental unit is located; and

24 (c) "Private market rental unit" means any unit available for
25 rent that is owned by an individual, corporation, limited liability
26 company, nonprofit housing provider, or other entity structure, but
27 does not include housing acquired, or constructed by a public housing
28 agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.31
30 RCW to read as follows:

31 (1) The landlord mitigation program account is created in the
32 custody of the state treasury. All transfers and appropriations by
33 the legislature, repayments, private contributions, and all other
34 sources must be deposited into the account. Expenditures from the
35 account may only be used for the landlord mitigation program under
36 this chapter to reimburse landlords for eligible claims related to
37 private market rental units during the time of their rental to low-
38 income tenants using housing subsidy programs as defined in section 2
39 of this act and for the administrative costs identified in subsection

1 (2) of this section. Only the director or the director's designee may
2 authorize expenditures from the account. The account is subject to
3 allotment procedures under chapter 43.88 RCW, but an appropriation is
4 not required for expenditures.

5 (2) Administrative costs associated with application,
6 distribution, and other program activities of the department may not
7 exceed ten percent of the annual funds available for the landlord
8 mitigation program. Reappropriations must not be included in the
9 calculation of the annual funds available for determining the
10 administrative costs.

11 **Sec. 4.** 2017 3rd sp.s. c 4 s 1028 (uncodified) is amended to
12 read as follows:

13 **FOR THE DEPARTMENT OF COMMERCE**

14 Rapid Housing Improvement Program (30000863)

15 The reappropriation in this section is subject to the following
16 conditions and limitations:

17 (1) Except as provided in subsection (2) of this section, the
18 reappropriation is subject to the provisions of section 1010, chapter
19 35, Laws of 2016 sp. sess.

20 (2) The department may use the reappropriation to implement this
21 act.

22 Reappropriation:

23	Washington Housing Trust Account—State.	\$194,000
24	Prior Biennia (Expenditures).	\$31,000
25	Future Biennia (Projected Costs).	\$0
26	TOTAL.	\$225,000

27 **Sec. 5.** RCW 36.22.178 and 2011 c 110 s 1 are each amended to
28 read as follows:

29 The surcharge provided for in this section shall be named the
30 affordable housing for all surcharge.

31 (1) Except as provided in subsection (3) of this section, a
32 surcharge of (~~ten~~) thirteen dollars per instrument shall be charged
33 by the county auditor for each document recorded, which will be in
34 addition to any other charge authorized by law. The county may retain
35 up to five percent of these funds collected solely for the
36 collection, administration, and local distribution of these funds. Of
37 the remaining funds, forty percent of the revenue generated through

1 this surcharge will be transmitted monthly to the state treasurer who
2 will deposit: (a) The portion of the funds attributable to ten
3 dollars of the surcharge into the affordable housing for all account
4 created in RCW 43.185C.190. The department of commerce must use these
5 funds to provide housing and shelter for extremely low-income
6 households, including but not limited to housing for victims of human
7 trafficking and their families and grants for building operation and
8 maintenance costs of housing projects or units within housing
9 projects that are affordable to extremely low-income households with
10 incomes at or below thirty percent of the area median income, and
11 that require a supplement to rent income to cover ongoing operating
12 expenses; and (b) the portion of the funds attributable to three
13 dollars of the surcharge into the landlord mitigation program account
14 created in section 3 of this act.

15 (2) All of the remaining funds generated by this surcharge will
16 be retained by the county and be deposited into a fund that must be
17 used by the county and its cities and towns for eligible housing
18 activities as described in this subsection that serve very low-income
19 households with incomes at or below fifty percent of the area median
20 income. The portion of the surcharge retained by a county shall be
21 allocated to eligible housing activities that serve extremely low and
22 very low-income households in the county and the cities within a
23 county according to an interlocal agreement between the county and
24 the cities within the county consistent with countywide and local
25 housing needs and policies. A priority must be given to eligible
26 housing activities that serve extremely low-income households with
27 incomes at or below thirty percent of the area median income.
28 Eligible housing activities to be funded by these county funds are
29 limited to:

30 (a) Acquisition, construction, or rehabilitation of housing
31 projects or units within housing projects that are affordable to very
32 low-income households with incomes at or below fifty percent of the
33 area median income, including units for homeownership, rental units,
34 seasonal and permanent farmworker housing units, units reserved for
35 victims of human trafficking and their families, and single room
36 occupancy units;

37 (b) Supporting building operation and maintenance costs of
38 housing projects or units within housing projects eligible to receive
39 housing trust funds, that are affordable to very low-income
40 households with incomes at or below fifty percent of the area median

1 income, and that require a supplement to rent income to cover ongoing
2 operating expenses;

3 (c) Rental assistance vouchers for housing units that are
4 affordable to very low-income households with incomes at or below
5 fifty percent of the area median income, including rental housing
6 vouchers for victims of human trafficking and their families, to be
7 administered by a local public housing authority or other local
8 organization that has an existing rental assistance voucher program,
9 consistent with or similar to the United States department of housing
10 and urban development's section 8 rental assistance voucher program
11 standards; and

12 (d) Operating costs for emergency shelters and licensed overnight
13 youth shelters.

14 (3) The surcharge imposed in this section does not apply to
15 assignments or substitutions of previously recorded deeds of trust.

16 NEW SECTION. **Sec. 6.** Section 1 of this act takes effect
17 September 30, 2018.

Passed by the House March 6, 2018.

Passed by the Senate March 1, 2018.

Approved by the Governor March 15, 2018.

Filed in Office of Secretary of State March 16, 2018.

--- END ---