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SENATE BILL 5577

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State of Washington                      59th Legislature                      2005 Regular Session

By Senators Fairley, Keiser, Kline, Fraser and Poulsen

Read first time 01/28/2005. Referred to Committee on Financial Institutions, Housing & Consumer Protection.

1            AN ACT Relating to relocation assistance payments to tenants;  
2 amending RCW 59.18.085 and 35.80.030; creating a new section; and  
3 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 by which  
16 displaced tenants would receive funds for relocation from landlords who  
17 fail to provide safe and sanitary housing after due notice of building  
18 code or health code violations. It is also the purpose of this act to  
19 provide enforcement mechanisms to cities, towns, counties, or municipal

1 corporations including the ability to advance relocation funds to  
2 tenants who are displaced as a result of a landlord's failure to remedy  
3 building code or health code violations and later to collect the full  
4 amounts of these relocation funds, along with interest and penalties,  
5 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) If a governmental agency responsible for the enforcement of a  
25 building, housing, or other appropriate code has notified the landlord  
26 that a dwelling will be condemned or will be unlawful to occupy due to  
27 the existence of conditions that violate applicable codes, statutes,  
28 ordinances, or regulations, a landlord shall be required to pay  
29 relocation assistance to the displaced tenants.

30 (a) Relocation assistance provided to displaced tenants under this  
31 subsection shall be the greater amount of two thousand dollars per  
32 dwelling unit or three times the monthly rent. The amount of  
33 relocation assistance shall be adjusted annually by the percentage  
34 change in the housing component of the consumer price index as  
35 published by the United States department of labor, bureau of labor  
36 statistics. In addition to relocation assistance, the landlord shall

1 be required to pay to the displaced tenants the entire amount of any  
2 deposit prepaid by the tenant and all prepaid rent.

3 (b) The landlord shall pay relocation assistance and any prepaid  
4 deposit and prepaid rent to displaced tenants within seven days of the  
5 governmental agency sending notice of the condemnation, eviction, or  
6 displacement order to the landlord. The landlord shall pay relocation  
7 assistance and any prepaid deposit and prepaid rent either by making  
8 individual payments by certified check to displaced tenants or by  
9 providing a certified check to the governmental agency ordering  
10 condemnation, eviction, or displacement, for distribution to the  
11 displaced tenants. If the landlord fails to complete payment of  
12 relocation assistance within the period required under this subsection,  
13 the city, town, county, or municipal corporation may advance the cost  
14 of the relocation assistance payments to the displaced tenants.

15 (c) During the period from the date that a governmental agency  
16 responsible for the enforcement of a building, housing, or other  
17 appropriate code first notifies the landlord of conditions that violate  
18 applicable codes, statutes, ordinances, or regulations to the time that  
19 relocation assistance payments are paid to eligible tenants, or the  
20 conditions leading to the notification are corrected, the landlord may  
21 not:

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

24 (ii) Reduce services to any tenant; or

25 (iii) Materially increase or change the obligations of any tenant,  
26 including but not limited to any rent increase.

27 (d) Displaced tenants shall be entitled to recover any relocation  
28 assistance, prepaid deposits, and prepaid rent required by (b) of this  
29 subsection. In addition, displaced tenants shall be entitled to  
30 recover any actual damages sustained by them as a result of the  
31 condemnation, eviction, or displacement that exceed the amount of  
32 relocation assistance that is payable. In any action brought by  
33 displaced tenants to recover any payments or damages required or  
34 authorized by this subsection (3)(d) or (b) of this subsection that are  
35 not paid by the landlord or advanced by the city, town, county, or  
36 municipal corporation, the displaced tenants shall also be entitled to  
37 recover their costs of suit or arbitration and reasonable attorneys'  
38 fees.

1 (e) If, after thirty days from the date that the city, town,  
2 county, or municipal corporation first advanced relocation assistance  
3 funds to the displaced tenants, a landlord has failed to repay the  
4 amount of relocation assistance advanced by the city, town, county, or  
5 municipal corporation under (b) of this subsection, then the city,  
6 town, county, or municipal corporation shall assess civil penalties in  
7 the amount of fifty dollars per day for each tenant to whom the city,  
8 town, county, or municipal corporation has advanced a relocation  
9 assistance payment.

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

18 (g) If the city, town, county, or municipal corporation must  
19 initiate legal action in order to recover the amount of relocation  
20 assistance payments that it has advanced to low-income tenants,  
21 including any interest and penalties under (e) and (f) of this  
22 subsection, the city, town, county, or municipal corporation shall be  
23 entitled to attorneys' fees and costs arising from its legal action.

24 (4) The government agency that has notified the landlord that a  
25 dwelling will be condemned or will be unlawful to occupy shall notify  
26 the displaced tenants that they may be entitled to relocation  
27 assistance under this section.

28 (5) No payment received by a displaced tenant under this section  
29 may be considered as income for the purpose of determining the  
30 eligibility or extent of eligibility of any person for assistance under  
31 any state law or for the purposes of any tax imposed under Title 82  
32 RCW, and the payments shall not be deducted from any amount to which  
33 any recipient would otherwise be entitled under Title 74 RCW.

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

36 (1) Whenever the local governing body of a municipality finds that  
37 one or more conditions of the character described in RCW 35.80.010

1 exist within its territorial limits, (~~said~~) that governing body may  
2 adopt ordinances relating to such dwellings, buildings, structures, or  
3 premises. Such ordinances may provide for the following:

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

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

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

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

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

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

30 (e) That the determination of whether a dwelling, building,  
31 structure, or premises should be repaired or demolished, shall be based  
32 on specific stated standards on (i) the degree of structural  
33 deterioration of the dwelling, building, structure, or premises, or  
34 (ii) the relationship that the estimated cost of repair bears to the  
35 value of the dwelling, building, structure, or premises, with the  
36 method of determining this value to be specified in the ordinance.

37 (f) That if, after the required hearing, the board or officer  
38 determines that the dwelling is unfit for human habitation, or building

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

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

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

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

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

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

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



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

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

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

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

31 (5) (~~Nothing in~~) This section (~~shall be construed to~~) does not  
32 abrogate or impair the powers of the courts or of any department of any  
33 municipality to enforce any provisions of its charter or its ordinances  
34 or regulations, nor to prevent or punish violations thereof; and the  
35 powers conferred by this section shall be in addition and supplemental  
36 to the powers conferred by any other law.

37 (6) (~~Nothing in~~) This section (~~shall be construed to~~) does not

1 impair or limit in any way the power of the municipality to define and  
2 declare nuisances and to cause their removal or abatement, by summary  
3 proceedings or otherwise.

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

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