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**SUBSTITUTE HOUSE BILL 1389**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

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

READ FIRST TIME 02/14/23.

1 AN ACT Relating to residential rent increases under the  
2 residential landlord-tenant act and the manufactured/mobile home  
3 landlord-tenant act; adding new sections to chapter 59.18 RCW; adding  
4 new sections to chapter 59.20 RCW; prescribing penalties; and  
5 declaring an emergency.

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

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

9 The definitions in this section apply throughout sections 2  
10 through 8 of this act unless the context clearly requires otherwise.

11 (1) "Department" means the department of commerce.

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

18 (3) "Rent increase" includes any new recurring and periodic  
19 charges added to a rental agreement that were not identified in the  
20 initial rental agreement.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 59.18  
2    RCW to read as follows:

3        (1) Except as authorized by an exemption described in section 3  
4    of this act, a landlord may not increase the rent for a month-to-  
5    month tenancy or a tenancy with a term greater than month-to-month:

6        (a) During the first 12 months after the tenancy begins; and

7        (b) During any 12-month period, in an amount greater than the  
8    rate of inflation as measured by the consumer price index or three  
9    percent, whichever is greater, up to a maximum of seven percent above  
10   the existing rent. The maximum annual rent increase percentage  
11   allowed for each calendar year is calculated and published by the  
12   department as required in section 4 of this act.

13       (2) If a landlord increases the rent above the amount allowed in  
14   subsection (1) of this section, the landlord must include facts  
15   supporting the exemption claimed under section 3 of this act in the  
16   written notice of the rent increase. Notice must comply with section  
17   5 of this act, RCW 59.18.140, and be served in accordance with RCW  
18   59.12.040.

19       (3) A tenant who is charged rent in violation of this section and  
20   pays rent in excess of amounts permitted by this section has a cause  
21   of action against the landlord to recover actual damages in the  
22   amount of the excess rent paid, mandatory punitive damages equal to  
23   three months of the higher rent that the tenant paid in violation of  
24   this section, and reasonable attorneys' fees and costs incurred in  
25   bringing the action.

26       NEW SECTION.    **Sec. 3.**    A new section is added to chapter 59.18  
27   RCW to read as follows:

28        A landlord may increase rent in an amount greater than allowed  
29   under section 2 of this act only as authorized by the exemptions  
30   described in this section.

31        (1) If the first certificate of occupancy for the dwelling unit  
32   was issued 12 or less years before the date of the notice of the rent  
33   increase, rent increases for the dwelling unit are not limited by  
34   section 2 of this act.

35        (2) For a tenancy in a federally funded property owned or  
36   operated by a public housing authority under chapter 35.82 RCW, or a  
37   tenancy in a property that is funded through a housing assistance  
38   program under chapter 43.185 RCW, rent increases during the tenancy  
39   are not limited by section 2 of this act.

1 (3) (a) During any 12-month period after the first 12 months of a  
2 tenancy, a landlord may increase rent for the dwelling unit by up to  
3 seven percent, or by four percent plus the maximum annual rent  
4 increase percentage allowed for the calendar year, whichever is  
5 greater, if:

6 (i) A landlord has paid for improvements to the dwelling unit or  
7 the common areas of the rental property that the tenant has  
8 unrestricted access to, for which the costs or the tenant's  
9 proportional share of the costs were greater than an amount equal to  
10 four months' rent; and

11 (ii) The improvements were made during the 12 months immediately  
12 preceding the month in which the landlord gives the tenant written  
13 notice of the rent increase.

14 (b) For the purposes of this subsection, "improvements to the  
15 dwelling unit" do not include basic maintenance.

16 (4) (a) If a landlord is experiencing significant hardship in  
17 complying with the maximum annual rent increase percentage for the  
18 current calendar year due to a disparity between the local costs for  
19 providing housing and the statewide costs for providing housing, the  
20 landlord may request that the department issue a significant hardship  
21 exemption from section 2 of this act and approve an alternate maximum  
22 annual rent increase percentage consistent with the increased local  
23 costs for providing housing. A landlord as defined in chapter 59.20  
24 RCW may also request a significant hardship exemption.

25 (b) In issuing a significant hardship exemption, the department  
26 must consider evidence of the landlord's significant hardship; the  
27 landlord's actual costs for providing housing; and the local and  
28 statewide costs for maintenance, operating expenses, and property  
29 taxes. If the department finds that the local costs for providing  
30 housing are increasing at a significantly higher rate than the  
31 statewide costs for providing housing such that complying with the  
32 maximum annual rent increase percentage allowed by section 2 of this  
33 act imposes a significant hardship on the landlord, the department  
34 may approve an alternate maximum annual rent increase percentage  
35 consistent with the increased local costs for providing housing.

36 (c) The department must issue a letter to the landlord describing  
37 its findings and the reasons for its decision to grant or deny the  
38 request. If the request is granted, the letter must clearly state the  
39 alternate maximum annual rent increase percentage allowed.

1 (d) The landlord must attach the letter issued by the department  
2 to the rent increase notice required by section 2 of this act.

3 (e) The department shall adopt rules in accordance with chapter  
4 34.05 RCW to establish a process to review landlord requests for  
5 individual significant hardship exemptions.

6 (5)(a) If a landlord participates in the banked capacity program  
7 administered by the department as authorized in this subsection, the  
8 landlord may increase the rent above the maximum annual rent increase  
9 percentage by an additional three percent for each year that the  
10 landlord has banked capacity, up to a 10 percent annual rent  
11 increase. If a landlord uses banked capacity to increase the rent by  
12 10 percent in one year and still has remaining banked capacity, the  
13 landlord may retain any remaining banked capacity for potential use  
14 in future years. A landlord as defined in chapter 59.20 RCW may also  
15 participate in the banked capacity program.

16 (b) The banked capacity program operates as follows:

17 (i) If a landlord does not increase rent in a 12-month period,  
18 the landlord may choose to bank the rent increase capacity for future  
19 years. For each preceding year since the last increase in rent, the  
20 landlord may increase rent by an additional three percent. A landlord  
21 who participates in the banked capacity program must provide an  
22 annual notice in substantially the same form as provided in section 5  
23 of this act to current and prospective tenants of the total banked  
24 capacity and possible future rent increases. Notice must be served in  
25 accordance with RCW 59.12.040. A landlord forfeits their right to  
26 claim banked rent increase capacity if they fail to properly deliver  
27 this form to a tenant;

28 (ii) If a tenant is evicted or if a tenant leaves after an  
29 eviction has been initiated, for any new rental agreement entered  
30 into within 12 months of the termination of the prior tenancy, the  
31 amount of rent that a landlord may charge a new tenant is limited to  
32 the previous tenant's rent plus any banked capacity that was accrued  
33 under the prior tenancy, unless another exemption under this section  
34 applies;

35 (iii) If a tenant voluntarily moves out, the amount of rent that  
36 a landlord may charge a new tenant is not limited by the maximum  
37 annual rent increase percentage or any banked capacity, and the  
38 landlord may reset the rent to market rate. However, if the landlord  
39 increases the rent for the new tenant beyond the previous tenant's  
40 rent, any banked capacity is lost. If a landlord chooses not to

1 increase the rent and charges a new tenant rent in an amount that is  
2 the same or less than the amount of rent that the landlord charged  
3 the previous tenant, the landlord may retain any banked capacity that  
4 was accrued under the prior tenancy; and

5 (iv) If a new owner buys a property and takes over a lease, the  
6 new owner may not increase rent for existing tenants beyond the  
7 amount that the previous landlord would have been allowed to increase  
8 rent, unless another exemption under this section applies. The former  
9 landlord's banked capacity may be transferred as part of a property  
10 sale.

11 (c) The department shall adopt rules in accordance with chapter  
12 34.05 RCW to implement the banked capacity program and establish a  
13 process to document when a landlord decides not to increase rent in a  
14 12-month period and bank that capacity for future years. In order to  
15 participate in the banked capacity program, a landlord must comply  
16 with the process established by the department.

17 (d) The department must make information about the banked  
18 capacity program available on its website, including a method for a  
19 tenant to verify their landlord's participation in the program and  
20 the amount of total banked capacity for their dwelling unit or mobile  
21 home lot.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 59.18  
23 RCW to read as follows:

24 (1) On September 30, 2023, and on each following September 30th,  
25 the department shall calculate the maximum annual rent increase  
26 percentage allowed by sections 2 and 6 of this act for the following  
27 calendar year. The maximum annual rent increase percentage allowed  
28 for the following calendar year is the rate of inflation as measured  
29 by the consumer price index or three percent, whichever is greater,  
30 up to a maximum of seven percent. For the purposes of this section,  
31 "rate of inflation as measured by the consumer price index" means the  
32 September 12-month percent change in the consumer price index for all  
33 urban consumers (CPI-U), west region, all items, not seasonally  
34 adjusted, or a successor index, as published by the bureau of labor  
35 statistics of the United States department of labor in September of  
36 the current calendar year.

37 (2) On September 30, 2023, and on each following September 30th,  
38 the department shall publish the maximum annual rent increase  
39 percentage calculated under subsection (1) of this section, along

1 with the relevant maximum rent increase provisions in sections 2 and  
2 6 of this act, in a press release.

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

8 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.18  
9 RCW to read as follows:

10 (1) A landlord must provide annual notice to current and  
11 prospective tenants of rent increases, possible future rent  
12 increases, and banked capacity in substantially the following form:

13 "TO TENANTS: (tenant name(s))

14 AT ADDRESS: (tenant address)

15 **NOTICE REGARDING POSSIBLE FUTURE RENT INCREASES**

16 This notice is required by Washington State law to inform you of  
17 your rights regarding rent increases. Washington state limits how  
18 much your landlord can raise your rent each year.

19 (1) Your landlord can raise your rent one time each year, as  
20 allowed by section 2 of this act. The Washington State Department of  
21 Commerce will post the maximum increase allowed each year, as  
22 required by section 4 of this act.

23 (2) Your landlord may be exempt from the rent increase cap for  
24 reasons described in section 3 of this act. If your landlord claims  
25 an exemption from the rent increase cap, your landlord is required to  
26 include facts supporting the exemption claimed in the written notice  
27 of the rent increase.

28 Your landlord may also request a significant hardship exemption  
29 from the rent increase cap. If your landlord's significant hardship  
30 exemption request is granted by the Washington State Department of  
31 Commerce, then the landlord is required to attach the letter from the  
32 Washington State Department of Commerce to this notice.

33 (3) Your landlord is not required to raise the rent. Your  
34 landlord is not required to raise the rent by the maximum amount  
35 allowed. When a landlord decides not to increase your rent, the  
36 landlord can bank some of the increase for a future year by  
37 participating in the banked capacity program administered by the  
38 Washington State Department of Commerce. This means that your  
39 landlord may be able to raise your rent in a future year by more than

1 the annual cap. The landlord may be able to raise your rent beyond  
2 the annual cap by an additional three percent for each year of banked  
3 capacity, up to a 10 percent annual rent increase.

4 If your landlord chooses to bank capacity, your landlord is  
5 required to inform you in writing, delivered to you personally, by  
6 properly and fully completing the below form. Your landlord forfeits  
7 your landlord's right to claim banked rent increase capacity if your  
8 landlord fails to properly deliver this form to you.

9 Your landlord must properly and fully complete the form below to  
10 notify you of a rent increase, whether your landlord is banking some  
11 of the unused rent increase for future years, the total banked  
12 capacity for your dwelling unit or mobile home lot, and whether your  
13 landlord is claiming an exemption.

14 **ATTENTION:** (tenant names) at (tenant address)

15 **RENT INCREASE NOTICE TO TENANTS**

16 Your landlord (name) intends to (check one of the following):

17  Not raise your rent.

18  Not raise your rent but bank this unused rent increase for a  
19 future year. Your landlord did not raise your rent in (list year or  
20 years), for a total of (number of) year(s). The total banked capacity  
21 for your dwelling unit or mobile home lot is (percent). Information  
22 about the banked capacity program is available on the Washington  
23 State Department of Commerce's website, including a method to verify  
24 your landlord's participation in the program and the amount of total  
25 banked capacity for your dwelling unit or mobile home lot.

26  Raise your rent:

27 Your rent increase effective (date) will be (percent), which  
28 totals an additional \$(dollar amount) per month, for a new total rent  
29 of \$(dollar amount) per month.

30 This rent increase is allowed by state law and is (check one of  
31 the following):

32  A lower rent increase than otherwise allowed by state law.

33  The maximum increase allowed by state law.

34  If the rent increase is using banked capacity to exceed the  
35 maximum otherwise set by state law, the "BANKED CAPACITY RENT  
36 INCREASE NOTICE TO TENANTS" form below must be fully and properly  
37 filled out.

38  If the rent increase is using a significant hardship exemption  
39 to exceed the maximum otherwise set by state law, the "LANDLORD

1 SIGNIFICANT HARDSHIP EXEMPTION RENT INCREASE NOTICE TO TENANTS" form  
2 below must be fully and properly filled out.

3 \_\_\_If the rent increase is using any other exemption authorized by  
4 state law to exceed the maximum otherwise set by state law, the  
5 "LANDLORD EXEMPTION RENT INCREASE NOTICE TO TENANTS" form below must  
6 be fully and properly filled out.

7 **ATTENTION:** (tenant names) at (tenant address)

8 **BANKED CAPACITY RENT INCREASE NOTICE TO TENANTS**

9 Under penalty of perjury, I (landlord name) certify that I am  
10 allowed under Washington State law to raise your rent by (percent),  
11 which is more than the maximum increase allowed by state law, because  
12 I did not raise your rent, or the rent under a previous tenancy for  
13 which the banked capacity has carried over to your tenancy, in (list  
14 year or years) and I participated in the banked capacity program  
15 administered by the Washington State Department of Commerce.

16 Information about the banked capacity program is available on the  
17 Washington State Department of Commerce's website, including a method  
18 to verify my participation in the program and the amount of total  
19 banked capacity for your dwelling unit or mobile home lot.

20 Your rent increase effective (date) will be (percent) which  
21 totals an additional \$(dollar amount) per month, for a new total rent  
22 of \$(dollar amount) per month.

23 **ATTENTION:** (tenant names) at (tenant address)

24 **LANDLORD SIGNIFICANT HARDSHIP EXEMPTION RENT INCREASE NOTICE TO**  
25 **TENANTS**

26 Under penalty of perjury, I (landlord name) certify that I am  
27 allowed under Washington State law to raise your rent by (percent),  
28 which is more than the maximum increase allowed by state law, because  
29 I was granted an individual significant hardship exemption by the  
30 Washington State Department of Commerce. The letter from the  
31 Washington State Department of Commerce granting this exemption is  
32 attached to this notice. (attach letter)

33 Your rent increase effective (date) will be (percent), which  
34 totals an additional \$(dollar amount) per month, for a new total rent  
35 of \$(dollar amount) per month.

36 **ATTENTION:** (tenant names) at (tenant address)

37 **LANDLORD EXEMPTION NOTICE TO TENANTS**

38 Under penalty of perjury, I (landlord name) certify that I am  
39 allowed under Washington State law to raise your rent by (percent),

1 which is more than the maximum increase allowed by state law, because  
2 I am claiming the following exemption (check one of the following):

3 \_\_\_ The first certificate of occupancy for the dwelling unit was  
4 issued 12 or less years before the date of this rent increase notice,  
5 (insert date), so the rent cap does not apply. This exemption does  
6 not apply to manufactured/mobile homes. (Include facts or attach  
7 documents supporting the exemption.)

8 \_\_\_ Your tenancy is in a federally funded property owned or  
9 operated by a public housing authority under chapter 35.82 RCW, or a  
10 property that is funded through a housing assistance program under  
11 chapter 43.185 RCW, so the rent cap does not apply. (Include facts or  
12 attach documents supporting the exemption.)

13 \_\_\_ The landlord has paid for improvements to your dwelling unit,  
14 mobile home lot, or common areas, for which the costs—or your  
15 proportional share of the costs—were greater than an amount equal to  
16 four months' rent, and the improvements were made during the 12  
17 months immediately preceding this notice. In this case, the landlord  
18 may increase rent by up to seven percent, or four percent plus the  
19 maximum annual rent increase percentage allowed for the calendar  
20 year, whichever is greater. (Include facts or attach documents  
21 supporting the exemption.)

22 Your rent increase effective (date) will be (percent), which  
23 totals an additional \$(dollar amount) per month, for a new total rent  
24 of \$(dollar amount) per month."

25 (2) Notice under this section must comply with the requirements  
26 in RCW 59.18.140 and be served in accordance with RCW 59.12.040.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 59.20  
28 RCW to read as follows:

29 (1) Except as authorized by an exemption described in section 3  
30 of this act and as provided in RCW 59.20.060(2)(c), a landlord may  
31 not increase the rent for a month-to-month tenancy or a tenancy with  
32 a term greater than month-to-month:

33 (a) During the first 12 months after the tenancy begins; and

34 (b) During any 12-month period, in an amount greater than the  
35 rate of inflation as measured by the consumer price index or three  
36 percent, whichever is greater, up to a maximum of seven percent above  
37 the existing rent. The maximum annual rent increase percentage  
38 allowed for each calendar year is calculated and published by the  
39 department as required in section 4 of this act.

1 (2) If a landlord increases the rent above the amount allowed in  
2 subsection (1) of this section, the landlord must include facts  
3 supporting the exemption claimed under section 3 of this act in the  
4 written notice of the rent increase. Notice must comply with section  
5 5 of this act, RCW 59.20.090(2), and be served in accordance with RCW  
6 59.12.040.

7 (3) A tenant who is charged rent in violation of this section and  
8 pays rent in excess of amounts permitted by this section has a cause  
9 of action against the landlord to recover actual damages in the  
10 amount of the excess rent paid, mandatory punitive damages equal to  
11 three months of the unlawful higher rent that the tenant paid, and  
12 reasonable attorneys' fees and costs incurred in bringing the action.

13 NEW SECTION. **Sec. 7.** A new section is added to chapter 59.20  
14 RCW to read as follows:

15 A landlord may increase rent in an amount greater than allowed  
16 under section 2 of this act only as authorized by the exemptions  
17 described in this section or as provided in RCW 59.20.060(2)(c).

18 (1) For a tenancy in a federally funded property owned or  
19 operated by a public housing authority under chapter 35.82 RCW, or a  
20 tenancy in a property that is funded through a housing assistance  
21 program under chapter 43.185 RCW, rent increases during the tenancy  
22 are not limited by section 2 of this act.

23 (2)(a) During any 12-month period after the first 12 months of a  
24 tenancy, a landlord may increase rent for the mobile home lot by up  
25 to seven percent, or by four percent plus the maximum annual rent  
26 increase percentage allowed for the calendar year, whichever is  
27 greater, if:

28 (i) A landlord has paid for improvements to the mobile home lot  
29 or the common areas of the mobile home park that the tenant has  
30 unrestricted access to, for which the costs or the tenant's  
31 proportional share of the costs were greater than an amount equal to  
32 four months' rent; and

33 (ii) The improvements were made during the 12 months immediately  
34 preceding the month in which the landlord gives the tenant written  
35 notice of the rent increase.

36 (b) For the purposes of this subsection, "improvements to the  
37 dwelling unit" do not include basic maintenance.

38 (3) If a landlord is experiencing significant hardship in  
39 complying with the maximum annual rent increase percentage for the

1 current calendar year due to a disparity between the local costs for  
2 providing housing and the statewide costs for providing housing, the  
3 landlord may request that the department issue a significant hardship  
4 exemption as described in section 3 of this act.

5 (4) If a landlord participates in the banked capacity program  
6 administered by the department as described in section 3 of this act,  
7 the landlord may increase the rent above the maximum annual rent  
8 increase percentage by an additional three percent for each year that  
9 the landlord has banked capacity, up to a 10 percent annual rent  
10 increase.

11 NEW SECTION. **Sec. 8.** A new section is added to chapter 59.20  
12 RCW to read as follows:

13 (1) A landlord must provide annual notice to current and  
14 prospective tenants of rent increases, possible future rent  
15 increases, and banked capacity in substantially the same form as  
16 provided in section 5(1) of this act.

17 (2) Notice under this section must comply with the requirements  
18 in RCW 59.20.090(2) and be served in accordance with RCW 59.12.040.

19 NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
20 preservation of the public peace, health, or safety, or support of  
21 the state government and its existing public institutions, and takes  
22 effect immediately.

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