

ESSB 5197 - H COMM AMD
By Committee on Housing

ADOPTED 04/07/2023

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 In any forcible or unlawful detainer proceeding before the court:

6 (1) Hearings may be conducted in person or remotely in order to
7 enhance access for all parties. At the court's discretion, parties,
8 witnesses, and others authorized by this chapter to participate in
9 forcible or unlawful detainer proceedings may attend a hearing
10 pursuant to this chapter, in person or remotely, including by
11 telephone, video, or other electronic means where possible. The court
12 shall grant any request for a remote appearance unless the court
13 finds good cause to require in-person attendance or attendance
14 through a specific means. Courts shall require assurances of the
15 identity of persons who appear by telephone, video, or other
16 electronic means. Courts may not charge fees for remote appearances.
17 Courts shall provide instructions for remote access either on the
18 official court website or in writing directly to the party requesting
19 to appear remotely, or both.

20 (2) Any party must be permitted to make an emergency application
21 by phone or video conference and file such documents by email, fax,
22 or other means that can be performed remotely.

23 **Sec. 2.** RCW 59.18.410 and 2021 c 115 s 17 are each amended to
24 read as follows:

25 (1) If at trial the verdict of the jury or, if the case is tried
26 without a jury, the finding of the court is in favor of the landlord
27 and against the tenant, judgment shall be entered for the restitution
28 of the premises; and if the proceeding is for unlawful detainer after
29 neglect or failure to perform any condition or covenant of a lease or
30 agreement under which the property is held, or after default in the
31 payment of rent, the judgment shall also declare the forfeiture of

1 the lease, agreement, or tenancy. The jury, or the court, if the
2 proceedings are tried without a jury, shall also assess the damages
3 arising out of the tenancy occasioned to the landlord by any forcible
4 entry, or by any forcible or unlawful detainer, alleged in the
5 complaint and proved at trial, and, if the alleged unlawful detainer
6 is based on default in the payment of rent, find the amount of any
7 rent due, and the judgment shall be rendered against the tenant
8 liable for the forcible entry, forcible detainer, or unlawful
9 detainer for the amount of damages thus assessed, for the rent, if
10 any, found due, and late fees if such fees are due under the lease
11 and do not exceed (~~seventy-five dollars~~) \$75 in total. The court
12 may award statutory costs. The court may also award reasonable
13 attorneys' fees as provided in RCW 59.18.290.

14 (2) When the tenant is liable for unlawful detainer after a
15 default in the payment of rent, execution upon the judgment shall not
16 occur until the expiration of five court days after the entry of the
17 judgment. Before entry of a judgment or until five court days have
18 expired after entry of the judgment, unless the tenant provides a
19 pledge of financial assistance letter from a government or nonprofit
20 entity, in which case the tenant has until the date of eviction, the
21 tenant or any subtenant, or any mortgagee of the term, or other party
22 interested in the continuance of the tenancy, may pay into court or
23 to the landlord the amount of the rent due, any court costs incurred
24 at the time of payment, late fees if such fees are due under the
25 lease and do not exceed (~~seventy-five dollars~~) \$75 in total, and
26 attorneys' fees if awarded, in which event any judgment entered shall
27 be satisfied and the tenant restored to his or her tenancy. If the
28 tenant seeks to restore his or her tenancy after entry of a judgment,
29 the tenant may tender the amount stated within the judgment as long
30 as that amount does not exceed the amount authorized under subsection
31 (1) of this section. If a tenant seeks to restore his or her tenancy
32 and pay the amount set forth in this subsection with funds acquired
33 through an emergency rental assistance program provided by a
34 governmental or nonprofit entity, the tenant shall provide a copy of
35 the pledge of emergency rental assistance provided from the
36 appropriate governmental or nonprofit entity and have an opportunity
37 to exercise such rights under this subsection, which may include a
38 stay of judgment and provision by the landlord of documentation
39 necessary for processing the assistance. The landlord shall accept
40 any pledge of emergency rental assistance funds provided to the

1 tenant from a governmental or nonprofit entity before the expiration
2 of any pay or vacate notice for nonpayment of rent for the full
3 amount of the rent owing under the rental agreement. The landlord
4 shall accept any written pledge of emergency rental assistance funds
5 provided to the tenant from a governmental or nonprofit entity after
6 the expiration of the pay or vacate notice if the pledge will
7 contribute to the total payment of both the amount of rent due,
8 including any current rent, and other amounts if required under this
9 subsection. The landlord shall suspend any court action for (~~seven~~)
10 14 court days after providing necessary payment information to the
11 nonprofit or governmental entity to allow for payment of the
12 emergency rental assistance funds. By accepting such pledge of
13 emergency rental assistance, the landlord is not required to enter
14 into any additional conditions not related to the provision of
15 necessary payment information and documentation. If a judgment has
16 been satisfied, the landlord shall file a satisfaction of judgment
17 with the court. A tenant seeking to exercise rights under this
18 subsection shall pay an additional (~~fifty dollars~~) \$50 for each
19 time the tenant was reinstated after judgment pursuant to this
20 subsection within the previous (~~twelve~~) 12 months prior to payment.
21 If payment of the amount specified in this subsection is not made
22 within five court days after the entry of the judgment, the judgment
23 may be enforced for its full amount and for the possession of the
24 premises.

25 (3) (a) Following the entry of a judgment in favor of the landlord
26 and against the tenant for the restitution of the premises and
27 forfeiture of the tenancy due to nonpayment of rent, the court, at
28 the time of the show cause hearing or trial, or upon subsequent
29 motion of the tenant but before the execution of the writ of
30 restitution, may stay the writ of restitution upon good cause and on
31 such terms that the court deems fair and just for both parties. In
32 making this decision, the court shall consider evidence of the
33 following factors:

34 (i) The tenant's willful or intentional default or intentional
35 failure to pay rent;

36 (ii) Whether nonpayment of the rent was caused by exigent
37 circumstances that were beyond the tenant's control and that are not
38 likely to recur;

39 (iii) The tenant's ability to timely pay the judgment;

40 (iv) The tenant's payment history;

1 (v) Whether the tenant is otherwise in substantial compliance
2 with the rental agreement;

3 (vi) Hardship on the tenant if evicted; and

4 (vii) Conduct related to other notices served within the last six
5 months.

6 (b) The burden of proof for such relief under this subsection (3)
7 shall be on the tenant. If the tenant seeks relief pursuant to this
8 subsection (3) at the time of the show cause hearing, the court shall
9 hear the matter at the time of the show cause hearing or as
10 expeditiously as possible so as to avoid unnecessary delay or
11 hardship on the parties.

12 (c) In any order issued pursuant to this subsection (3):

13 (i) The court shall not stay the writ of restitution more than
14 (~~ninety~~) 90 days from the date of order, but may order repayment of
15 the judgment balance within such time. If the payment plan is to
16 exceed (~~thirty~~) 30 days, the total cumulative payments for each
17 (~~thirty-day~~) 30-day period following the order shall be no less
18 than one month of the tenant's share of the rent, and the total
19 amount of the judgment and all additional rent that is due shall be
20 paid within (~~ninety~~) 90 days.

21 (ii) Within any payment plan ordered by the court, the court
22 shall require the tenant to pay to the landlord or to the court one
23 month's rent within five court days of issuance of the order. If the
24 date of the order is on or before the (~~fifteenth~~) 15th of the
25 month, the tenant shall remain current with ongoing rental payments
26 as they become due for the duration of the payment plan; if the date
27 of the order is after the (~~fifteenth~~) 15th of the month, the tenant
28 shall have the option to apportion the following month's rental
29 payment within the payment plan, but monthly rental payments
30 thereafter shall be paid according to the rental agreement.

31 (iii) The sheriff may serve the writ of restitution upon the
32 tenant before the expiration of the five court days of issuance of
33 the order; however, the sheriff shall not execute the writ of
34 restitution until after expiration of the five court days in order
35 for payment to be made of one month's rent as required by (c)(ii) of
36 this subsection. In the event payment is made as provided in (c)(ii)
37 of this subsection for one month's rent, the court shall stay the
38 writ of restitution ex parte without prior notice to the landlord
39 upon the tenant filing and presenting a motion to stay with a
40 declaration of proof of payment demonstrating full compliance with

1 the required payment of one month's rent. Any order staying the writ
2 of restitution under this subsection (3)(c)(iii) shall require the
3 tenant to serve a copy of the order on the landlord by personal
4 delivery, first-class mail, facsimile, or email if agreed to by the
5 parties.

6 (A) If the tenant has satisfied (c)(ii) of this subsection by
7 paying one month's rent within five court days, but defaults on a
8 subsequent payment required by the court pursuant to this subsection
9 (3)(c), the landlord may enforce the writ of restitution after
10 serving a notice of default in accordance with RCW 59.12.040
11 informing the tenant that he or she has defaulted on rent due under
12 the lease agreement or payment plan entered by the court. Upon
13 service of the notice of default, the tenant shall have three
14 calendar days from the date of service to vacate the premises before
15 the sheriff may execute the writ of restitution.

16 (B) If the landlord serves the notice of default described under
17 this subsection (3)(c)(iii), an additional day is not included in
18 calculating the time before the sheriff may execute the writ of
19 restitution. The notice of default must be in substantially the
20 following form:

21 NOTICE OF DEFAULT FOR RENT AND/OR PAYMENT PLAN ORDERED BY COURT

22 NAME(S)
23 ADDRESS
24 CITY, STATE, ZIP

25 THIS IS NOTICE THAT YOU ARE IN DEFAULT OF YOUR RENT AND/OR
26 PAYMENT PLAN ORDERED BY THE COURT. YOUR LANDLORD HAS RECEIVED THE
27 FOLLOWING PAYMENTS:

28 DATE
29 AMOUNT
30 DATE
31 AMOUNT
32 DATE
33 AMOUNT

34 THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION WITHIN THREE
35 CALENDAR DAYS OF SERVICE OF THIS NOTICE. TO STOP A PHYSICAL
36 EVICTION, YOU ARE REQUIRED TO PAY THE BALANCE OF YOUR RENT AND/OR
37 PAYMENT PLAN IN THE AMOUNT OF \$.

1 PAYMENT MAY BE MADE TO THE COURT OR TO THE LANDLORD. IF YOU FAIL
2 TO PAY THE BALANCE WITHIN THREE CALENDAR DAYS, THE LANDLORD MAY
3 PROCEED WITH A PHYSICAL EVICTION FOR POSSESSION OF THE UNIT THAT
4 YOU ARE RENTING.

5 DATE

6 SIGNATURE

7 LANDLORD/AGENT

8 NAME

9 ADDRESS

10 PHONE

11 (iv) If a tenant seeks to satisfy a condition of this subsection
12 (3)(c) by relying on an emergency rental assistance program provided
13 by a government or nonprofit entity and provides an offer of proof,
14 the court shall stay the writ of restitution as necessary to afford
15 the tenant an equal opportunity to comply.

16 (v) The court shall extend the writ of restitution as necessary
17 to enforce the order issued pursuant to this subsection (3)(c) in the
18 event of default.

19 (d) A tenant who has been served with three or more notices to
20 pay or vacate for failure to pay rent as set forth in RCW 59.12.040
21 within twelve months prior to the notice to pay or vacate upon which
22 the proceeding is based may not seek relief under this subsection
23 (3), unless the court determines any of the notices served were
24 invalid or did not otherwise comply with the requirements of this
25 chapter.

26 (e)(i) In any application seeking relief pursuant to this
27 subsection (3) by either the tenant or landlord, the court shall
28 issue a finding as to whether the tenant is low-income, limited
29 resourced, or experiencing hardship to determine if the parties would
30 be eligible for disbursement through the landlord mitigation program
31 account established within RCW 43.31.605(1)(~~(e)~~) (b). In making
32 this finding, the court may include an inquiry regarding the tenant's
33 income relative to area median income, household composition, any
34 extenuating circumstances, or other factors, and may rely on written
35 declarations or oral testimony by the parties at the hearing.

36 (ii) After a finding that the tenant is low-income, limited
37 resourced, or experiencing hardship, the court may issue an order:
38 (A) Finding that the landlord is eligible to receive on behalf of the
39 tenant and may apply for reimbursement from the landlord mitigation

1 program; and (B) directing the clerk to remit, without further order
2 of the court, any future payments made by the tenant in order to
3 reimburse the department of commerce pursuant to RCW 43.31.605(1)
4 ~~((e))~~ (b)(iii). In accordance with RCW 43.31.605(1)~~((e))~~ (b),
5 such an order must be accompanied by a copy of the order staying the
6 writ of restitution. Nothing in this subsection (3)(e) shall be
7 deemed to obligate the department of commerce to provide assistance
8 in claim reimbursement through the landlord mitigation program if
9 there are not sufficient funds.

10 (iii) If the department of commerce fails to disburse payment to
11 the landlord for the judgment pursuant to this subsection (3)(e)
12 within ~~((thirty))~~ 30 days from submission of the application, the
13 landlord may renew an application for a writ of restitution pursuant
14 to RCW 59.18.370 and for other rent owed by the tenant since the time
15 of entry of the prior judgment. In such event, the tenant may
16 exercise rights afforded under this section.

17 (iv) Upon payment by the department of commerce to the landlord
18 for the remaining or total amount of the judgment, as applicable, the
19 judgment is satisfied and the landlord shall file a satisfaction of
20 judgment with the court.

21 (v) Nothing in this subsection (3)(e) prohibits the landlord from
22 otherwise applying for reimbursement for an unpaid judgment pursuant
23 to RCW 43.31.605(1)~~((e))~~ (b) after the tenant defaults on a payment
24 plan ordered pursuant to (c) of this subsection.

25 ~~((For the period extending one year beyond the expiration of
26 the eviction moratorium, if))~~ If a tenant demonstrates an ability to
27 pay in order to reinstate the tenancy by means of disbursement
28 through the landlord mitigation program account established within
29 RCW 43.31.605(1)~~((e))~~ (b):

30 (A) Any restrictions imposed under (d) of this subsection do not
31 apply in determining if a tenant is eligible for reinstatement under
32 this subsection (3); and

33 (B) Reimbursement on behalf of the tenant to the landlord under
34 RCW 43.31.605(1)~~((e))~~ (b) may include up to three months of
35 prospective rent to stabilize the tenancy as determined by the court.

36 (4) If a tenant seeks to stay a writ of restitution issued
37 pursuant to this chapter, the court may issue an ex parte stay of the
38 writ of restitution provided the tenant or tenant's attorney submits
39 a declaration indicating good faith efforts were made to notify the
40 other party or, if no efforts were made, why notice could not be

1 provided prior to the application for an ex parte stay, and
2 describing the immediate or irreparable harm that may result if an
3 immediate stay is not granted. The court shall require service of the
4 order and motion to stay the writ of restitution by personal
5 delivery, mail, facsimile, or other means most likely to afford all
6 parties notice of the court date.

7 (5) In all other cases the judgment may be enforced immediately.
8 If a writ of restitution shall have been executed prior to judgment
9 no further writ or execution for the premises shall be required.

10 (6) This section also applies if the writ of restitution is
11 issued pursuant to a final judgment entered after a show cause
12 hearing conducted in accordance with RCW 59.18.380.

13 **Sec. 3.** RCW 59.18.057 and 2021 c 115 s 10 are each amended to
14 read as follows:

15 (1) Every 14-day notice served pursuant to RCW 59.12.030(3) must
16 be in substantially the following form:

17 "TO:

18 AND TO:

19 ADDRESS:

20 **FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES**

21 You are receiving this notice because the landlord alleges you
22 are not in compliance with the terms of the lease agreement by
23 failing to pay rent and/or utilities and/or recurring or periodic
24 charges that are past due.

25 (1) **Monthly rent due for (list month(s)): \$ (dollar amount)**

26 **AND/OR**

27 (2) **Utilities due for (list month(s)): \$ (dollar amount)**

28 **AND/OR**

29 (3) **Other recurring or periodic charges identified in the lease
30 for (list month(s)): \$ (dollar amount)**

31 **TOTAL AMOUNT DUE: \$ (dollar amount)**

32 **Note - payment must be made pursuant to the terms of the rental
33 agreement or by nonelectronic means including, but not limited to,
34 cashier's check, money order, or other certified funds.**

35 You must pay the total amount due to your landlord within
36 fourteen (14) days after service of this notice or you must vacate
37 the premises. Any payment you make to the landlord must first be

1 applied to the total amount due as shown on this notice. Any failure
2 to comply with this notice within fourteen (14) days after service of
3 this notice may result in a judicial proceeding that leads to your
4 eviction from the premises.

5 **The Washington state Office of the Attorney General has this**
6 **notice in multiple languages as well as information on available**
7 **resources to help you pay your rent, including state and local rental**
8 **assistance programs, on its website at [10 State law provides you the right to legal representation and the
11 court may be able to appoint a lawyer to represent you without cost
12 to you if you are a qualifying low-income renter. If you believe you
13 are a qualifying low-income renter and would like an attorney
14 appointed to represent you, please contact the Eviction Defense
15 Screening Line at 855-657-8387 or apply online at \[https://\]\(https://nwjustice.org/apply-online\)
16 \[nwjustice.org/apply-online\]\(https://nwjustice.org/apply-online\). For additional resources, call 2-1-1 or
17 the Northwest Justice Project CLEAR Hotline outside King County \(888\)
18 201-1014 weekdays between 9:15 a.m. - 12:15 p.m., or \(888\) 387-7111
19 for seniors \(age 60 and over\). You may find additional information to
20 help you at <http://www.washingtonlawhelp.org>. Free or low-cost
21 mediation services to assist in nonpayment of rent disputes before
22 any judicial proceedings occur are also available at dispute
23 resolution centers throughout the state. You can find your nearest
24 dispute resolution center at <https://www.resolutionwa.org>.](http://www.atg.wa.gov/landlord-
9 tenant.</p></div><div data-bbox=)**

25 State law also provides you the right to receive interpreter
26 services at court.
27

28 OWNER/LANDLORD: _____ DATE: _____

29
30 WHERE TOTAL AMOUNT DUE IS TO BE PAID: ___ (owner/landlord name) ___
31 _____ (address) _____"

32 ~~(2) ((Upon expiration of the eviction resolution pilot program~~
33 ~~established under RCW 59.18.660:~~

34 ~~(a) The landlord must also provide the notice required in this~~
35 ~~section to the dispute resolution center located within or serving~~
36 ~~the county in which the dwelling unit is located. It is a defense to~~

1 ~~an eviction under RCW 59.12.030 that a landlord did not provide~~
2 ~~additional notice under this subsection.~~

3 ~~(b) Dispute resolution centers are encouraged to notify the~~
4 ~~housing justice project or northwest justice project located within~~
5 ~~or serving the county in which the dispute resolution center is~~
6 ~~located, as appropriate, once notice is received from the landlord~~
7 ~~under this subsection.~~

8 ~~(3))~~ The form required in this section does not abrogate any
9 additional notice requirements to tenants as required by federal,
10 state, or local law."

11 Correct the title.

EFFECT: Makes the following changes to the provisions authorizing
remote participation in eviction proceedings:

(1) Clarifies that hearings in certain eviction proceedings may
be conducted remotely at the court's discretion;

(2) Requires a court to grant any request for a remote appearance
unless the court finds good cause to require attendance through a
different means;

(3) Provides that a court must require assurances of the identity
of persons who appear remotely;

(4) Prohibits courts from charging fees for remote appearances;
and

(5) Requires courts to provide instructions for remote access
either on the court website or in writing directly to the party
requesting to appear remotely, or both.

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