
HOUSE BILL 2789

State of Washington

56th Legislature

2000 Regular Session

By Representatives Regala, Van Luven, Veloria, Radcliff, D. Sommers, Edmonds, Kenney, O'Brien, Santos, Tokuda, Barlean, Dickerson, Keiser, Anderson, Conway, Stensen, Ogden, Cody, Lantz, Wood, Rockefeller, Skinner and McIntire

Read first time 01/20/2000. Referred to Committee on Economic Development, Housing & Trade.

1 AN ACT Relating to preserving federally assisted housing and
2 minimizing the involuntary displacement of tenants residing in such
3 housing; amending RCW 59.28.020, 59.28.030, 59.28.040, 59.28.060,
4 59.28.080, and 59.28.100; adding new sections to chapter 59.28 RCW;
5 adding a new section to chapter 49.60 RCW; and declaring an emergency.

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

7 **Sec. 1.** RCW 59.28.020 and 1989 c 188 s 2 are each amended to read
8 as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Federally assisted housing" means any multifamily housing that
12 is insured, financed, assisted, or held by the secretary of housing and
13 urban development or the secretary of agriculture under:

14 (a) Section 8 of the United States housing act of 1937, as amended
15 (42 U.S.C. Sec. 1437f);

16 (b) Section 101 of the housing and urban development act of 1965,
17 as amended (12 U.S.C. Sec. 1701s);

18 (c) The following sections of the national housing act:

19 (i) Section 202 (12 U.S.C. Sec. 1701q);

- 1 (ii) Section 213 (12 U.S.C. Sec. 1715e);
2 (iii) Section 221(d) (3) and (4) (12 U.S.C. Sec. 17151(d) (3) and
3 (4));
4 (iv) Section 223(f) (12 U.S.C. Sec. 1715n(f));
5 (v) Section 231 (12 U.S.C. Sec. 1715v); or
6 (vi) Section 236 (12 U.S.C. Sec. 1715z-1); and
7 (d) The following sections of the housing act of 1949, as amended:
8 (i) Section 514 (42 U.S.C. Sec. 1484);
9 (ii) Section 515 (42 U.S.C. Sec. 1485);
10 (iii) Section 516 (42 U.S.C. Sec. 1486);
11 (iv) Section 521(a)(1)(B) (42 U.S.C. Sec. 1490a(a)(1)); or
12 (v) Section 521(a)(2) (42 U.S.C. Sec. 1490a(a)(2)).

13 (2) "Rental agreement" means any agreement that establishes or
14 modifies the terms, conditions, rules, regulations, or any other
15 provision concerning the use and occupancy of a federally assisted
16 housing unit.

17 (3) "Owner" means the current or subsequent owner or owners of
18 federally assisted housing.

19 (4) "Low-income use restrictions" means any federal, state, or
20 local statute, rule, regulation, ordinance, or contract which, as a
21 condition of receipt of any federal, state, or local financial
22 assistance, establishes maximum limitations on tenant income as a
23 condition of eligibility for occupancy of the units within a
24 development, imposes any restrictions on the maximum rents that could
25 be charged for any of the units within a development, or requires that
26 rent for any of the units within a development be reviewed by any
27 governmental body or agency before the rents are implemented.

28 (5) "Prepayment" means the payment in full or refinancing of the
29 federally insured or federally held mortgage or loan prior to its
30 original maturity date, or the voluntary cancellation of mortgage
31 insurance, if that would have the effect of terminating any low-income
32 use restrictions.

33 (6) "Public housing agency" means any state or local agency or
34 nonprofit entity that is authorized to administer tenant-based rental
35 assistance under federal, state, or local law.

36 **Sec. 2.** RCW 59.28.030 and 1989 c 188 s 3 are each amended to read
37 as follows:

1 (1) This chapter shall not apply to the expiration or termination
2 of a housing assistance contract between a public housing agency and an
3 owner of existing housing participating in either the section 8
4 certificate or voucher program (42 U.S.C. Sec. 1437f).

5 (2) An owner of federally assisted housing shall not be required to
6 give notice of a prepayment under this chapter, if the owner has: (a)
7 Entered into an agreement with a federal, state, or local agency
8 continuing existing, or imposing new, low-income use restrictions for
9 at least twenty years that ensure that the tenants residing in the
10 development at the time of prepayment are not involuntarily displaced
11 except for good cause and that the housing will continue to serve very
12 low and low-income families and persons in need of affordable housing;
13 and (b) served notice of the agreement on the clerk of the city, or
14 county if in an unincorporated area, in which the property is located,
15 on any public housing agency that would be responsible for
16 administering tenant-based rental assistance to persons who would
17 otherwise be displaced from this housing, and on the department of
18 community, trade, and economic development by regular and certified
19 mail and posted a copy of the agreement in a conspicuous place at the
20 development where it is likely to be seen by the tenants. The posted
21 agreement shall be maintained intact and in legible form for the life
22 of the agreement.

23 (3) An owner of federally assisted housing is not required to give
24 notice that a rental assistance contract is expiring if: (a) The owner
25 has entered into an agreement with the United States department of
26 housing and urban development or other federal, state, or local agency
27 to renew the rental assistance contract for a minimum of five years
28 subject to the availability of adequate appropriations; (b) the
29 agreement itself does not expire in less than twelve months; and (c)
30 the owner has served written notice of the agreement on the clerk of
31 the city, or county if in an unincorporated area, in which the property
32 is located, on any public housing agency that would be responsible for
33 administering tenant-based rental assistance to persons who would
34 otherwise be displaced from this housing, and on the department of
35 community, trade, and economic development, by regular and certified
36 mail and posted these notices in a conspicuous place at the development
37 where they are likely to be seen by the tenants. The posted notices
38 shall be maintained intact and in legible form for the life of the
39 agreement to renew the rental assistance contract.

1 **Sec. 3.** RCW 59.28.040 and 1995 c 399 s 160 are each amended to
2 read as follows:

3 Except as provided in RCW 59.28.030, all owners of federally
4 assisted housing shall, at least twelve months before the expiration of
5 the rental assistance contract or prepayment of a mortgage or loan,
6 serve a written notice of the anticipated expiration or prepayment date
7 on each tenant household residing in the housing, on the clerk of the
8 city, or county if in an unincorporated area, in which the property is
9 located, on any public housing agency that would be responsible for
10 administering tenant-based rental assistance to persons who would
11 otherwise be displaced from this housing, and on the department of
12 community, trade, and economic development, by regular and certified
13 mail. All owners of federally assisted housing shall also serve
14 written notice of the anticipated expiration or prepayment date on each
15 tenant household that moves into the housing after the initial notice
16 has been given, but before the expiration of the rental assistance
17 contract or prepayment of the mortgage or loan. This notice shall be
18 given before a new tenant is asked to execute a rental agreement or
19 required to pay any deposits.

20 **Sec. 4.** RCW 59.28.060 and 1995 c 399 s 162 are each amended to
21 read as follows:

22 (1) The notice to tenants required by RCW 59.28.040 shall state
23 ((the date of expiration or prepayment and the effect, if any, that the
24 expiration or prepayment will have upon the tenants' rent and other
25 terms of their rental agreement.)):

26 (a) Whether the owner (i) intends to prepay the mortgage or loan or
27 allow the rental assistance contract to expire in order to operate the
28 housing without any low-income use restrictions, (ii) plans on renewing
29 the rental assistance contract subject to the availability of adequate
30 appropriations, or (iii) is seeking additional financial incentives or
31 higher rents as a condition of remaining in the federal program; (b)
32 the reason the owner plans on taking this action; (c) the owner's plans
33 for the project, including any timetables or deadlines for actions to
34 be taken by the owner and any specific federal, state, or local agency
35 approvals that the owner is required to obtain; (d) the anticipated
36 date of the prepayment of the mortgage or loan or expiration of the
37 rental assistance contract; (e) the effect, if any, that prepayment of
38 the mortgage or loan or expiration of the rental assistance contract

1 will have upon the tenants' rent and other terms of their rental
2 agreement; and (f) that additional information will be served on the
3 city or county, on the local public housing agency, and on the
4 department of community, trade, and economic development and will be
5 posted at the development. The owner shall also include with the
6 notice written information, prepared by the department of community,
7 trade, and economic development under section 7(1) of this act,
8 concerning the legal rights, responsibilities, and options of owners
9 and tenants when an owner intends to prepay a mortgage or loan or
10 terminate a rental assistance contract.

11 (2) The notice to the city or county clerk and to the department of
12 community, trade, and economic development required by RCW 59.28.040
13 shall state: ~~((1))~~ (a) The name, location, and project number of the
14 federally assisted housing and the type of assistance received from the
15 federal government; ~~((2))~~ (b) the number and size of units; ~~((3))~~
16 (c) the age, race, family size, and estimated incomes of the tenants
17 who will be affected by the prepayment of the loan or mortgage or
18 expiration of the federal assistance contract; ~~((4) the)~~ (d) the
19 current rents and projected rent increases for each affected tenant~~((~~
20 ~~and (5) the anticipated date of prepayment of the loan or mortgage or~~
21 ~~expiration of the federal assistance contract.))~~ after the prepayment
22 of the mortgage or loan or expiration of the rental assistance contract
23 without disclosing the identities of the affected tenants; (e) the
24 availability and type, if any, of rental assistance after the
25 prepayment of the mortgage or loan or expiration of the rental
26 assistance contract; and (f) the age, race, family size, and estimated
27 incomes of any applicants on the project's waiting list without
28 disclosing the identities of the applicants. The owner shall attach to
29 this notice a copy of the notice the owner sends to the tenants under
30 this chapter.

31 (3) All owners of federally assisted housing shall immediately post
32 a copy of any notices they send the city or county clerk, any public
33 housing agency, and the department of community, trade, and economic
34 development, under RCW 59.28.040, in a conspicuous place at the
35 development where they are likely to be seen by current and prospective
36 tenants. The notices shall be maintained intact and in legible form
37 for twelve months from the date they are posted.

38 All owners of federally assisted housing shall, upon request of any
39 state or local agency, provide the agency with a copy of any rent

1 comparability study, market analysis, or projected budget that they
2 submit to the United States department of housing and urban development
3 or other federal agency in conjunction with the prepayment of their
4 mortgage or loan or in anticipation of the expiration of their rental
5 assistance contract, together with any physical inspection reports or
6 capital needs assessments completed by the owner or federal agency
7 within the last three years.

8 **Sec. 5.** RCW 59.28.080 and 1989 c 188 s 8 are each amended to read
9 as follows:

10 From the date of service of the notice under RCW 59.28.040 until
11 either twelve months have elapsed or expiration or prepayment of the
12 rental assistance contract, mortgage, or loan, whichever is later, no
13 owner of federally assisted housing may increase the rent of a
14 federally assisted housing unit, or the share of the rent paid by the
15 tenant, above the amount authorized by the federal assistance program
16 applicable to the project prior to expiration or prepayment of the
17 rental assistance contract or mortgage or loan.

18 **Sec. 6.** RCW 59.28.100 and 1989 c 188 s 10 are each amended to read
19 as follows:

20 Any party who is entitled to receive notice under this chapter may
21 bring a civil action to enjoin or recover actual damages for any
22 violation of this chapter, together with the costs of the suit
23 including reasonable attorneys' fees. Any tenant who is entitled to
24 receive notice under this chapter shall also recover statutory damages
25 of not less than five hundred dollars, nor greater than two thousand
26 five hundred dollars.

27 If a determination is made that an owner failed to comply with the
28 requirements of RCW 59.28.040, 59.28.050, 59.28.070, 59.28.080, or
29 59.28.090 within thirty days after service of a written demand to do so
30 by any party entitled to receive notice under this chapter, the court
31 shall in addition to any other remedy, impose a civil penalty against
32 the owner of one thousand dollars per month for each housing unit in
33 the federally assisted housing development subject to this chapter, for
34 each month or part of a month that the owner fails to comply with these
35 requirements. However, this penalty shall not exceed twelve thousand
36 dollars per unit. Any civil penalties collected under this section

1 shall be deposited in the Washington housing trust fund under RCW
2 43.185.030.

3 NEW SECTION. **Sec. 7.** A new section is added to chapter 59.28 RCW
4 to read as follows:

5 The department of community, trade, and economic development shall
6 within ninety days after the effective date of this act, consult with
7 all interested stakeholders and develop and provide to owners and
8 tenants of federally assisted housing, state and local agencies, and
9 other interested persons all of the following:

10 (1) Written information concerning the legal rights,
11 responsibilities, and options of owners and tenants when an owner
12 intends to prepay a mortgage or loan or terminate a rental assistance
13 contract. This information shall include the name and telephone number
14 of any qualified legal aid program that provides civil legal services
15 to indigent persons and of any other state, regional, or local
16 organization that can be contacted to request additional information
17 about an owner's responsibilities and the rights and options of an
18 affected tenant;

19 (2) Written information sufficient to enable an owner of federally
20 assisted housing to comply with the notification requirements of this
21 chapter, including the name and address of any public housing agency
22 that would be responsible for administering tenant-based rental
23 assistance to persons who would otherwise be displaced from federally
24 assisted housing; and

25 (3) Any other information or technical assistance the department
26 determines will further the purposes of this chapter.

27 NEW SECTION. **Sec. 8.** A new section is added to chapter 59.28 RCW
28 to read as follows:

29 An owner of federally assisted housing who prepays the mortgage or
30 loan or whose rental assistance contract expires and who continues to
31 operate the property as residential housing within the scope of this
32 chapter shall not evict a tenant residing in the dwelling unit when the
33 mortgage or loan is prepaid or the rental assistance contract expires,
34 except as authorized by the federal assistance program applicable to
35 the project prior to prepayment of the mortgage or loan, or expiration
36 of the rental assistance contract.

1 NEW SECTION. **Sec. 9.** A new section is added to chapter 49.60 RCW
2 to read as follows:

3 It is an unfair practice for an owner of federally assisted housing
4 as defined in RCW 59.28.020 who prepays the mortgage or loan or whose
5 rental assistance contract expires but who continues to rent dwelling
6 units as defined by RCW 59.18.030 to refuse to rent a dwelling unit to
7 any tenant who was residing in the dwelling unit when the mortgage or
8 loan was prepaid or when the rental assistance contract expired if
9 approximate cause of the refusal is that the tenant must rely on
10 tenant-based rental assistance to pay a portion of the rent or that the
11 owner does not wish to participate in the federal, state, or locally
12 funded tenant-based rental assistance program.

13 NEW SECTION. **Sec. 10.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

17 NEW SECTION. **Sec. 11.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and takes effect
20 immediately.

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