
ENGROSSED HOUSE BILL 2870

State of Washington

58th Legislature

2004 Regular Session

By Representatives Romero, Murray, Edwards, Wood, Upthegrove and Santos

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1 AN ACT Relating to relocation assistance payments to low-income
2 tenants; amending RCW 59.18.085 and 35.80.030; creating a new section;
3 and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** The people of the state of Washington
6 deserve decent, safe, and sanitary housing. Certain tenants in the
7 state of Washington have remained in rental housing that does not meet
8 the state's minimum standards for health and safety because they cannot
9 afford to pay the costs of relocation in advance of occupying new,
10 safe, and habitable housing. In egregious cases, authorities have been
11 forced to condemn property when landlords have failed to remedy
12 building code or health code violations after repeated notice, and, as
13 a result, families with limited financial resources have been displaced
14 and left with nowhere to go.

15 The purpose of this act is to establish a process, consistent
16 throughout the state, by which low-income tenants would receive funds
17 for relocation from landlords who fail to provide safe and sanitary
18 housing after due notice of building code or health code violations.
19 It is also the purpose of this act to provide enforcement mechanisms to

1 cities, towns, counties, or municipal corporations including the
2 ability to advance relocation funds to tenants who are displaced as a
3 result of a landlord's failure to remedy building code or health code
4 violations and later to collect the full amounts of these relocation
5 funds, along with interest and penalties, from landlords.

6 **Sec. 2.** RCW 59.18.085 and 1989 c 342 s 13 are each amended to read
7 as follows:

8 (1) If a governmental agency responsible for the enforcement of a
9 building, housing, or other appropriate code has notified the landlord
10 that a dwelling is condemned or unlawful to occupy due to the existence
11 of conditions that violate applicable codes, statutes, ordinances, or
12 regulations, a landlord shall not enter into a rental agreement for the
13 dwelling unit until the conditions are corrected.

14 (2) If a landlord knowingly violates subsection (1) of this
15 section, the tenant shall recover either three months' periodic rent or
16 up to treble the actual damages sustained as a result of the violation,
17 whichever is greater, costs of suit, or arbitration and reasonable
18 attorneys' fees. If the tenant elects to terminate the tenancy as a
19 result of the conditions leading to the posting, or if the appropriate
20 governmental agency requires that the tenant vacate the premises, the
21 tenant also shall recover:

- 22 (a) The entire amount of any deposit prepaid by the tenant; and
23 (b) All prepaid rent.

24 (3)(a) If a governmental agency responsible for the enforcement of
25 a building, housing, or other appropriate code has notified the
26 landlord that a dwelling will be condemned or will be unlawful to
27 occupy due to the existence of conditions that violate applicable
28 codes, statutes, ordinances, or regulations, a landlord shall be
29 required to pay relocation assistance to the displaced low-income
30 tenants, except that:

31 (i) A landlord shall not be required to pay relocation assistance
32 to any displaced tenant in a case in which the condemnation or no
33 occupancy order affects one or more units and results from conditions
34 arising from a tenant's illegal conduct without the landlord's
35 knowledge; and

36 (ii) A landlord shall pay fifty percent of the relocation
37 assistance required by this act if (A) that landlord purchases a

1 multifamily dwelling that, when purchased, may be subject to conditions
2 that could give rise to violations of applicable codes or laws; (B)
3 that landlord makes a reasonable effort to rehabilitate the dwelling;
4 and (C) the dwelling is subject to a condemnation or no occupancy order
5 within six months of the date of the landlord's purchase of the
6 dwelling.

7 (b) Relocation assistance provided to low-income tenants under this
8 subsection shall be the greater amount of two thousand dollars per
9 dwelling unit or three times the monthly rent. The amount of
10 relocation assistance shall be adjusted annually by the percentage
11 change in the housing component of the consumer price index as
12 published by the United States department of labor, bureau of labor
13 statistics. In addition to relocation assistance, the landlord shall
14 be required to pay to the displaced tenants the entire amount of any
15 deposit prepaid by the tenant and all prepaid rent.

16 (c) "Low-income tenants" means tenants whose combined total income
17 per dwelling unit is at or below fifty percent of the median income,
18 adjusted for family size, in the county where the tenants reside.

19 The department of community, trade, and economic development shall
20 adopt rules defining county median income in accordance with the
21 definitions promulgated by the federal department of housing and urban
22 development.

23 (d) The landlord shall pay relocation assistance to eligible
24 tenants within seven days of the governmental agency sending notice of
25 the condemnation, eviction, or displacement order to the landlord. The
26 landlord shall pay relocation assistance either by making individual
27 payments by certified check to eligible tenants or by providing a
28 certified check to the governmental agency ordering condemnation,
29 eviction, or displacement, for distribution to tenants. If the
30 landlord fails to complete payment of relocation assistance within the
31 period required under this subsection, the city, town, county, or
32 municipal corporation may advance the cost of the relocation assistance
33 payments to the eligible tenants.

34 (e) During the period from the date that a governmental agency
35 responsible for the enforcement of a building, housing, or other
36 appropriate code first notifies the landlord of conditions that violate
37 applicable codes, statutes, ordinances, or regulations to the time that

1 relocation assistance payments are paid to eligible tenants, or the
2 conditions leading to the notification are corrected, the landlord may
3 not:

4 (i) Evict, harass, or intimidate tenants into vacating their units
5 for the purpose of avoiding or diminishing application of this section;

6 (ii) Reduce services to any tenant; or

7 (iii) Materially increase or change the obligations of any tenant.

8 (f) If, after thirty days from the date that the city, town,
9 county, or municipal corporation first advanced relocation assistance
10 funds to the displaced tenants, a landlord has failed to repay the
11 amount of relocation assistance advanced by the city, town, county, or
12 municipal corporation under this section, then the city, town, county,
13 or municipal corporation shall assess civil penalties in the amount of
14 fifty dollars per day for each tenant to whom the city, town, county,
15 or municipal corporation has advanced a relocation assistance payment.

16 (g) In addition to the penalties set forth in (f) of this
17 subsection, interest will accrue on the amount of relocation assistance
18 paid by the city, town, county, or municipal corporation for which the
19 property owner has not reimbursed the city, town, county, or municipal
20 corporation. The rate of interest shall be the maximum legal rate of
21 interest permitted under RCW 19.52.020, commencing thirty days after
22 the date that the city first advanced relocation assistance funds to
23 the displaced tenants.

24 (h) If the city, town, county, or municipal corporation must
25 initiate legal action in order to recover the amount of relocation
26 assistance payments that it has advanced to low-income tenants,
27 including any interest and penalties under (f) and (g) of this
28 subsection, the city, town, county, or municipal corporation shall be
29 entitled to attorneys' fees and costs arising from its legal action.

30 (4) The government agency that has notified the landlord that a
31 dwelling will be condemned or will be unlawful to occupy shall notify
32 the displaced tenants that they may be entitled to relocation
33 assistance under this section within forty-eight hours of the
34 landlord's notification of condemnation or an order of no occupancy.

35 (5) The powers and authority conferred by this act are in addition
36 and supplemental to powers or authority conferred by any other law or
37 authority, and do not limit any other powers or authority of any public
38 agency.

1 **Sec. 3.** RCW 35.80.030 and 1989 c 133 s 3 are each amended to read
2 as follows:

3 (1) Whenever the local governing body of a municipality finds that
4 one or more conditions of the character described in RCW 35.80.010
5 exist within its territorial limits, (~~said~~) that governing body may
6 adopt ordinances relating to such dwellings, buildings, structures, or
7 premises. Such ordinances may provide for the following:

8 (a) That an "improvement board" or officer be designated or
9 appointed to exercise the powers assigned to such board or officer by
10 the ordinance as specified (~~herein. Said~~) in this section. The
11 board or officer may be an existing municipal board or officer in the
12 municipality, or may be a separate board or officer appointed solely
13 for the purpose of exercising the powers assigned by (~~said~~) the
14 ordinance.

15 If a board is created, the ordinance shall specify the terms,
16 method of appointment, and type of membership of (~~said~~) the board,
17 which may be limited, if the local governing body chooses, to public
18 officers (~~as herein defined~~) under this section.

19 (b) That if a board is created, a public officer, other than a
20 member of the improvement board, may be designated to work with the
21 board and carry out the duties and exercise the powers assigned to
22 (~~said~~) the public officer by the ordinance.

23 (c) That if, after a preliminary investigation of any dwelling,
24 building, structure, or premises, the board or officer finds that it is
25 unfit for human habitation or other use, he or she shall cause to be
26 served either personally or by certified mail, with return receipt
27 requested, upon all persons having any interest therein, as shown upon
28 the records of the auditor's office of the county in which such
29 property is located, and shall post in a conspicuous place on such
30 property, a complaint stating in what respects such dwelling, building,
31 structure, or premises is unfit for human habitation or other use. If
32 the whereabouts of any of such persons is unknown and the same cannot
33 be ascertained by the board or officer in the exercise of reasonable
34 diligence, and the board or officer makes an affidavit to that effect,
35 then the serving of such complaint or order upon such persons may be
36 made either by personal service or by mailing a copy of the complaint
37 and order by certified mail, postage prepaid, return receipt requested,
38 to each such person at the address of the building involved in the

1 proceedings, and mailing a copy of the complaint and order by first
2 class mail to any address of each such person in the records of the
3 county assessor or the county auditor for the county where the property
4 is located. Such complaint shall contain a notice that a hearing will
5 be held before the board or officer, at a place therein fixed, not less
6 than ten days nor more than thirty days after the serving of (~~said~~)
7 the complaint; and that all parties in interest shall be given the
8 right to file an answer to the complaint, to appear in person, or
9 otherwise, and to give testimony at the time and place in the
10 complaint. The rules of evidence prevailing in courts of law or equity
11 shall not be controlling in hearings before the board or officer. A
12 copy of such complaint shall also be filed with the auditor of the
13 county in which the dwelling, building, structure, or (~~premise~~
14 ~~[premises]~~) premises is located, and such filing of the complaint or
15 order shall have the same force and effect as other lis pendens notices
16 provided by law.

17 (d) That the board or officer may determine that a dwelling,
18 building, structure, or premises is unfit for human habitation or other
19 use if it finds that conditions exist in such dwelling, building,
20 structure, or premises which are dangerous or injurious to the health
21 or safety of the occupants of such dwelling, building, structure, or
22 premises, the occupants of neighboring dwellings, or other residents of
23 such municipality. Such conditions may include the following, without
24 limitations: Defects therein increasing the hazards of fire or
25 accident; inadequate ventilation, light, or sanitary facilities,
26 dilapidation, disrepair, structural defects, uncleanliness,
27 overcrowding, or inadequate drainage. The ordinance shall state
28 reasonable and minimum standards covering such conditions, including
29 those contained in ordinances adopted in accordance with
30 (~~subdivision~~) subsection (7)(a) (~~herein~~) of this section, to guide
31 the board or the public officer and the agents and employees of either,
32 in determining the fitness of a dwelling for human habitation, or
33 building, structure, or premises for other use.

34 (e) That the determination of whether a dwelling, building,
35 structure, or premises should be repaired or demolished, shall be based
36 on specific stated standards on (i) the degree of structural
37 deterioration of the dwelling, building, structure, or premises, or

1 (ii) the relationship that the estimated cost of repair bears to the
2 value of the dwelling, building, structure, or premises, with the
3 method of determining this value to be specified in the ordinance.

4 (f) That if, after the required hearing, the board or officer
5 determines that the dwelling is unfit for human habitation, or building
6 or structure or premises is unfit for other use, it shall state in
7 writing its findings of fact in support of such determination, and
8 shall issue and cause to be served upon the owner or party in interest
9 thereof, as is provided in (~~subdivision (1)~~) (c) of this subsection,
10 and shall post in a conspicuous place on (~~said~~) the property, an
11 order (~~which~~) that (i) requires the owner or party in interest,
12 within the time specified in the order, to repair, alter, or improve
13 such dwelling, building, structure, or premises to render it fit for
14 human habitation, or for other use, or to vacate and close the
15 dwelling, building, structure, or premises, if such course of action is
16 deemed proper on the basis of the standards set forth as required in
17 (~~subdivision (1)~~) (e) of this subsection; or (ii) requires the owner
18 or party in interest, within the time specified in the order, to remove
19 or demolish such dwelling, building, structure, or premises, if this
20 course of action is deemed proper on the basis of (~~said~~) those
21 standards. If no appeal is filed, a copy of such order shall be filed
22 with the auditor of the county in which the dwelling, building,
23 structure, or premises is located.

24 (g) That the owner or any party in interest, within thirty days
25 from the date of service upon the owner and posting of an order issued
26 by the board under (~~the provisions of subdivision~~) (c) of this
27 subsection, may file an appeal with the appeals commission.

28 The local governing body of the municipality shall designate or
29 establish a municipal agency to serve as the appeals commission. The
30 local governing body shall also establish rules of procedure adequate
31 to assure a prompt and thorough review of matters submitted to the
32 appeals commission, and such rules of procedure shall include the
33 following, without being limited thereto: (i) All matters submitted to
34 the appeals commission must be resolved by the commission within sixty
35 days from the date of filing therewith and (ii) a transcript of the
36 findings of fact of the appeals commission shall be made available to
37 the owner or other party in interest upon demand.

1 The findings and orders of the appeals commission shall be reported
2 in the same manner and shall bear the same legal consequences as if
3 issued by the board, and shall be subject to review only in the manner
4 and to the extent provided in (~~subdivision~~) subsection (2) of this
5 section.

6 If the owner or party in interest, following exhaustion of his or
7 her rights to appeal, fails to comply with the final order to repair,
8 alter, improve, vacate, close, remove, or demolish the dwelling,
9 building, structure, or premises, the board or officer may direct or
10 cause such dwelling, building, structure, or premises to be repaired,
11 altered, improved, vacated, and closed, removed, or demolished.

12 (h) That the amount of the cost of such repairs, alterations or
13 improvements; or vacating and closing; or removal or demolition by the
14 board or officer, shall be assessed against the real property upon
15 which such cost was incurred unless such amount is previously paid.
16 For purposes of this subsection, the cost of vacating and closing shall
17 include (i) the amount of relocation assistance payments that a
18 property owner has not repaid to a municipality or other local
19 government entity that has advanced relocation assistance payments to
20 tenants under RCW 59.18.085 and (ii) all penalties and interest that
21 accrue as a result of the failure of the property owner to timely repay
22 the amount of these relocation assistance payments under RCW 59.18.085.
23 Upon certification to him or her by the treasurer of the municipality
24 in cases arising out of the city or town or by the county improvement
25 board or officer, in cases arising out of the county, of the assessment
26 amount being due and owing, the county treasurer shall enter the amount
27 of such assessment upon the tax rolls against the property for the
28 current year and the same shall become a part of the general taxes for
29 that year to be collected at the same time and with interest at such
30 rates and in such manner as provided for in RCW 84.56.020(~~(, as now or~~
31 ~~hereafter amended,~~)) for delinquent taxes, and when collected to be
32 deposited to the credit of the general fund of the municipality. If
33 the dwelling, building, structure, or premises is removed or demolished
34 by the board or officer, the board or officer shall, if possible, sell
35 the materials of such dwelling, building, structure, (~~{or}~~) or
36 premises in accordance with procedures set forth in (~~said~~) the
37 ordinance, and shall credit the proceeds of such sale against the cost

1 of the removal or demolition and if there be any balance remaining, it
2 shall be paid to the parties entitled thereto, as determined by the
3 board or officer, after deducting the costs incident thereto.

4 The assessment shall constitute a lien against the property which
5 shall be of equal rank with state, county and municipal taxes.

6 (2) Any person affected by an order issued by the appeals
7 commission pursuant to (~~subdivision (1)(f) hereof~~) subsection (1)(g)
8 of this section may, within thirty days after the posting and service
9 of the order, petition to the superior court for an injunction
10 restraining the public officer or members of the board from carrying
11 out the provisions of the order. In all such proceedings the court is
12 authorized to affirm, reverse, or modify the order and such trial shall
13 be heard de novo.

14 (3) An ordinance adopted by the local governing body of the
15 municipality may authorize the board or officer to exercise such powers
16 as may be necessary or convenient to carry out and effectuate the
17 purposes and provisions of this section. These powers shall include
18 the following in addition to others (~~herein~~) granted in this section:

19 (a)(i) To determine which dwellings within the municipality are unfit
20 for human habitation; (ii) to determine which buildings, structures, or
21 premises are unfit for other use; (b) to administer oaths and
22 affirmations, examine witnesses, and receive evidence; and (c) to
23 investigate the dwelling and other property conditions in the
24 municipality or county and to enter upon premises for the purpose of
25 making examinations when the board or officer has reasonable ground for
26 believing they are unfit for human habitation, or for other use:
27 PROVIDED, That such entries shall be made in such manner as to cause
28 the least possible inconvenience to the persons in possession, and to
29 obtain an order for this purpose after submitting evidence in support
30 of an application which is adequate to justify such an order from a
31 court of competent jurisdiction in the event entry is denied or
32 resisted.

33 (4) The local governing body of any municipality adopting an
34 ordinance pursuant to this chapter may appropriate the necessary funds
35 to administer such ordinance.

36 (5) (~~Nothing in~~) This section (~~shall be construed to~~) does not
37 abrogate or impair the powers of the courts or of any department of any
38 municipality to enforce any provisions of its charter or its ordinances

1 or regulations, nor to prevent or punish violations thereof; and the
2 powers conferred by this section shall be in addition and supplemental
3 to the powers conferred by any other law.

4 (6) (~~Nothing in~~) This section (~~(shall be construed to)~~) does not
5 impair or limit in any way the power of the municipality to exercise
6 its police power for the protection of the public's health, safety, or
7 welfare, or to define and declare nuisances and to cause their removal
8 or abatement, by summary proceedings or otherwise.

9 (7) Any municipality may ~~((+))~~by ordinance adopted by its governing
10 body~~((+))~~ (a) prescribe minimum standards for the use and occupancy of
11 dwellings throughout the municipality~~((+))~~ or county, (b) prescribe
12 minimum standards for the use or occupancy of any building, structure,
13 or premises used for any other purpose, (c) prevent the use or
14 occupancy of any dwelling, building, structure, or premises, (~~which~~)
15 that is injurious to the public health, safety, morals, or welfare, and
16 (d) prescribe punishment for the violation of any provision of such
17 ordinance.

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