
SENATE BILL 5435

State of Washington

68th Legislature

2023 Regular Session

By Senators Trudeau, Saldaña, Frame, Hunt, Keiser, Kuderer, Lovelett, Nguyen, Robinson, Stanford, and C. Wilson

Read first time 01/18/23. Referred to Committee on Housing.

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. For example, new parking, utility, or other
21 charges.

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 2 of this act in the
16 written notice of the rent increase. Notice must comply with section
17 4 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 10 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. Under section 8 of this act, a landlord
24 as defined in chapter 59.20 RCW may also request a significant
25 hardship exemption.

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

37 (c) The department must issue a letter to the landlord describing
38 its findings and the reasons for its decision to grant or deny the
39 request. If the request is granted, the letter must clearly state the
40 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 4 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. Under section 8 of this act, a landlord
11 as defined in chapter 59.20 RCW may also participate in the banked
12 capacity program.

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

14 (i) If a landlord does not increase rent in a 12-month period,
15 the landlord may choose to bank the rent increase capacity for future
16 years. For each preceding year since the last increase in rent, the
17 landlord may increase rent by an additional three percent. A landlord
18 who participates in the banked capacity program must provide an
19 annual notice in substantially the same form as provided in section 4
20 of this act to current and prospective tenants of the total banked
21 capacity and possible future rent increases. Notice must be served in
22 accordance with RCW 59.12.040. A landlord forfeits their right to
23 claim banked rent increase capacity if they fail to properly deliver
24 this form to a tenant;

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

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

1 retain any banked capacity that was accrued under the prior tenancy;
2 and

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

9 (c) The department shall adopt rules in accordance with chapter
10 34.05 RCW to implement the banked capacity program and establish a
11 process to document when a landlord decides not to increase rent in a
12 12-month period and bank that capacity for future years. In order to
13 participate in the banked capacity program, a landlord must comply
14 with the process established by the department.

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

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

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

35 (2) On September 30, 2023, and on each following September 30th,
36 the department shall publish the maximum annual rent increase
37 percentage calculated under subsection (1) of this section, along
38 with the relevant maximum rent increase provisions in sections 2 and
39 6 of this act, in a press release.

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

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

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

11 "TO TENANTS: (tenant name(s))
12 AT ADDRESS: (tenant address)

13 **NOTICE REGARDING POSSIBLE FUTURE RENT INCREASES**

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

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

21 (2) Your landlord may be exempt from the rent increase cap for
22 reasons described in section 1 of this act. If your landlord claims
23 an exemption from the rent increase cap, your landlord is required to
24 include facts supporting the exemption claimed in the written notice
25 of the rent increase.

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

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

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

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

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

12 **RENT INCREASE NOTICE TO TENANTS**

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

14 Not raise your rent.

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

23 Raise your rent:

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

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

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

30 The maximum increase allowed by state law.

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

35 If the rent increase is using a significant hardship exemption
36 to exceed the maximum otherwise set by state law, the "LANDLORD
37 SIGNIFICANT HARDSHIP EXEMPTION RENT INCREASE NOTICE TO TENANTS" form
38 below must be fully and properly filled out.

39 If the rent increase is using any other exemption authorized by
40 state law to exceed the maximum otherwise set by state law, the

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

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

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

5 Under penalty of perjury, I (landlord name) certify that I am
6 allowed under Washington State law to raise your rent by (percent),
7 which is more than the maximum increase allowed by state law, because
8 I did not raise your rent in (list year or years) and I participated
9 in the banked capacity program administered by the Washington State
10 Department of Commerce.

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

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

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

19 **LANDLORD SIGNIFICANT HARDSHIP EXEMPTION RENT INCREASE NOTICE TO**
20 **TENANTS**

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

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

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

32 **LANDLORD EXEMPTION NOTICE TO TENANTS**

33 Under penalty of perjury, I (landlord name) certify that I am
34 allowed under Washington State law to raise your rent by (percent),
35 which is more than the maximum increase allowed by state law, because
36 I am claiming the following exemption (check one of the following):

37 The first certificate of occupancy for the dwelling unit was
38 issued 10 or less years before the date of this rent increase notice,
39 (insert date), so the rent cap does not apply. This exemption does

1 not apply to manufactured/mobile homes. (Include facts or attach
2 documents supporting the exemption.)

3 ___ Your tenancy is in a federally funded property owned or
4 operated by a public housing authority under chapter 35.82 RCW, or a
5 property that is funded through a housing assistance program under
6 chapter 43.185 RCW, so the rent cap does not apply. (Include facts or
7 attach documents supporting the exemption.)

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

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

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

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

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

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

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

35 (2) If a landlord increases the rent above the amount allowed in
36 subsection (1) of this section, the landlord must include facts
37 supporting the exemption claimed under section 2 of this act in the
38 written notice of the rent increase. Notice must comply with section

1 4 of this act, RCW 59.20.090(2), and be served in accordance with RCW
2 59.12.040.

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

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

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

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

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

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

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

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

34 (3) If a landlord is experiencing significant hardship in
35 complying with the maximum annual rent increase percentage for the
36 current calendar year due to a disparity between the local costs for
37 providing housing and the statewide costs for providing housing, the
38 landlord may request that the department issue a significant hardship
39 exemption as described in section 3 of this act.

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

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

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

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

14 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of
16 the state government and its existing public institutions, and takes
17 effect immediately.

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