

---

ENGROSSED SUBSTITUTE HOUSE BILL 1865

---

State of Washington

60th Legislature

2008 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Williams, O'Brien, Springer, Fromhold, Warnick and McCune)

READ FIRST TIME 02/23/07.

1 AN ACT Relating to limiting the obligations of landlords under  
2 writs of restitution; amending RCW 59.18.312; and declaring an  
3 emergency.

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

5 **Sec. 1.** RCW 59.18.312 and 1992 c 38 s 8 are each amended to read  
6 as follows:

7 (1) A landlord (~~may~~) shall, upon the execution of a writ of  
8 restitution by the sheriff, enter and take possession of any property  
9 of the tenant found on the premises (~~and store the property in any~~  
10 ~~reasonably secure place~~). The landlord may store the property in any  
11 reasonably secure place, including the premises, and sell or dispose of  
12 the property as provided under subsection (3) of this section. The  
13 landlord must store the property if the tenant serves a written request  
14 to do so on the landlord or the landlord's representative by any of the  
15 methods described in RCW 59.18.365 no later than three days after  
16 service of the writ. A landlord may elect to store the property  
17 without such a request unless the tenant or the tenant's representative  
18 objects to the storage of the property. If (~~, however,~~) the tenant or  
19 the tenant's representative objects to the storage of the property or

1 the landlord elects not to store the property because the tenant has  
2 not served a written request on the landlord to do so, the property  
3 shall be deposited upon the nearest public property and may not be  
4 ((moved and)) stored by the landlord. ((If the tenant is not present  
5 at the time the writ of restitution is executed, it shall be presumed  
6 that the tenant does not object to the storage of the property as  
7 provided in this section. RCW 59.18.310 shall apply to the moving and  
8 storage of a tenant's property when the premises are abandoned by the  
9 tenant.)) If the landlord knows that the tenant is a person with a  
10 disability as defined in RCW 49.60.040 (as amended by chapter 317, Laws  
11 of 2007) and the disability impairs or prevents the tenant or the  
12 tenant's representative from making a written request for storage, it  
13 must be presumed that the tenant has requested the storage of the  
14 property as provided in this section unless the tenant objects in  
15 writing.

16 (2) Property ((moved and)) stored under this section shall be  
17 returned to the tenant after the tenant has paid the actual or  
18 reasonable drayage and storage costs, whichever is less, or until it is  
19 sold or disposed of by the landlord in accordance with subsection (3)  
20 of this section.

21 (3) Prior to the sale ((or disposal)) of property stored pursuant  
22 to this section with a cumulative value of over ((fifty)) one hundred  
23 dollars, the landlord shall notify the tenant of the pending sale ((or  
24 disposal)). After ((forty five)) thirty days from the date the notice  
25 of the sale ((or disposal)) is mailed or personally delivered to the  
26 tenant's last known address, the landlord may sell ((or dispose of))  
27 the property, including personal papers, family pictures, and  
28 keepsakes, and dispose of any property not sold.

29 If the property that is being stored has a cumulative value of  
30 ((fifty)) one hundred dollars or less, then the landlord may sell or  
31 dispose of the property in the manner provided in this section, except  
32 for personal papers, family pictures, and keepsakes. Prior to the sale  
33 or disposal of property stored pursuant to this section with a  
34 cumulative value of ((fifty)) one hundred dollars or less, the landlord  
35 shall notify the tenant of the pending sale or disposal. The notice  
36 shall either be mailed to the tenant's last known address or personally  
37 delivered to the tenant. After seven days from the date the notice is

1 mailed or delivered to the tenant, the landlord may sell or dispose of  
2 the property.

3 The landlord may apply any income derived from the sale of the  
4 tenant's property against moneys due the landlord for drayage and  
5 storage of the property. The amount of sale proceeds that the landlord  
6 may apply towards such costs may not exceed the actual or reasonable  
7 costs for drayage and storage of the property, whichever is less. Any  
8 excess income derived from the sale of such property shall be held by  
9 the landlord for the benefit of the tenant for a period of one year  
10 from the date of the sale. If no claim is made or action commenced by  
11 the tenant for the recovery of the excess income prior to the  
12 expiration of that period of time, then the balance shall be treated as  
13 abandoned property and deposited by the landlord with the department of  
14 revenue pursuant to chapter 63.29 RCW.

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

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

1 subsection (3) of this section if the landlord provides written notice  
2 to the tenant first.

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

8  
9  
10 REQUEST FOR STORAGE OF PERSONAL PROPERTY

11  
12 .....

13 Name of Plaintiff

14  
15  
16 .....

17 Name(s) of Tenant(s)

18  
19 I/we hereby request the landlord to store our personal property.  
20 I/we understand that I/we am/are responsible for the actual or  
21 reasonable costs of moving and storing the property, whichever is less.  
22 If I/we fail to pay these costs, the landlord may sell or dispose of  
23 the property pursuant to and within the time frame permitted under RCW  
24 59.18.312(3).

25  
26 Any notice of sale required under RCW 59.18.312(3) must be sent to  
27 the tenants at the following address:

28  
29 .....  
30 .....  
31 .....

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

34  
35 Dated: .....

36  
37 .....

38 Tenant-Print Name

1 .....  
2

Tenant-Print Name

3

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

6

7 .....

8 .....

9 .....

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

12

13 .....

14 Facsimile Number

15

16 IMPORTANT

17

18

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

23 NEW SECTION. Sec. 2. This act is necessary for the immediate  
24 preservation of the public peace, health, or safety, or support of the  
25 state government and its existing public institutions, and takes effect  
26 immediately.

--- END ---