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SENATE BILL 5800

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Tom, Sheldon, Jacobsen, Benton, Haugen, Honeyford, McCaslin, Berkey, Brandland, Delvin and Kilmer

Read first time 02/01/2007.      Referred to Committee on Consumer Protection & Housing.

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

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

5            NEW SECTION.    **Sec. 1.** The legislature has previously recognized  
6 that landlords who choose the option of storing a tenant's property as  
7 part of an eviction should be entitled to recover the costs of drayage  
8 and storage from the tenant who was evicted. It has always been the  
9 intent of the legislature to give a landlord the option, but not the  
10 obligation, to store a tenant's property as part of an eviction. The  
11 legislature also recognizes that county sheriffs when executing writs  
12 of restitution provide one or more deputies to maintain the peace while  
13 the landlord's personnel, under the direction of the sheriff, enter the  
14 premises and remove the property belonging to the tenant and place it  
15 on the nearest public property.

16            **Sec. 2.** RCW 59.18.312 and 1992 c 38 s 8 are each amended to read  
17 as follows:

18            (1) A landlord may, upon the execution of a writ of restitution by

1 the sheriff, enter and take possession of any property of the tenant  
2 found on the premises and either store the property (~~(in any reasonably~~  
3 ~~secure place))~~ or deposit the property on the nearest public property.

4 If(~~(, however,)~~) the tenant or the tenant's representative objects to  
5 the storage of the property, the (~~(property))~~ landlord shall (~~(be~~  
6 ~~deposited upon))~~ deposit the property on the nearest public property  
7 and (~~(may not be moved and stored by the landlord))~~ shall not store the  
8 property. If the tenant is not present at the time the writ of  
9 restitution is executed, it shall be presumed that the tenant does not  
10 object to the storage of the property (~~(as provided in this section))~~  
11 and the landlord may either store the property or deposit the property  
12 on the nearest public property. RCW 59.18.310 shall apply to the  
13 moving and storage of a tenant's property when the premises are  
14 abandoned by the tenant.

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

20 (3) Prior to the sale or disposal of property stored pursuant to  
21 this section with a cumulative value of over fifty dollars, the  
22 landlord shall notify the tenant of the pending sale or disposal.  
23 After forty-five days from the date the notice of the sale or disposal  
24 is mailed or personally delivered to the tenant, the landlord may sell  
25 or dispose of the property, including personal papers, family pictures,  
26 and keepsakes.

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

37 The landlord may apply any income derived from the sale of the  
38 tenant's property against moneys due the landlord for drayage and

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

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

13 (5) When serving a tenant with a writ of restitution pursuant to  
14 RCW 59.12.100 and 59.18.410, the sheriff shall provide written notice  
15 to the tenant that: (a) Upon execution of the writ, the landlord may  
16 store the tenant's property; (b) if the property is stored, it may not  
17 be returned to the tenant unless the tenant pays the actual or  
18 reasonable costs of drayage and storage, whichever is less; (c) if the  
19 tenant objects to storage of the property, it will not be stored but  
20 will be placed on the nearest public property; and (d) if the tenant is  
21 not present at the time of the execution of the writ, it shall be  
22 presumed the tenant does not object to storage of the property.

23 NEW SECTION. **Sec. 3.** 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.

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