H-1120.2

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

**SUBSTITUTE HOUSE BILL 1388**

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

**State of Washington 68th Legislature 2023 Regular Session**

**By** House Housing (originally sponsored by Representatives Macri, Ramel, Peterson, Thai, Gregerson, Hackney, Ormsby, Alvarado, Doglio, Cortes, Riccelli, Mena, Kloba, Bateman, Fitzgibbon, Street, Taylor, Lekanoff, Simmons, Farivar, Pollet, Stonier, Berry, Reed, Bergquist, Morgan, Davis, Santos, Chopp, Stearns, and Fosse)

AN ACT Relating to protecting tenants by prohibiting predatory residential rent practices and by applying the consumer protection act to the residential landlord-tenant act and the manufactured/mobile home landlord-tenant act; adding new sections to chapter 59.18 RCW; adding new sections to chapter 59.20 RCW; prescribing penalties; and declaring an emergency.

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

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

(1) Except as provided in subsection (2) of this section, a landlord is prohibited from engaging in any of the following practices:

(a) A landlord may not rent or seek to rent a dwelling unit at an excessive rent, if such rent increase is beyond the amount reasonably necessary to maintain or improve the dwelling unit, and is:

(i) Substantially likely to cause the tenant or household to move or involuntarily relocate from the home; or

(ii) Used as a means to avoid other protections afforded to tenants under this chapter or any other applicable law;

(b) A landlord may not charge a higher rent or include terms of payment or other material conditions in a rental agreement that are more burdensome to a tenant for a month-to-month rental agreement than for a rental agreement where the term is greater than month-to-month, or vice versa; and

(c) A landlord may not charge a tenant move-in fees or security deposits that exceed one month's rent.

(2) This section does not apply to:

(a) A tenancy in a federally funded property owned or operated by a public housing authority under chapter 35.82 RCW, or a tenancy in a property that is funded through a housing assistance program under chapter 43.185 RCW; and

(b) A tenancy in a dwelling unit for which the first certificate of occupancy for the dwelling unit was issued 12 or less years before the date of the notice of the rent increase.

(3) The attorney general may investigate practices that are violations of this section. The attorney general may issue civil investigative demands for documents, answers to written interrogatories, or testimony to any person that the attorney general has reason to believe has violated this section or has information or knowledge pertaining to a violation of this section. When investigating, the attorney general may consider, in addition to any other relevant information:

(a) The condition of the dwelling unit. For example, outstanding repair issues, maintenance costs other than for cosmetic upgrades, property taxes, or other information pertaining to the care and maintenance of the dwelling unit and premises;

(b) Whether a rent increase, move-in fee, security deposit, term of payment, or other material condition in the lease was used to evade protections afforded to tenants under this chapter or any other source of legal rights. For example, whether the tenant made any complaints regarding repair issues prior to the issuance of the rent increase notice; and

(c) Whether a rent increase will cause the tenant or household to move or involuntarily relocate from the home. For example, the economic and financial position of the tenant's household.

(4) The attorney general may issue a cease and desist letter to any person to restrain and prevent violations of this section. If the recipient of a cease and desist letter does not comply within five calendar days of receipt of the letter, the attorney general may file an action in superior court to enforce this section. If the court finds that the person violated this section and failed to comply with a cease and desist letter, the court shall enjoin the person from engaging in conduct that violates this section and impose a civil penalty of no more than $10,000 in addition to other remedies per violation of the cease and desist letter. In any successful action to enforce a cease and desist letter under this section, the court shall award the attorney general the costs of bringing the action, including reasonable investigative costs and reasonable attorneys' fees, plus damages and restitution for any persons harmed by the violation.

(5) The attorney general may enforce this section in superior court. In any successful action under this section, the court shall impose a civil penalty of no more than $25,000 per violation, and shall award the attorney general the costs of bringing the action, including reasonable investigative costs and reasonable attorneys' fees, plus damages and restitution for any persons harmed by the violation. The remedies under this subsection are in addition to, and are not prerequisites for, any other remedies a court may order under subsection (6) of this section. Additional civil penalties may not be assessed for the same violation under the consumer protection act pursuant to RCW 19.86.140.

(6) A tenant whose landlord engages in practices in violation of this section and pays rent or other charges in excess of amounts permitted by this section has a cause of action against the landlord to recover actual damages in the amount of the excess rent or other charges paid, mandatory punitive damages equal to three months of the unlawful higher rent or charges that the tenant paid, and reasonable attorneys' fees and costs incurred in bringing the action.

(7) The remedies provided by this section are in addition to any other remedies provided by law.

(8) It is a defense to an unlawful detainer action under chapter 59.12 RCW that the action to remove the tenant and recover possession of the premises was for nonpayment of rent that was unlawfully increased in violation of this section.

(9) A landlord may not report the tenant to a tenant screening service provider for failure to pay rent that was unlawfully increased in violation of this section.

(10) By January 1, 2024, the office of the attorney general shall produce and maintain on its website translated versions of this section in the 10 languages most frequently spoken in Washington state and, at the discretion of the office of the attorney general, other languages as requested by individuals who have limited English language proficiency. A translation must be made available upon request in printed form on letter size paper, eight and one-half by 11 inches, and in an easily readable font size.

(11) For the purposes of this section:

(a) "Excessive rent" means a rent increase during any 12-month period that is greater than the rate of inflation as measured by the consumer price index or three percent, whichever is greater, up to a maximum of seven percent above the existing rent. The maximum annual rent increase percentage allowed for each calendar year is calculated and published by the department of commerce as required in section 2 of this act.

(b) "Rate of inflation as measured by the consumer price index" means the September 12-month percent change in the consumer price index for all urban consumers (CPI-U), west region, all items, not seasonally adjusted, or a successor index, as published by the bureau of labor statistics of the United States department of labor in September of the current calendar year.

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

(1) On September 30, 2023, and on each following September 30th, the department of commerce shall calculate the maximum annual rent increase percentage allowed by sections 1 and 4 of this act for the following calendar year. The maximum annual rent increase percentage allowed for the following calendar year is the rate of inflation as measured by the consumer price index or three percent, whichever is greater, up to a maximum of seven percent. For the purposes of this section, "rate of inflation as measured by the consumer price index" means the September 12-month percent change in the consumer price index for all urban consumers (CPI-U), west region, all items, not seasonally adjusted, or a successor index, as published by the bureau of labor statistics of the United States department of labor in September of the current calendar year.

(2) On September 30, 2023, and on each following September 30th, the department of commerce shall publish the maximum annual rent increase percentage calculated under subsection (1) of this section, along with the relevant excessive rent protection provisions in sections 1 and 4 of this act, in a press release.

(3) The department of commerce shall maintain publicly available information on its website about the maximum annual rent increase percentage for the previous calendar year and for the current calendar year, and on or after September 30th of each year, for the following calendar year.

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

(1) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) A violation of this chapter by a landlord including, but not limited to, a violation of a cease and desist letter issued pursuant to section 1 of this act, is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(3) Any violation of this chapter by a landlord is also a violation of RCW 19.86.020 of the consumer protection act.

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

(1) Except as provided in subsection (2) of this section and in RCW 59.20.060(2)(c), a landlord is prohibited from engaging in any of the following practices:

(a) A landlord may not rent or seek to rent a mobile home lot at an excessive rent, if such rent increase is beyond the amount reasonably necessary to maintain or improve the mobile home lot, and is:

(i) Substantially likely to cause the tenant or household to move or involuntarily relocate from the mobile home lot; or

(ii) Used as a means to avoid other protections afforded to tenants under this chapter or any other applicable law;

(b) A landlord may not charge a higher rent or include terms of payment or other material conditions in a rental agreement that are more burdensome to a tenant for a month-to-month rental agreement than for a rental agreement where the term is greater than month-to-month, or vice versa; and

(c) A landlord may not charge a tenant move-in fees or security deposits that exceed one month's rent.

(2) This section does not apply to a tenancy in a federally funded property owned or operated by a public housing authority under chapter 35.82 RCW, or a tenancy in a property that is funded through a housing assistance program under chapter 43.185 RCW.

(3) The attorney general may investigate practices that are violations of this section. The attorney general may issue civil investigative demands for documents, answers to written interrogatories, or testimony to any person that the attorney general has reason to believe has violated this section or has information or knowledge pertaining to a violation of this section. When investigating, the attorney general may consider, in addition to any other relevant information:

(a) The condition of the mobile home lot. For example, outstanding repair issues, maintenance costs other than for cosmetic upgrades, property taxes, or other information pertaining to the care and maintenance of the mobile home lot and premises;

(b) Whether a rent increase, move-in fee, security deposit, term of payment, or other material condition in the lease was used to evade protections afforded to tenants under this chapter or any other source of legal rights. For example, whether the tenant made any complaints regarding repair issues prior to the issuance of the rent increase notice; and

(c) Whether a rent increase will cause the tenant or household to move or involuntarily relocate from the mobile home lot. For example, the economic and financial position of the tenant's household.

(4) The attorney general may issue a cease and desist letter to any person to restrain and prevent violations of this section. If the recipient of a cease and desist letter does not comply within five calendar days of receipt of the letter, the attorney general may file an action in superior court to enforce this section. If the court finds that the person violated this section and failed to comply with a cease and desist letter, the court shall enjoin the person from engaging in conduct that violates this section and impose a civil penalty of no more than $10,000 in addition to other remedies per violation of the cease and desist letter. In any successful action to enforce a cease and desist letter under this section, the court shall award the attorney general the costs of bringing the action, including reasonable investigative costs and reasonable attorneys' fees, plus damages and restitution for any persons harmed by the violation.

(5) The attorney general may enforce this section in superior court. In any successful action under this section, the court shall impose a civil penalty of no more than $25,000 per violation, and shall award the attorney general the costs of bringing the action, including reasonable investigative costs and reasonable attorneys' fees, plus damages and restitution for any persons harmed by the violation. The remedies under this subsection are in addition to, and are not prerequisites for, any other remedies a court may order under subsection (6) of this section. Additional civil penalties may not be assessed for the same violation under the consumer protection act pursuant to RCW 19.86.140.

(6) A tenant whose landlord engages in practices in violation of this section and pays rent or other charges in excess of amounts permitted by this section has a cause of action against the landlord to recover actual damages in the amount of the excess rent or other charges paid, mandatory punitive damages equal to three months of the unlawful higher rent or charges that the tenant paid, and reasonable attorneys' fees and costs incurred in bringing the action.

(7) The remedies provided by this section are in addition to any other remedies provided by law.

(8) It is a defense to an unlawful detainer action under chapter 59.12 RCW that the action to remove the tenant and recover possession of the premises was for nonpayment of rent that was unlawfully increased in violation of this section.

(9) A landlord may not report the tenant to a tenant screening service provider for failure to pay rent that was unlawfully increased in violation of this section.

(10) By January 1, 2024, the office of the attorney general shall produce and maintain on its website translated versions of this section in the 10 languages most frequently spoken in Washington state and, at the discretion of the office of the attorney general, other languages as requested by individuals who have limited English language proficiency. A translation must be made available upon request in printed form on letter size paper, eight and one-half by 11 inches, and in an easily readable font size.

(11) For the purposes of this section:

(a) "Excessive rent" means a rent increase during any 12-month period that is greater than the rate of inflation as measured by the consumer price index or three percent, whichever is greater, up to a maximum of seven percent above the existing rent. The maximum annual rent increase percentage allowed for each calendar year is calculated and published by the department of commerce as required in section 2 of this act.

(b) "Rate of inflation as measured by the consumer price index" means the September 12-month percent change in the consumer price index for all urban consumers (CPI-U), west region, all items, not seasonally adjusted, or a successor index, as published by the bureau of labor statistics of the United States department of labor in September of the current calendar year.

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

(1) The legislature finds that the practices covered by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(2) A violation of this chapter by a landlord including, but not limited to, a violation of a cease and desist letter issued pursuant to section 4 of this act, is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the consumer protection act, chapter 19.86 RCW.

(3) Any violation of this chapter by a landlord is also a violation of RCW 19.86.020 of the consumer protection act.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**--- END ---**