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SENATE BILL 6333

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State of Washington                      55th Legislature                      1998 Regular Session

By Senators Winsley, Prentice, Benton, Kline and Hale

Read first time 01/15/98. Referred to Committee on Law & Justice.

1            AN ACT Relating to execution of a writ of restitution; and amending  
2 RCW 59.18.312.

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

4            **Sec. 1.** RCW 59.18.312 and 1992 c 38 s 8 are each amended to read  
5 as follows:

6            (1) A landlord (~~may~~) shall, upon the execution of a writ of  
7 restitution by the sheriff, enter and take possession of any property  
8 of the tenant found on the premises and store the property in any  
9 reasonably secure place. If, however, the tenant or the tenant's  
10 representative objects to the storage of the property, the property  
11 shall be deposited upon the nearest public property and may not be  
12 moved and stored by the landlord. If the tenant is not present at the  
13 time the writ of restitution is executed, it shall be presumed that the  
14 tenant does not object to the storage of the property as provided in  
15 this section. RCW 59.18.310 shall apply to the moving and storage of  
16 a tenant's property when the premises are abandoned by the tenant.

17            (2) Property moved and stored under this section shall be returned  
18 to the tenant after the tenant has paid the actual or reasonable  
19 drayage and storage costs, whichever is less, or until it is sold or

1 disposed of by the landlord in accordance with subsection (3) of this  
2 section.

3 (3) Prior to the sale or disposal of property stored pursuant to  
4 this section with a cumulative value of over fifty dollars, the  
5 landlord shall notify the tenant of the pending sale or disposal.  
6 After forty-five days from the date the notice of the sale or disposal  
7 is mailed or personally delivered to the tenant, the landlord may sell  
8 or dispose of the property, including personal papers, family pictures,  
9 and keepsakes.

10 If the property that is being stored has a cumulative value of  
11 fifty dollars or less, then the landlord may sell or dispose of the  
12 property in the manner provided in this section, except for personal  
13 papers, family pictures, and keepsakes. Prior to the sale or disposal  
14 of property stored pursuant to this section with a cumulative value of  
15 fifty dollars or less, the landlord shall notify the tenant of the  
16 pending sale or disposal. The notice shall either be mailed or  
17 personally delivered to the tenant. After seven days from the date the  
18 notice is mailed or delivered to the tenant, the landlord may sell or  
19 dispose of the property.

20 The landlord may apply any income derived from the sale of the  
21 tenant's property against moneys due the landlord for drayage and  
22 storage of the property. The amount of sale proceeds that the landlord  
23 may apply towards such costs may not exceed the actual or reasonable  
24 costs for drayage and storage of the property, whichever is less. Any  
25 excess income derived from the sale of such property shall be held by  
26 the landlord for the benefit of the tenant for a period of one year  
27 from the date of the sale. If no claim is made or action commenced by  
28 the tenant for the recovery of the excess income prior to the  
29 expiration of that period of time, then the balance shall be treated as  
30 abandoned property and deposited by the landlord with the department of  
31 revenue pursuant to chapter 63.29 RCW.

32 (4) Nothing in this section shall be construed as creating a right  
33 of distress for rent.

34 (5) When serving a tenant with a writ of restitution pursuant to  
35 RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice  
36 to the tenant that: (a) Upon execution of the writ, the landlord may  
37 store the tenant's property; (b) if the property is stored, it may not  
38 be returned to the tenant unless the tenant pays the actual or  
39 reasonable costs of drayage and storage, whichever is less; (c) if the

1 tenant objects to storage of the property, it will not be stored but  
2 will be placed on the nearest public property; and (d) if the tenant is  
3 not present at the time of the execution of the writ, it shall be  
4 presumed the tenant does not object to storage of the property.

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