H-1984.1

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**HOUSE BILL 2023**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 67th Legislature 2022 Regular Session**

**By** Representatives Hackney, Macri, Berry, Fitzgibbon, J. Johnson, Peterson, Ramel, Chopp, Bateman, and Pollet

AN ACT Relating to streamlining enforcement of tenant protections; adding a new section to chapter 59.18 RCW; adding a new section to chapter 59.20 RCW; adding a new chapter to Title 59 RCW; and repealing RCW 59.18.080 and 59.20.240.

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

NEW SECTION. **Sec.**  The venue of the action authorized by this chapter is the superior court of the county where the dwelling unit is located.

NEW SECTION. **Sec.**  Any aggrieved party may petition the superior court for relief through the process provided under this chapter or by otherwise commencing a civil action in superior court if a landlord has:

(1) Violated a provision of chapter 59.18 or 59.20 RCW or RCW 49.60.222;

(2) Engaged in unfair, deceptive, or abusive acts or practices against the tenant or tenants; or

(3) Violated a provision of the rental agreement.

NEW SECTION. **Sec.**  (1) For any violations under section 2 of this act, an aggrieved party may commence an action by filing a petition and order to show cause and scheduling a hearing date with the superior court in the county where the premises is located.

(2) Upon filing of a petition under this chapter, the court must issue an order to show cause and schedule a hearing within 14 days from the filing of the petition. At or after the time of filing the petition, and pending the hearing, the court may issue:

(a) An order to prevent harm to the tenant if the tenant is at risk of immediate harm; or

(b) An ex parte writ of restitution immediately restoring the tenant to the premises if the court finds with reasonable certainty that the respondent unlawfully excluded the petitioner from accessing the dwelling unit.

(3) The petition and order to show cause to the court must substantially contain the following:

(a) A description of the premises and the identity of the landlord;

(b) A statement of facts that indicates the existence of the violation or condition; and

(c) A request for relief.

(4) The petition and order to show cause filed by a tenant must be substantially in the following form:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF \_\_\_\_\_\_\_\_

|  |  |  |
| --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_, Petitioner(s),v.\_\_\_\_\_\_\_\_\_\_, Respondent(s),\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | ))))))))))) | Cause No.:VERIFIED PETITION FOR RELIEF(Clerk's Action Required) |

**RELIEF REQUESTED**

1. Petitioner, \_\_\_\_\_\_\_\_\_\_, asks the court to order the respondent to correct the below violations and award any damages and/or injunctive relief.

2. Petitioner also requests that the court immediately issue an order to show cause setting a hearing on the petition for relief and directing the parties to appear and show cause why the relief asked for below by petitioner should not be granted.

3. Petitioner seeks the court to enter an order providing for the following relief before the hearing date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**STATEMENT OF CLAIM**

4. I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, reside at \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

5. Respondent is the landlord at \_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

6. I am bringing this action because the respondent has: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

7. I am requesting the court to: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

8. I am at risk of immediate harm or have been unlawfully excluded because: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**VERIFICATION**

I certify under penalty of perjury under the laws of the state of Washington that the foregoing petition is true and correct.

Dated: \_\_\_\_\_\_Day of \_\_\_\_\_\_\_\_\_\_, \_\_\_\_ (year), at \_\_\_\_\_\_\_\_\_\_, Washington.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Petitioner

Name (Print): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ORDER**

**THE ABOVE-TITLED COURT HEREBY ORDERS THAT:**

1. The parties shall appear for a show cause hearing on \_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_ (year), at\_\_\_ a.m./p.m. at the\_\_\_\_\_\_\_ County Superior Court, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_, Washington.

2. Petitioner(s) shall serve respondent with a copy of this Order as well as a copy of the petition no later than \_\_\_\_\_\_ p.m. on \_\_\_\_\_\_\_\_\_\_\_\_. Service may be made by personal delivery or certified mail with return receipt requested by the following date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

3. Because petitioner is at risk of immediate harm or has been unlawfully excluded from the premises, the respondent is hereby ordered to or the sheriff is hereby ordered to restore the premises: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

**YOU ARE HEREBY FURTHER NOTIFIED** to bring with you any and all papers and proof needed by you to establish or defend this claim. At the time of the hearing, you must bring any witnesses who will testify on your behalf.

**YOU ARE FURTHER NOTIFIED** that if you fail to personally appear as directed, a judgment may be entered against you for the relief sought and any amount claimed, plus petitioner's costs of filing and service of the claim upon you.

DATED: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

JUDGE/COURT COMMISSIONER

Presented by:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Petitioner

NEW SECTION. **Sec.**  The petition must be served upon the landlord, the landlord's agent, or the person receiving rent. Service must be by personal service, by certified mail with return receipt requested to the respondent, or other means of service under the civil rules. For purposes of delivery or mailing the petition and order to show cause, the petitioner may use the address listed on the rental agreement for the landlord or where rental payments are directed. If service pursuant to this section cannot be made with due diligence, the court may authorize service in a form likely to result in actual notice of the pending petition, including service by email or by requiring the assistance of local law enforcement in the service of the petition. When service by mail is authorized by this chapter or court order, adding additional time for mailing is not required except as the court sets forth in its order. The court order shall specify when and how the petition and order must be served on the landlord, which shall include at least seven days' notice to the landlord before the hearing on the petition.

NEW SECTION. **Sec.**  Before the hearing on the petition, the respondent may serve and file an answer setting forth any defenses to the petition. The answer must be limited to affirming or denying the allegations in the petition.

NEW SECTION. **Sec.**  If genuine issues of material fact are raised at the hearing on the order to show cause, any genuine issues of material fact must be tried within 30 days of the hearing unless the parties agree otherwise. The parties may obtain discovery on an expedited basis limited to the claims raised in the petition and the enforcement of any judgment with any requests for documentation or interrogatories returnable at least two days before any trial on the petition or as the court directs within the action.

NEW SECTION. **Sec.**  (1) If the court finds that the petition has been proved by a preponderance of the evidence, it may order any of the following relief:

(a) Where the respondent has been found to have violated a duty in RCW 59.18.060 or 59.20.130, or the rental agreement, the court shall:

(i) Order the respondent to remedy the violation;

(ii) Determine the diminution in rental value of the premises due to the defective condition and render judgment against the respondent for the rent paid in excess of such diminished rental value from the time the defect occurred to when the issue is corrected. Such a finding may be enforced as a judgment or as a set-off against any existing or subsequent claims of the respondent;

(iii) Order the rent abated and determine the amount by which the rent is to be abated until such conditions are corrected; and

(iv) With the petitioner's consent, order the petitioner to remedy the violation or violations found by the court and issue a judgment for any costs and labor incurred in correcting the violation;

(b) If a court determines the dwelling will be condemned or unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances, or regulations, the court may authorize the termination of the tenancy. In terminating the tenancy, the court shall set a reasonable time for the petitioner to relocate, relieve the petitioner of any rental obligation since the condition came into existence, and award each tenant in the household damages as provided under RCW 59.18.085, this section, or other applicable law;

(c) In addition to any other damages or remedies provided by law or contract, if the court determines the respondent unlawfully excluded the tenant from the premises, the court shall issue a writ of restitution for immediate restoration of the premises to the tenant;

(d) In addition to any injunctive relief or treble damages provided by RCW 19.86.090, where a court has found that the landlord has engaged in unfair, deceptive, or abusive acts or practices, the court shall award damages in the amount of three times the tenant's monthly rent. The landlord shall also be liable for any attorneys' fees or court costs incurred by the tenant; and

(e) In addition to any remedies in this section and for other violations, the court may award damages provided by law or contract and grant injunctive relief as is proper for the relief sought along with any reasonable attorneys' fees and court costs.

(2) In addition to the relief stated within subsection (1) of this section, the court may appoint an administrator as described in section 8 of this act.

NEW SECTION. **Sec.**  (1) In addition to the relief provided in section 7 of this act, the court may appoint an administrator as described in this section.

(a) The administrator may be any person or entity other than the landlord.

(b) If an administrator is appointed under this section, the order shall be served on every residential tenant of the premises whose obligations will be affected by the judgment personally or by mail as soon as possible.

(c) The court shall direct that rent due must be deposited with the administrator appointed by the court and direct the administrator to use the rents collected to remedy the violations found to exist by the court by paying the debt services, taxes, and insurance, and providing the services necessary to the ordinary operation and maintenance of the premises which the respondent is obligated to provide.

(2) In executing its functions, the administrator may:

(a) Collect rents from residential and commercial tenants, evict residential and commercial tenants for nonpayment of rent or other cause, enter into rental agreements for vacant dwelling units, rent vacant commercial units with the consent of the landlord, and exercise other powers necessary and appropriate to carry out the order;

(b) Contract for the reasonable cost of materials, labor, and services, including utility services provided by a third party, necessary to remedy the violation or violations found by the court to exist and for the rehabilitation of the property to maintain safe and habitable conditions over the useful life of the property, and disburse money for these purposes from funds available for the purpose;

(c) Provide services to the residential and commercial tenants that the respondent is obligated to provide but refuses or fails to provide, and pay for them from funds available for the purpose;

(d) Petition the court, after notice to the parties, for an order allowing the administrator to encumber the property to secure funds to the extent necessary to cover the costs described in (b) of this subsection, including reasonable fees for the administrator's services, and to pay for the costs from funds derived from the encumbrance; and

(e) Petition the court, after notice to the parties, for an order allowing the administrator to receive funds made available for this purpose by a local jurisdiction, the state, or the federal government to the extent necessary to cover the costs incurred under (b) of this subsection and pay for them from funds derived from this source.

(3) The administrator must first contract and pay for repairs and services necessary to keep the premises habitable before other expenses may be paid. If sufficient funds are not available for paying other expenses, such as tax and mortgage payments, after paying for necessary repairs and services, the respondent is responsible for other expenses.

(4) At any time during the administration, the administrator or any other interested party may petition the court after notice to all parties for an order terminating the administration on the ground that the funds available to the administrator are insufficient to remedy the violations or for any other reason necessitating the removal of the administrator. If the court finds that the petition is proved, the court shall terminate the administration and proceed to judgment under section 7 of this act.

(5) Administration of the property may be terminated by the court or by petition of the respondent, the administrator, or any other interested party, after notice to all parties, on the ground that the property has been brought into compliance with state law.

(6) After termination of administration, the court may continue to hold jurisdiction over the premises for a period of one year and order the respondent to maintain the premises in compliance with all applicable state, county, and city health, safety, housing, building, fire prevention, and housing maintenance codes.

(7) If an administrator has been appointed pursuant to this section, any right of the respondent to collect rent from the petitioner is void and unenforceable from the time the court enters the order until the administrator's appointment is terminated. Any right of the respondent to collect rent from other tenants is void and unenforceable from the time of service of judgment until the administration is terminated.

(8) The administrator may not be held personally liable in the performance of duties under this section except for misfeasance, malfeasance, or nonfeasance of office.

(9) The court may allow a reasonable payment for the services of an administrator and the expense of the administration from the rent money. When the administration terminates, the court may enter judgment against the respondent for the amount of any services and expenses incurred by the administrator.

NEW SECTION. **Sec.**  If the respondent fails to comply with an order of the court pursuant to this chapter, the petitioner may file an order to show cause before the court seeking to hold the respondent in contempt under chapter 7.21 RCW. Any respondent who willfully disobeys the terms of an order issued under this chapter may, in the court's discretion, be found in contempt of court and subject to sanctions.

NEW SECTION. **Sec.**  Any provision of a rental or other agreement in which a provision of this chapter is waived by a tenant is contrary to public policy and void.

NEW SECTION. **Sec.**  The purpose of this chapter is to provide additional remedies to an aggrieved party and nothing contained in this act limits any other claims a tenant may have against a landlord. The remedies of this act shall be in addition to those found in law or equity.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Abusive acts or practices" means acts or practices that:

(a) Interfere with the ability of a tenant to understand a term or condition of the rental agreement or the tenancy;

(b) Meet the definition of unlawful harassment under RCW 10.14.020;

(c) Take unreasonable advantage of:

(i) A lack of understanding on the part of the tenant concerning conditions of the tenancy or the tenant's rights under the law; or

(ii) The inability of the tenant to protect his or her interests;

(d) Take reprisal or retaliatory action, such as increasing the rent, refusing to renew the rental agreement, evicting the tenant, increasing the obligations of the tenant, or reducing services after a tenant seeks relief due to a violation under section 2 of this act.

(2) "Aggrieved party" means any tenant, or an entity acting on behalf of a tenant or tenants, asserting a violation of a landlord under this chapter. "Aggrieved party" includes an association of tenants or occupants with a landlord in common, a group or association whose mission or activities seek to protect the welfare of tenants in Washington, the attorney general, and any city or county government.

(3) "Dwelling unit" has the same meaning as provided in RCW 59.18.030.

(4) "Landlord" means the owner, lessor, or sublessor of the dwelling unit, the property of which it is a part, or the mobile home park, and any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

(5) "Premises" has the same meaning as provided in RCW 59.18.030.

(6) "Reasonable attorneys' fees" has the same meaning as provided in RCW 59.18.030.

(7) "Rental agreement" has the same meaning as provided in RCW 59.18.030.

(8) "Tenancy" means the right of a tenant to reside in a dwelling unit for living or dwelling purposes.

(9) "Tenant" means any person who formerly occupied or occupies a dwelling unit primarily for living or dwelling purposes, including prospective and former tenants of a dwelling unit who have been harmed by violations under section 2 of this act.

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

Any violation of this chapter by a landlord occurs in the course of trade or commerce as defined in the consumer protection act, chapter 19.86 RCW and is, for the purpose of applying that chapter, a matter affecting the public interest, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce.

NEW SECTION. **Sec.**  A new section is added to chapter 59.20 RCW to read as follows:

Any violation of this chapter by a landlord occurs in the course of trade or commerce as defined in the consumer protection act, chapter 19.86 RCW and is, for the purpose of applying that chapter, a matter affecting the public interest, is not reasonable in relation to the development and preservation of business, and is an unfair or deceptive act in trade or commerce.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1)RCW 59.18.080 (Payment of rent condition to exercising remedies—Exceptions) and 2010 c 8 s 19019 & 1973 1st ex.s. c 207 s 8; and

(2)RCW 59.20.240 (Payment of rent condition to exercising remedies) and 1984 c 58 s 7.

NEW SECTION. **Sec.**  Sections 1 through 12 of this act constitute a new chapter in Title 59 RCW.

**--- END ---**