

SHB 1865 - H AMD 1013

By Representative Williams

ADOPTED 02/13/2008

1 Strike everything after the enacting clause and insert the  
2 following:

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

5 (1) A landlord (~~may~~) shall, upon the execution of a writ of  
6 restitution by the sheriff, enter and take possession of any property  
7 of the tenant found on the premises (~~and store the property in any~~  
8 ~~reasonably secure place~~). The landlord may store the property in any  
9 reasonably secure place, including the premises, and sell or dispose of  
10 the property as provided under subsection (3) of this section. The  
11 landlord must store the property if the tenant serves a written request  
12 to do so on the landlord or the landlord's representative by any of the  
13 methods described in RCW 59.18.365 no later than three days after  
14 service of the writ. A landlord may elect to store the property  
15 without such a request unless the tenant or the tenant's representative  
16 objects to the storage of the property. If(~~, however,~~) the tenant or  
17 the tenant's representative objects to the storage of the property or  
18 the landlord elects not to store the property because the tenant has  
19 not served a written request on the landlord to do so, the property  
20 shall be deposited upon the nearest public property and may not be  
21 (~~moved and~~) stored by the landlord. ((If the tenant is not present  
22 at the time the writ of restitution is executed, it shall be presumed  
23 that the tenant does not object to the storage of the property as  
24 provided in this section. RCW 59.18.310 shall apply to the moving and  
25 storage of a tenant's property when the premises are abandoned by the  
26 tenant.)) If the landlord knows that the tenant is a person with a  
27 disability as defined in RCW 49.60.040 (as amended by chapter 317, Laws  
28 of 2007) and the disability impairs or prevents the tenant or the  
29 tenant's representative from making a written request for storage, it

1 must be presumed that the tenant has requested the storage of the  
2 property as provided in this section unless the tenant objects in  
3 writing.

4 (2) Property (~~moved and~~) stored under this section shall be  
5 returned to the tenant after the tenant has paid the actual or  
6 reasonable drayage and storage costs, whichever is less, or until it is  
7 sold or disposed of by the landlord in accordance with subsection (3)  
8 of this section.

9 (3) Prior to the sale (~~or disposal~~) of property stored pursuant  
10 to this section with a cumulative value of over (~~fifty~~) one hundred  
11 dollars, the landlord shall notify the tenant of the pending sale (~~or~~  
12 ~~disposal~~). After (~~forty five~~) thirty days from the date the notice  
13 of the sale (~~or disposal~~) is mailed or personally delivered to the  
14 tenant's last known address, the landlord may sell (~~or dispose of~~)  
15 the property, including personal papers, family pictures, and  
16 keepsakes, and dispose of any property not sold.

17 If the property that is being stored has a cumulative value of  
18 (~~fifty~~) one hundred dollars or less, then the landlord may sell or  
19 dispose of the property in the manner provided in this section, except  
20 for personal papers, family pictures, and keepsakes. Prior to the sale  
21 or disposal of property stored pursuant to this section with a  
22 cumulative value of (~~fifty~~) one hundred dollars or less, the landlord  
23 shall notify the tenant of the pending sale or disposal. The notice  
24 shall either be mailed to the tenant's last known address or personally  
25 delivered to the tenant. After seven days from the date the notice is  
26 mailed or delivered to the tenant, the landlord may sell or dispose of  
27 the property.

28 The landlord may apply any income derived from the sale of the  
29 tenant's property against moneys due the landlord for drayage and  
30 storage of the property. The amount of sale proceeds that the landlord  
31 may apply towards such costs may not exceed the actual or reasonable  
32 costs for drayage and storage of the property, whichever is less. Any  
33 excess income derived from the sale of such property shall be held by  
34 the landlord for the benefit of the tenant for a period of one year  
35 from the date of the sale. If no claim is made or action commenced by  
36 the tenant for the recovery of the excess income prior to the  
37 expiration of that period of time, then the balance shall be treated as

1 abandoned property and deposited by the landlord with the department of  
2 revenue pursuant to chapter 63.29 RCW.

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

5 (5) When serving a tenant with a writ of restitution pursuant to  
6 RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice  
7 to the tenant that: (a) Upon execution of the writ, the landlord  
8 ~~((may))~~ must store the tenant's property only if the tenant serves a  
9 written request on the landlord to do so no later than three days after  
10 service of the writ; (b) the notice to the landlord requesting storage  
11 may be served by personally delivering or mailing a copy of the request  
12 to the landlord at the address identified in, or by facsimile to the  
13 facsimile number listed on, the form described under subsection (6) of  
14 this section; (c) if the tenant has not made such a written request to  
15 the landlord, the landlord may elect to either store the tenant's  
16 property or place the tenant's property on the nearest public property  
17 unless the tenant objects; ~~((b))~~ (d) if the property is stored, it  
18 may not be returned to the tenant unless the tenant pays the actual or  
19 reasonable costs of drayage and storage, whichever is less, within  
20 thirty days; ~~((c))~~ (e) if the tenant or the tenant's representative  
21 objects to storage of the property, it will not be stored but will be  
22 placed on the nearest public property; and ~~((d) if the tenant is not~~  
23 ~~present at the time of the execution of the writ, it shall be presumed~~  
24 ~~the tenant does not object to storage of the property))~~ (f) the  
25 landlord may sell or otherwise dispose of the property as provided in  
26 subsection (3) of this section if the landlord provides written notice  
27 to the tenant first.

28 (6) When serving a tenant with a writ of restitution under  
29 subsection (5) of this section, the sheriff shall also serve the tenant  
30 with a form provided by the landlord that can be used to request the  
31 landlord to store the tenant's property, which must be substantially in  
32 the following form:

33 REQUEST FOR STORAGE OF PERSONAL PROPERTY

34 . . . . .

35 Name of Plaintiff

1 . . . . .

2 Name(s) of Tenant(s)

3 I/we hereby request the landlord to store our personal property.  
4 I/we understand that I/we am/are responsible for the actual or  
5 reasonable costs of moving and storing the property, whichever is less.  
6 If I/we fail to pay these costs, the landlord may sell or dispose of  
7 the property pursuant to and within the time frame permitted under RCW  
8 59.18.312(3).

9 Any notice of sale required under RCW 59.18.312(3) must be sent to  
10 the tenants at the following address:

11 . . . . .  
12 . . . . .  
13 . . . . .

14 IF NO ADDRESS IS PROVIDED, NOTICE OF SALE WILL BE SENT TO THE LAST  
15 KNOWN ADDRESS OF THE TENANT(S)

16 Dated: . . . . .

17 . . . . .

18 Tenant-Print Name

19 . . . . .

20 Tenant-Print Name

21 This notice may be delivered or mailed to the landlord or the  
22 landlord's representative at the following address:

23 . . . . .  
24 . . . . .  
25 . . . . .

26 This notice may also be served by facsimile to the landlord or the  
27 landlord's representative at:

28 . . . . .

29 Facsimile Number

1 IMPORTANT

2 IF YOU WANT YOUR LANDLORD TO STORE YOUR PROPERTY, THIS WRITTEN REQUEST  
3 MUST BE RECEIVED BY THE LANDLORD NO LATER THAN THREE (3) DAYS AFTER THE  
4 SHERIFF SERVES THE WRIT OF RESTITUTION. YOU SHOULD RETAIN PROOF OF  
5 SERVICE.

6 NEW SECTION. **Sec. 2.** This act is necessary for the immediate  
7 preservation of the public peace, health, or safety, or support of the  
8 state government and its existing public institutions, and takes effect  
9 immediately."

10 Correct the title.

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