

**EHB 1694** - S COMM AMD

By Committee on Financial Institutions, Economic Development & Trade

**ADOPTED AS AMENDED 03/03/2020**

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18  
4 RCW to read as follows:

5 (1) (a) Except as provided in (b) of this subsection, upon receipt  
6 of a tenant's written request, a landlord must permit the tenant to  
7 pay any deposits, nonrefundable fees, and last month's rent in  
8 installments.

9 (b) A landlord is not required to permit a tenant to pay in  
10 installments if the total amount of the deposits and nonrefundable  
11 fees do not exceed twenty-five percent of the first full month's rent  
12 and payment of the last month's rent is not required at the inception  
13 of the tenancy.

14 (2) In all cases where premises are rented for a specified time  
15 that is three months or longer, the tenant may elect to pay any  
16 deposits, nonrefundable fees, and last month's rent in three  
17 consecutive and equal monthly installments, beginning at the  
18 inception of the tenancy. In all other cases, the tenant may elect to  
19 pay any deposits, nonrefundable fees, and last month's rent in two  
20 consecutive and equal monthly installments, beginning at the  
21 inception of the tenancy.

22 (3) A landlord may not impose any fee, charge any interest, or  
23 otherwise impose a cost on a tenant because a tenant elects to pay in  
24 installments. Installment payments are due at the same time as rent  
25 is due. All installment schedules must be in writing and signed by  
26 the landlord and the tenant.

27 (4) (a) A fee or deposit to hold a dwelling unit or secure that  
28 the prospective tenant will move into a dwelling unit, as authorized  
29 under RCW 59.18.253, shall not be considered a deposit or  
30 nonrefundable fee for purposes of this section.

31 (b) A landlord may not request a fee or deposit to hold a  
32 dwelling unit or secure that the prospective tenant will move into a

1 dwelling unit in excess of one-third of the first month's rent. The  
2 fee or deposit to hold the dwelling unit must be applied to the first  
3 month's rent once the tenancy begins.

4 (5) Beginning January 1, 2021, any landlord who refuses to permit  
5 a tenant to pay any deposits, nonrefundable fees, and last month's  
6 rent in installments upon the tenant's written request as described  
7 in subsection (1) of this section is subject to a statutory penalty  
8 of one month's rent and reasonable attorneys' fees payable to the  
9 tenant.

10 (6) (a) In any application seeking relief pursuant RCW  
11 59.18.283(3), the court shall issue a finding as to whether the  
12 tenant is low-income, limited resourced, or experiencing hardship to  
13 determine if the landlord would be eligible for reimbursement through  
14 the landlord mitigation program account established within RCW  
15 43.31.605(1)(c). In making this finding, the court may include an  
16 inquiry regarding the tenant's income relative to area median income,  
17 household composition, any extenuating circumstances, or other  
18 factors, and may rely on written declarations or oral testimony by  
19 the parties at the hearing.

20 (b) After a finding that the tenant is low-income, limited  
21 resourced, or experiencing hardship, the court may issue an order:  
22 (i) Finding that the landlord is eligible to receive on behalf of the  
23 tenant and may apply for reimbursement from the landlord mitigation  
24 program; and (ii) directing the clerk to remit, without further order  
25 of the court, any future payments made by the tenant in order to  
26 reimburse the department of commerce pursuant to RCW  
27 43.31.605(1)(c)(iii). Nothing in this subsection shall be deemed to  
28 obligate the department of commerce to provide assistance in claim  
29 reimbursement through the landlord mitigation program if there are  
30 not sufficient funds.

31 (c) Upon payment by the department of commerce to the landlord  
32 for the remaining or total amount of the judgment, as applicable, the  
33 judgment is satisfied and the landlord shall file a satisfaction of  
34 judgment with the court.

35 **Sec. 2.** RCW 43.31.605 and 2019 c 356 s 12 are each amended to  
36 read as follows:

37 (1) (a) Subject to the availability of funds for this purpose, the  
38 landlord mitigation program is created and administered by the

1 department. The department shall have such rule-making authority as  
2 the department deems necessary to administer the program.

3 (b) The following types of claims related to landlord mitigation  
4 for renting private market rental units to low-income tenants using a  
5 housing subsidy program are eligible for reimbursement from the  
6 landlord mitigation program account:

7 (i) Up to one thousand dollars for improvements identified in RCW  
8 59.18.255(1)(a). In order to be eligible for reimbursement under this  
9 subsection (1)(b)(i), the landlord must pay for the first five  
10 hundred dollars for improvements, and rent to the tenant whose  
11 housing subsidy program was conditioned on the real property passing  
12 inspection. Reimbursement under this subsection (1)(b)(i) may also  
13 include up to fourteen days of lost rental income from the date of  
14 offer of housing to the applicant whose housing subsidy program was  
15 conditioned on the real property passing inspection until move in by  
16 that applicant;

17 (ii) Reimbursement for damages as reflected in a judgment  
18 obtained against the tenant through either an unlawful detainer  
19 proceeding, or through a civil action in a court of competent  
20 jurisdiction after a hearing;

21 (iii) Reimbursement for damages established pursuant to  
22 subsection (2) of this section; and

23 (iv) Reimbursement for unpaid rent and unpaid utilities, provided  
24 that the landlord can evidence it to the department's satisfaction.

25 (c) Claims related to landlord mitigation for an unpaid judgment  
26 for rent, unpaid judgments resulting from the tenant's failure to  
27 comply with an installment payment agreement identified in section 1  
28 of this act, late fees, attorneys' fees, and costs after a court  
29 order pursuant to RCW 59.18.410(3), including any unpaid portion of  
30 the judgment after the tenant defaults on the payment plan pursuant  
31 to RCW 59.18.410(3)(c), are eligible for reimbursement from the  
32 landlord mitigation program account and are exempt from any  
33 postjudgment interest required under RCW 4.56.110. Any claim for  
34 reimbursement under this subsection (1)(c) is not an entitlement.

35 (i) The department shall provide for a form on its web site for  
36 tenants and landlords to apply for reimbursement funds for the  
37 landlord pursuant to this subsection (1)(c).

38 (ii) The form must include: (A) Space for the landlord and tenant  
39 to provide names, mailing addresses, phone numbers, date of birth for  
40 the tenant, and any other identifying information necessary for the

1 department to process payment; (B) the landlord's statewide vendor  
2 identification number and how to obtain one; (C) name and address to  
3 whom payment must be made; (D) the amount of the judgment with  
4 instructions to include any other supporting documentation the  
5 department may need to process payment; (E) instructions for how the  
6 tenant is to reimburse the department under (c)(iii) of this  
7 subsection; (F) a description of the consequences if the tenant does  
8 not reimburse the department as provided in this subsection (1)(c);  
9 (G) a signature line for the landlord and tenant to confirm that they  
10 have read and understood the contents of the form and program; and  
11 (H) any other information necessary for the operation of the program.  
12 If the tenant has not signed the form after the landlord has made  
13 good faith efforts to obtain the tenant's signature, the landlord may  
14 solely submit the form but must attest to the amount of money owed  
15 and sign the form under penalty of perjury.

16 (iii) When a landlord has been reimbursed pursuant to this  
17 subsection (1)(c), the tenant for whom payment was made shall  
18 reimburse the department by depositing the amount disbursed from the  
19 landlord mitigation program account into the court registry of the  
20 superior court in which the judgment was entered. The tenant or other  
21 interested party may seek an ex parte order of the court under the  
22 unlawful detainer action to order such funds to be disbursed by the  
23 court. Upon entry of the order, the court clerk shall disburse the  
24 funds and include a case number with any payment issued to the  
25 department. If directed by the court, a clerk shall issue any  
26 payments made by a tenant to the department without further court  
27 order.

28 (iv) The department may deny an application made by a tenant who  
29 has failed to reimburse the department for prior payments issued  
30 pursuant to this subsection (1)(c).

31 (v) With any disbursement from the account to the landlord, the  
32 department shall notify the tenant at the address provided within the  
33 application that a disbursement has been made to the landlord on the  
34 tenant's behalf and that failure to reimburse the account for the  
35 payment through the court registry may result in a denial of a future  
36 application to the account pursuant to this subsection (1)(c). The  
37 department may include any other additional information about how to  
38 reimburse the account it deems necessary to fully inform the tenant.

1 (vi) The department's duties with respect to obtaining  
2 reimbursement from the tenant to the account are limited to those  
3 specified within this subsection (1)(c).

4 (vii) If at any time funds do not exist in the landlord  
5 mitigation program account to reimburse claims submitted under this  
6 subsection (1)(c), the department must create and maintain a waitlist  
7 and distribute funds in the order the claims are received pursuant to  
8 subsection (6) of this section. Payment of any claims on the waitlist  
9 shall be made only from the landlord mitigation program account. The  
10 department shall not be civilly or criminally liable and may not have  
11 any penalty or cause of action of any nature arise against it  
12 regarding the provision or lack of provision of funds for  
13 reimbursement.

14 (2) In order for a claim under subsection (1)(b)(iii) of this  
15 section to be eligible for reimbursement from the landlord mitigation  
16 program account, a landlord must:

17 (a) Have ensured that the rental property was inspected at the  
18 commencement of the tenancy by both the tenant and the landlord or  
19 landlord's agent and that a detailed written move-in property  
20 inspection report, as required in RCW 59.18.260, was prepared and  
21 signed by both the tenant and the landlord or landlord's agent;

22 (b) Make repairs and then apply for reimbursement to the  
23 department;

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

26 (d) Submit to the department copies of the move-in property  
27 inspection report specified in (a) of this subsection and supporting  
28 materials including, but not limited to, before repair and after  
29 repair photographs, videos, copies of repair receipts for labor and  
30 materials, and such other documentation or information as the  
31 department may request.

32 (3) The department shall make reasonable efforts to review a  
33 claim within ten business days from the date it received properly  
34 submitted and complete claims to the satisfaction of the department.  
35 In reviewing a claim pursuant to subsection (1)(b) of this section,  
36 and determining eligibility for reimbursement, the department must  
37 receive documentation, acceptable to the department in its sole  
38 discretion, that the claim involves a private market rental unit  
39 rented to a low-income tenant who is using a housing subsidy program.

1 (4) Claims pursuant to subsection (1)(b) of this section related  
2 to a tenancy must total at least five hundred dollars in order for a  
3 claim to be eligible for reimbursement from the program. While claims  
4 or damages may exceed five thousand dollars, total reimbursement from  
5 the program may not exceed five thousand dollars per tenancy.

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

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

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

22 (8) A landlord in receipt of reimbursement from the program  
23 pursuant to subsection (1)(b) of this section is prohibited from:

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

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

29 (9) A landlord denied reimbursement under subsection (1)(b)(iii)  
30 of this section may seek to obtain a judgment from a court of  
31 competent jurisdiction and, if successful, may resubmit a claim for  
32 damages supported by the judgment, along with a certified copy of the  
33 judgment. The department may reimburse the landlord for that portion  
34 of such judgment that is based on damages reimbursable under the  
35 landlord mitigation program, subject to the limitations set forth in  
36 this section.

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

39 (11) The department must establish a web site that advertises the  
40 landlord mitigation program, the availability of reimbursement from

1 the landlord mitigation program account, and maintains or links to  
2 the agency rules and policies established pursuant to this section.

3 (12) Neither the state, the department, or persons acting on  
4 behalf of the department, while acting within the scope of their  
5 employment or agency, is liable to any person for any loss, damage,  
6 harm, or other consequence resulting directly or indirectly from the  
7 department's administration of the landlord mitigation program or  
8 determinations under this section.

9 (13)(a) A report to the appropriate committees of the legislature  
10 on the effectiveness of the program and recommended modifications  
11 shall be submitted to the governor and the appropriate committees of  
12 the legislature by January 1, 2021. In preparing the report, the  
13 department shall convene and solicit input from a group of  
14 stakeholders to include representatives of large multifamily housing  
15 property owners or managers, small rental housing owners in both  
16 rural and urban markets, a representative of tenant advocates, and a  
17 representative of the housing authorities.

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

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

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

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

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

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

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

35 (vii) Any other modifications and recommendations made by  
36 stakeholders to improve the effectiveness and applicability of the  
37 program.

38 (14) As used in this section:

39 (a) "Housing subsidy program" means a housing voucher as  
40 established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other

1 housing subsidy program including, but not limited to, valid short-  
2 term or long-term federal, state, or local government, private  
3 nonprofit, or other assistance program in which the tenant's rent is  
4 paid either partially by the program and partially by the tenant, or  
5 completely by the program directly to the landlord;

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

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

14 **Sec. 3.** RCW 59.18.253 and 2011 c 132 s 12 are each amended to  
15 read as follows:

16 (1) It shall be unlawful for a landlord to require a fee or  
17 deposit from a prospective tenant for the privilege of being placed  
18 on a waiting list to be considered as a tenant for a dwelling unit.

19 (2) A landlord who charges a prospective tenant a fee or deposit  
20 to hold a dwelling unit or secure that the prospective tenant will  
21 move into a dwelling unit, after the dwelling unit has been offered  
22 to the prospective tenant, must provide the prospective tenant with a  
23 receipt for the fee or deposit, together with a written statement of  
24 the conditions, if any, under which the fee or deposit may be  
25 retained, immediately upon payment of the fee or deposit.

26 (3) A landlord may not request a fee or deposit to hold a  
27 dwelling or secure that the prospective tenant will move into the  
28 dwelling unit in excess of one-third of the first month's rent as  
29 described in section 1(4) of this act.

30 (4)(a) If the prospective tenant does occupy the dwelling unit,  
31 then the landlord must credit the amount of the fee or deposit to the  
32 tenant's first month's rent or to the tenant's security deposit. If  
33 the prospective tenant does not occupy the dwelling unit, then the  
34 landlord may keep up to the full amount of any fee or deposit that  
35 was paid by the prospective tenant to secure the tenancy, so long as  
36 it is in accordance with the written statement of conditions  
37 furnished to the prospective tenant at the time the fee or deposit  
38 was charged.

1 (b) A fee or deposit to hold a dwelling unit or secure that the  
2 prospective tenant will move into a dwelling unit under this  
3 subsection does not include any cost charged by a landlord to use a  
4 tenant screening service or obtain background information on a  
5 prospective tenant.

6 (c) A portion of the fee or deposit may not be withheld if the  
7 dwelling unit fails a tenant-based rental assistance program  
8 inspection by a qualified inspector as defined in RCW 59.18.030. If  
9 the inspection does not occur within ten days from the date of  
10 collection of the fee or deposit or a longer period of time that the  
11 landlord and tenant may agree upon, the landlord may notify the  
12 tenant that the dwelling unit will no longer be held. The landlord  
13 shall promptly return the fee or deposit to the prospective tenant  
14 after the landlord is notified that the dwelling unit failed the  
15 inspection or the landlord has notified the tenant that the dwelling  
16 unit will no longer be held. The landlord complies with this section  
17 by promptly depositing the fee or deposit in the United States mail  
18 properly addressed with first-class postage prepaid.

19 ~~((4))~~ (5) In any action brought for a violation of this  
20 section, a landlord may be liable for the amount of the fee or  
21 deposit charged. In addition, any landlord who violates this section  
22 may be liable to the prospective tenant for an amount not to exceed  
23 two times the fee or deposit. The prevailing party may also recover  
24 court costs and a reasonable attorneys' fee."

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**ADOPTED AS AMENDED 03/03/2020**

25 On page 1, line 2 of the title, after "installments;" strike the  
26 remainder of the title and insert "amending RCW 43.31.605 and  
27 59.18.253; and adding a new section to chapter 59.18 RCW."

EFFECT: (1) Allows landlords and tenants facing certain hardships  
to seek reimbursement from the landlord mitigation program account.  
Limits holding fees or deposits to no more than one-third of the  
first month's rent. Makes landlords that do not allow for installment  
payments of certain fees and rents subject to a fine of one-month's  
rent payable to a tenant.

(2) Makes the language consistent by using the term dwelling unit  
that is used throughout the Residential Landlord Tenant Act.

(3) Clarifies that the penalty for a landlord not allowing installment payments is supposed to be directed to the tenant through a statutory penalty.

(4) Amends the statute concerning deposits to secure occupancy by limiting landlords to charging no more than one-third of the first month's rent for a deposit.

--- END ---