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HOUSE BILL 2870

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State of Washington                      58th Legislature                      2004 Regular Session

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

Read first time 01/21/2004. Referred to Committee on Local Government.

1            AN ACT Relating to relocation assistance payments to low-income  
2 tenants; amending RCW 59.18.440 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 two or three months' rent to a new landlord in advance of  
10 occupying new and safer housing. In egregious cases, authorities have  
11 been forced to condemn property when property owners have failed to  
12 remedy building code or health code violations after repeated notice,  
13 and, as a result, families with limited financial resources have been  
14 displaced 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 property owners who fail to provide safe and  
18 sanitary housing after due notice of building code or health code  
19 violations. It is also the purpose of this act to establish a review

1 process, available to property owners and tenants, and to provide  
2 enforcement mechanisms to cities, towns, counties, or municipal  
3 corporations including the ability to advance relocation funds to  
4 tenants who are displaced as a result of a property owner's failure to  
5 remedy building code or health code violations and later to collect the  
6 full amounts of these relocation funds, along with interest and  
7 penalties, from property owners.

8 **Sec. 2.** RCW 59.18.440 and 1997 c 452 s 17 are each amended to read  
9 as follows:

10 (1) Any city, town, county, or municipal corporation that is  
11 required to develop a comprehensive plan under RCW 36.70A.040(1) is  
12 authorized to require, after reasonable notice to the public and a  
13 public hearing, property owners to provide their portion of reasonable  
14 relocation assistance to low-income tenants upon the demolition,  
15 substantial rehabilitation whether due to code enforcement or any other  
16 reason, or change of use of residential property, or upon the removal  
17 of use restrictions in an assisted-housing development.

18 (2) Each city, town, county, or municipal corporation shall require  
19 property owners to provide reasonable relocation assistance to low-  
20 income tenants if a local health officer or official from a local  
21 health district or health department exercising his or her emergency  
22 power or a local building inspector determines that a residential  
23 property is unfit for human habitation and that determination results  
24 in the eviction or displacement of tenants.

25 (3) No city, town, county, or municipal corporation may require  
26 property owners to provide relocation assistance to low-income tenants,  
27 as defined in this chapter, upon the demolition, substantial  
28 rehabilitation, upon the change of use of residential property, or upon  
29 the removal of use restrictions in an assisted-housing development,  
30 except as expressly authorized (~~herein~~) by this chapter or when  
31 authorized or required by state or federal law.

32 (4) As used in this section(~~(7)~~):

33 (a) "Assisted housing development" means a multifamily rental  
34 housing development that either receives government assistance and is  
35 defined as federally assisted housing in RCW 59.28.020, or that  
36 receives other federal, state, or local government assistance and is  
37 subject to use restrictions(~~(7)~~);

1       (~~(2)~~ As used in this section,) (b) "Low-income tenants" means  
2 tenants whose combined total income per dwelling unit is at or below  
3 fifty percent of the median income, adjusted for family size, in the  
4 county where the tenants reside.

5       The department of community, trade, and economic development shall  
6 adopt rules defining county median income in accordance with the  
7 definitions promulgated by the federal department of housing and urban  
8 development.

9       (~~(3)~~ A requirement that property owners provide relocation  
10 assistance shall include the amounts of such assistance to be provided  
11 to low income tenants.) (5) In determining (~~(such)~~) the amounts(~~(, the~~  
12 ~~jurisdiction imposing the requirement)~~) of relocation assistance due to  
13 low-income tenants, each city, town, county, or municipal corporation  
14 shall evaluate, and receive public testimony on, what relocation  
15 expenses displaced tenants would reasonably incur in that jurisdiction  
16 including:

17       (a) Actual physical moving costs and expenses;

18       (b) Advance payments required for moving into a new residence such  
19 as the cost of first and last month's rent and security and damage  
20 deposits;

21       (c) Utility connection fees and deposits; and

22       (d) Anticipated additional rent and utility costs in the residence  
23 for one year after relocation.

24       (~~(4)~~) (6)(a) Relocation assistance provided to low-income tenants  
25 under this section shall not exceed two thousand dollars for each  
26 dwelling unit displaced by actions of the property owner under  
27 subsection (1) of this section. A city, town, county, or municipal  
28 corporation may make future annual adjustments to the maximum amount of  
29 relocation assistance required under this subsection in order to  
30 reflect any changes in the housing component of the consumer price  
31 index as published by the United States department of labor, bureau of  
32 labor statistics.

33       (b) The property owner's portion of any relocation assistance  
34 provided to low-income tenants under this section shall not exceed one-  
35 half of the required relocation assistance under (a) of this subsection  
36 in cash or services. However, if low-income tenants of residential  
37 property are displaced because a local health officer or official from  
38 a local health district or health department exercising his or her

1 emergency power or a local building inspector determines that a  
2 residential property is unfit for human habitation and that  
3 determination results in the eviction or displacement of tenants, the  
4 property owner shall pay the full amount of relocation assistance  
5 provided to low-income tenants required under (a) of this subsection.

6 (c) The portion of relocation assistance not covered by the  
7 property owner under (b) of this subsection shall be paid by the city,  
8 town, county, or municipal corporation authorized to require relocation  
9 assistance under subsection (1) of this section. The relocation  
10 assistance may be paid from proceeds collected from the excise tax  
11 imposed under RCW 82.46.010.

12 ~~((+5))~~ (7) A city, town, county, or municipal corporation  
13 requiring the provision of relocation assistance under this section  
14 shall adopt policies, procedures, or regulations to implement ~~((such~~  
15 ~~requirement.—Such))~~ this section. These policies, procedures, or  
16 regulations shall include procedures for determining the eligibility of  
17 tenants to relocation assistance payments under subsection (2) of this  
18 section and provisions for administrative hearings to resolve disputes  
19 between tenants and property owners relating to relocation assistance  
20 or unlawful detainer actions during relocation, and shall require a  
21 decision within thirty days of a request for a hearing by either a  
22 tenant or property owner. This subsection does not preclude a city,  
23 town, county, or municipal corporation from adopting policies,  
24 procedures, or regulations that provide for administrative hearings and  
25 review on relocation assistance matters in the same fora as those that  
26 also hear complaints and appeals regarding building code violations and  
27 deficiencies.

28 Judicial review of an administrative hearing decision relating to  
29 relocation assistance may be had by filing a petition, within ten days  
30 of the decision, in the superior court in the county where the  
31 residential property is located. Judicial review shall be confined to  
32 the record of the administrative hearing and the court may reverse the  
33 decision only if the administrative findings, inferences, conclusions,  
34 or decision is:

35 (a) In violation of constitutional provisions;

36 (b) In excess of the authority or jurisdiction of the  
37 administrative hearing officer;

1 (c) Made upon unlawful procedure or otherwise is contrary to law;  
2 or

3 (d) Arbitrary and capricious.

4 ~~((+6+))~~ (8) In cases under subsection (2) of this section, the  
5 property owner shall pay relocation assistance to eligible low-income  
6 tenants within seven days from the time that notice of the names of  
7 eligible low-income tenants and amounts of relocation assistance due is  
8 sent by the city, town, county, or municipal corporation. The property  
9 owner can satisfy this requirement by making individual payments to  
10 eligible low-income tenants or by providing a certified check to the  
11 authority ordering relocation assistance. If the property owner fails  
12 to complete payment of relocation assistance within seven days of the  
13 notice being sent, the city, town, county, or municipal corporation may  
14 advance the cost of the relocation assistance payments to the eligible  
15 low-income tenants.

16 (9) Any city, town, county, or municipal corporation may require  
17 relocation assistance, under the terms of this section, for otherwise  
18 eligible tenants whose living arrangements are exempted from the  
19 provisions of this chapter under RCW 59.18.040(3) and if the living  
20 arrangement is considered to be a rental or lease not defined as a  
21 retail sale under RCW 82.04.050.

22 ~~((+7+))~~ (10) Except as provided in subsection (11) of this section:

23 (a) Persons who move from a dwelling unit prior to the application  
24 by the owner of the dwelling unit for any governmental permit necessary  
25 for the demolition, substantial rehabilitation, or change of use of  
26 residential property or prior to any notification or filing required  
27 for condominium conversion shall not be entitled to the assistance  
28 authorized by this section.

29 (b) Persons who move into a dwelling unit after the application for  
30 any necessary governmental permit or after any required condominium  
31 conversion notification or filing shall not be entitled to the  
32 assistance authorized by this section if such persons receive written  
33 notice from the property owner prior to taking possession of the  
34 dwelling unit that specifically describes the activity or condition  
35 that may result in their temporary or permanent displacement and  
36 advises them of their ineligibility for relocation assistance.

37 (11) During a period from the date that a building inspector,  
38 building official, or health official first notifies the property owner

1 of a building code or health code violation or deficiency, to the time  
2 that relocation assistance payments are paid to eligible tenants, the  
3 property owner shall not:

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

6 (b) Reduce services to any tenant; or

7 (c) Materially increase or change the obligations of any tenant,  
8 including unreasonably increasing the rent.

9 (12) Low-income tenants who are evicted or vacate as a result of  
10 the conduct proscribed by subsection (11) of this section prior to  
11 receiving relocation assistance payments, may be eligible for  
12 relocation assistance payments, as determined in accordance with the  
13 policies, procedures, or regulations adopted by a city, town, county,  
14 or municipal corporation under subsection (7) of this section.

15 (13) If, after thirty days from the date that the city, town,  
16 county, or municipal corporation first advanced relocation assistance  
17 funds to the displaced tenants, a property owner has failed to repay  
18 the amount of relocation assistance advanced by the city, town, county,  
19 or municipal corporation under subsection (8) of this section, then the  
20 city, town, county, or municipal corporation shall assess civil  
21 penalties in the amount of fifty dollars per day for each tenant to  
22 whom the city, town, county, or municipal corporation has advanced a  
23 relocation assistance payment.

24 (14) In addition to the penalties set forth in subsection (13) of  
25 this section, interest will accrue on the amount of relocation  
26 assistance paid by the city, town, county, or municipal corporation for  
27 which the property owner has not reimbursed the city, town, county, or  
28 municipal corporation. The rate of interest shall be the maximum legal  
29 rate of interest permitted under RCW 19.52.020, commencing thirty days  
30 after the date that the city first advanced relocation assistance funds  
31 to the displaced tenants.

32 (15) If the city, town, county, or municipal corporation must  
33 initiate legal action in order to recover the amount of relocation  
34 assistance payments that it has advanced to low-income tenants,  
35 including any interest and penalties under subsections (13) and (14) of  
36 this section, the city, town, county, or municipal corporation shall be  
37 entitled to attorneys' fees and costs arising from its legal action.

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, uncleanness,  
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 low-income tenants under RCW 59.18.440(8) and (ii) all penalties and  
21 interest that accrue as a result of the failure of the property owner  
22 to timely repay the amount of these relocation assistance payments  
23 under RCW 59.18.440 (13) and (14). Upon certification to him or her by  
24 the treasurer of the municipality in cases arising out of the city or  
25 town or by the county improvement board or officer, in cases arising  
26 out of the county, of the assessment amount being due and owing, the  
27 county treasurer shall enter the amount of such assessment upon the tax  
28 rolls against the property for the current year and the same shall  
29 become a part of the general taxes for that year to be collected at the  
30 same time and with interest at such rates and in such manner as  
31 provided for in RCW 84.56.020(~~(, as now or hereafter amended,)~~) for  
32 delinquent taxes, and when collected to be deposited to the credit of  
33 the general fund of the municipality. If the dwelling, building,  
34 structure, or premises is removed or demolished by the board or  
35 officer, the board or officer shall, if possible, sell the materials of  
36 such dwelling, building, structure, (~~for~~) or premises in accordance  
37 with procedures set forth in (~~said~~) the ordinance, and shall credit  
38 the proceeds of such sale against the cost of the removal or demolition

1 and if there be any balance remaining, it shall be paid to the parties  
2 entitled thereto, as determined by the board or officer, after  
3 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 define and  
6 declare nuisances and to cause their removal or abatement, by summary  
7 proceedings or otherwise.

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

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