

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5538

64th Legislature
2015 Regular Session

Passed by the Senate April 16, 2015
Yeas 48 Nays 0

President of the Senate

Passed by the House April 13, 2015
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5538** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5538

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington

64th Legislature

2015 Regular Session

By Senate Financial Institutions & Insurance (originally sponsored by Senators Angel and Sheldon)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to deceased tenants; amending RCW 59.18.310;
2 reenacting and amending RCW 59.18.030; and adding new sections to
3 chapter 59.18 RCW.

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

5 **Sec. 1.** RCW 59.18.030 and 2012 c 41 s 2 are each reenacted and
6 amended to read as follows:

7 As used in this chapter:

8 (1) "Certificate of inspection" means an unsworn statement,
9 declaration, verification, or certificate made in accordance with the
10 requirements of RCW 9A.72.085 by a qualified inspector that states
11 that the landlord has not failed to fulfill any substantial
12 obligation imposed under RCW 59.18.060 that endangers or impairs the
13 health or safety of a tenant, including (a) structural members that
14 are of insufficient size or strength to carry imposed loads with
15 safety, (b) exposure of the occupants to the weather, (c) plumbing
16 and sanitation defects that directly expose the occupants to the risk
17 of illness or injury, (d) not providing facilities adequate to supply
18 heat and water and hot water as reasonably required by the tenant,
19 (e) providing heating or ventilation systems that are not functional
20 or are hazardous, (f) defective, hazardous, or missing electrical
21 wiring or electrical service, (g) defective or hazardous exits that

1 increase the risk of injury to occupants, and (h) conditions that
2 increase the risk of fire.

3 (2) "Distressed home" has the same meaning as in RCW 61.34.020.

4 (3) "Distressed home conveyance" has the same meaning as in RCW
5 61.34.020.

6 (4) "Distressed home purchaser" has the same meaning as in RCW
7 61.34.020.

8 (5) "Dwelling unit" is a structure or that part of a structure
9 which is used as a home, residence, or sleeping place by one person
10 or by two or more persons maintaining a common household, including
11 but not limited to single-family residences and units of multiplexes,
12 apartment buildings, and mobile homes.

13 (6) "Gang" means a group that: (a) Consists of three or more
14 persons; (b) has identifiable leadership or an identifiable name,
15 sign, or symbol; and (c) on an ongoing basis, regularly conspires and
16 acts in concert mainly for criminal purposes.

17 (7) "Gang-related activity" means any activity that occurs within
18 the gang or advances a gang purpose.

19 (8) "In danger of foreclosure" means any of the following:

20 (a) The homeowner has defaulted on the mortgage and, under the
21 terms of the mortgage, the mortgagee has the right to accelerate full
22 payment of the mortgage and repossess, sell, or cause to be sold the
23 property;

24 (b) The homeowner is at least thirty days delinquent on any loan
25 that is secured by the property; or

26 (c) The homeowner has a good faith belief that he or she is
27 likely to default on the mortgage within the upcoming four months due
28 to a lack of funds, and the homeowner has reported this belief to:

29 (i) The mortgagee;

30 (ii) A person licensed or required to be licensed under chapter
31 19.134 RCW;

32 (iii) A person licensed or required to be licensed under chapter
33 19.146 RCW;

34 (iv) A person licensed or required to be licensed under chapter
35 18.85 RCW;

36 (v) An attorney-at-law;

37 (vi) A mortgage counselor or other credit counselor licensed or
38 certified by any federal, state, or local agency; or

39 (vii) Any other party to a distressed property conveyance.

1 (9) "Landlord" means the owner, lessor, or sublessor of the
2 dwelling unit or the property of which it is a part, and in addition
3 means any person designated as representative of the owner, lessor,
4 or sublessor including, but not limited to, an agent, a resident
5 manager, or a designated property manager.

6 (10) "Mortgage" is used in the general sense and includes all
7 instruments, including deeds of trust, that are used to secure an
8 obligation by an interest in real property.

9 (11) "Owner" means one or more persons, jointly or severally, in
10 whom is vested:

11 (a) All or any part of the legal title to property; or

12 (b) All or part of the beneficial ownership, and a right to
13 present use and enjoyment of the property.

14 (12) "Person" means an individual, group of individuals,
15 corporation, government, or governmental agency, business trust,
16 estate, trust, partnership, or association, two or more persons
17 having a joint or common interest, or any other legal or commercial
18 entity.

19 (13) "Premises" means a dwelling unit, appurtenances thereto,
20 grounds, and facilities held out for the use of tenants generally and
21 any other area or facility which is held out for use by the tenant.

22 (14) "Property" or "rental property" means all dwelling units on
23 a contiguous quantity of land managed by the same landlord as a
24 single, rental complex.

25 (15) "Prospective landlord" means a landlord or a person who
26 advertises, solicits, offers, or otherwise holds a dwelling unit out
27 as available for rent.

28 (16) "Prospective tenant" means a tenant or a person who has
29 applied for residential housing that is governed under this chapter.

30 (17) "Qualified inspector" means a United States department of
31 housing and urban development certified inspector; a Washington state
32 licensed home inspector; an American society of home inspectors
33 certified inspector; a private inspector certified by the national
34 association of housing and redevelopment officials, the American
35 association of code enforcement, or other comparable professional
36 association as approved by the local municipality; a municipal code
37 enforcement officer; a Washington licensed structural engineer; or a
38 Washington licensed architect.

39 (18) "Reasonable attorneys' fees," where authorized in this
40 chapter, means an amount to be determined including the following

1 factors: The time and labor required, the novelty and difficulty of
2 the questions involved, the skill requisite to perform the legal
3 service properly, the fee customarily charged in the locality for
4 similar legal services, the amount involved and the results obtained,
5 and the experience, reputation and ability of the lawyer or lawyers
6 performing the services.

7 (19) "Rental agreement" means all agreements which establish or
8 modify the terms, conditions, rules, regulations, or any other
9 provisions concerning the use and occupancy of a dwelling unit.

10 (20) A "single-family residence" is a structure maintained and
11 used as a single dwelling unit. Notwithstanding that a dwelling unit
12 shares one or more walls with another dwelling unit, it shall be
13 deemed a single-family residence if it has direct access to a street
14 and shares neither heating facilities nor hot water equipment, nor
15 any other essential facility or service, with any other dwelling
16 unit.

17 (21) A "tenant" is any person who is entitled to occupy a
18 dwelling unit primarily for living or dwelling purposes under a
19 rental agreement.

20 (22) "Tenant screening" means using a consumer report or other
21 information about a prospective tenant in deciding whether to make or
22 accept an offer for residential rental property to or from a
23 prospective tenant.

24 (23) "Tenant screening report" means a consumer report as defined
25 in RCW 19.182.010 and any other information collected by a tenant
26 screening service.

27 (24) "Commercially reasonable manner," with respect to a sale of
28 a deceased tenant's personal property, means a sale where every
29 aspect of the sale, including the method, manner, time, place, and
30 other terms, must be commercially reasonable. If commercially
31 reasonable, a landlord may sell the tenant's property by public or
32 private proceedings, by one or more contracts, as a unit or in
33 parcels, and at any time and place and on any terms.

34 (25) "Designated person" means a person designated by the tenant
35 under section 2 of this act.

36 (26) "Reasonable manner," with respect to disposing of a deceased
37 tenant's personal property, means to dispose of the property by
38 donation to a not-for-profit charitable organization, by removal of
39 the property by a trash hauler or recycler, or by any other method
40 that is reasonable under the circumstances.

1 (27) "Tenant representative" means:

2 (a) A personal representative of a deceased tenant's estate if
3 known to the landlord;

4 (b) If the landlord has no knowledge that a personal
5 representative has been appointed for the deceased tenant's estate, a
6 person claiming to be a successor of the deceased tenant who has
7 provided the landlord with proof of death and an affidavit made by
8 the person that meets the requirements of RCW 11.62.010(2);

9 (c) In the absence of a personal representative under (a) of this
10 subsection or a person claiming to be a successor under (b) of this
11 subsection, a designated person; or

12 (d) In the absence of a personal representative under (a) of this
13 subsection, a person claiming to be a successor under (b) of this
14 subsection, or a designated person under (c) of this subsection, any
15 person who provides the landlord with reasonable evidence that he or
16 she is a successor of the deceased tenant as defined in RCW
17 11.62.005. The landlord has no obligation to identify all of the
18 deceased tenant's successors.

19 NEW SECTION. Sec. 2. A new section is added to chapter 59.18
20 RCW to read as follows:

21 (1)(a) At a landlord's request, the tenant may designate a person
22 to act for the tenant on the tenant's death when the tenant is the
23 sole occupant of the dwelling unit.

24 (b) Any designation must be in writing, be separate from the
25 rental agreement, and include:

26 (i) The designated person's name, mailing address, any address
27 used for the receipt of electronic communications, and telephone
28 number;

29 (ii) A signed statement authorizing the landlord in the event of
30 the tenant's death when the tenant is the sole occupant of the
31 dwelling unit to allow the designated person to: Access the tenant's
32 dwelling unit, remove the tenant's property, receive refunds of
33 amounts due to the tenant, and dispose of the tenant's property
34 consistent with the tenant's last will and testament and any
35 applicable intestate succession law; and

36 (iii) A conspicuous statement that the designation remains in
37 effect until it is revoked in writing by the tenant or replaced with
38 a new designation.

1 (2) A tenant may, without request from the landlord, designate a
2 person to act for the tenant on the tenant's death when the tenant is
3 the sole occupant of the dwelling unit by providing the landlord with
4 the information and signing a statement as provided in subsection (1)
5 of this section.

6 (3) The tenant may change the designated person or revoke any
7 previous designation in writing at any time prior to his or her
8 death.

9 (4) Once the landlord or the designated person knows of the
10 appointment of a personal representative for the deceased tenant's
11 estate or of a person claiming to be a successor of the deceased
12 tenant who has provided the landlord with proof of death and an
13 affidavit made by the person that meets the requirements of RCW
14 11.62.010(2), the designated person's authority to act under this
15 section terminates.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 59.18
17 RCW to read as follows:

18 (1) In the event of the death of a tenant who is the sole
19 occupant of the dwelling unit:

20 (a) The landlord, upon learning of the death of the tenant, shall
21 promptly mail or personally deliver written notice to any known
22 personal representative, known designated person, emergency contact
23 identified by the tenant on the rental application, known person
24 reasonably believed to be a successor of the tenant as defined in RCW
25 11.62.005, and to the deceased tenant at the address of the dwelling
26 unit. If the landlord knows of any address used for the receipt of
27 electronic communications, the landlord shall email the notice to
28 that address as well. The notice must include:

29 (i) The name of the deceased tenant and address of the dwelling
30 unit;

31 (ii) The approximate date of the deceased tenant's death;

32 (iii) The rental amount and date through which rent is paid;

33 (iv) A statement that the tenancy will terminate fifteen days
34 from the date the notice is mailed or personally delivered or the
35 date through which rent is paid, whichever comes later, unless during
36 that time period a tenant representative makes arrangements with the
37 landlord to pay rent in advance for no more than sixty days from the
38 date of the tenant's death to allow a tenant representative to
39 arrange for orderly removal of the tenant's property. At the end of

1 the period for which the rent has been paid pursuant to this
2 subsection, the tenancy ends;

3 (v) A statement that failure to remove the tenant's property
4 before the tenancy is terminated or ends as provided in (a)(iv) of
5 this subsection will allow the landlord to enter the dwelling unit
6 and take possession of any property found on the premises, store it
7 in a reasonably secure place, and charge the actual or reasonable
8 costs, whichever is less, of drayage and storage of the property, and
9 after service of a second notice sell or dispose of the property as
10 provided in subsection (3) of this section; and

11 (vi) A copy of any designation executed by the tenant pursuant to
12 section 2 of this act;

13 (b) The landlord shall turn over possession of the tenant's
14 property to a tenant representative if a request is made in writing
15 within the specified time period or any subsequent date agreed to by
16 the parties;

17 (c) Within fourteen days after the removal of the property by the
18 tenant representative, the landlord shall refund any unearned rent
19 and shall give a full and specific statement of the basis for
20 retaining any deposit together with the payment of any refund due the
21 deceased tenant under the terms and conditions of the rental
22 agreement to the tenant representative; and

23 (d) Any tenant representative who removes property from the
24 tenant's dwelling unit or the premises must, at the time of removal,
25 provide to the landlord an inventory of the removed property and
26 signed acknowledgment that he or she has only been given possession
27 and not ownership of the property.

28 (2) A landlord shall send a second written notice before selling
29 or disposing of a deceased tenant's property.

30 (a) If the tenant representative makes arrangements with the
31 landlord to pay rent in advance as provided in subsection (1)(a)(iv)
32 of this section, the landlord shall mail a second written notice to
33 any known personal representative, known designated person, emergency
34 contact identified by the tenant on the rental application, known
35 person reasonably believed to be a successor of the tenant as defined
36 in RCW 11.62.005, and to the deceased tenant at the dwelling unit.
37 The second notice must include:

38 (i) The name, address, and phone number or other contact
39 information for the tenant representative, if known, who made the
40 arrangements to pay rent in advance;

1 (ii) The amount of rent paid in advance and date through which
2 rent was paid; and

3 (iii) A statement that the landlord may sell or dispose of the
4 property on or after the date through which rent is paid or at least
5 forty-five days after the second notice is mailed, whichever comes
6 later, if a tenant representative does not claim and remove the
7 property in accordance with this subsection.

8 (b) If the landlord places the property in storage pursuant to
9 subsection (1)(a) of this section, the landlord shall mail a second
10 written notice, unless a written notice under (a) of this subsection
11 has already been provided, to any known personal representative,
12 known designated person, emergency contact identified by the tenant
13 on the rental application, known person reasonably believed to be a
14 successor of the tenant as defined in RCW 11.62.005, and to the
15 deceased tenant at the dwelling unit. The second notice must state
16 that the landlord may sell or dispose of the property on or after a
17 specified date that is at least forty-five days after the second
18 notice is mailed if a tenant representative does not claim and remove
19 the property in accordance with this subsection.

20 (c) The landlord shall turn over possession of the tenant's
21 property to a tenant representative if a written request is made
22 within the applicable time periods after the second notice is mailed,
23 provided the tenant representative: (i) Pays the actual or reasonable
24 costs, whichever is less, of drayage and storage of the property, if
25 applicable; and (ii) gives the landlord an inventory of the property
26 and signs an acknowledgment that he or she has only been given
27 possession and not ownership of the property.

28 (d) Within fourteen days after the removal of the property by the
29 tenant representative, the landlord shall refund any unearned rent
30 and shall give a full and specific statement of the basis for
31 retaining any deposit together with the payment of any refund due the
32 deceased tenant under the terms and conditions of the rental
33 agreement to the tenant representative.

34 (3)(a) If a tenant representative has not contacted the landlord
35 or removed the deceased tenant's property within the applicable time
36 periods under this section, the landlord may sell or dispose of the
37 deceased tenant's property, except for personal papers and personal
38 photographs, as provided in this subsection.

39 (i) If the landlord reasonably estimates the fair market value of
40 the stored property to be more than one thousand dollars, the

1 landlord shall arrange to sell the property in a commercially
2 reasonable manner and may dispose of any property that remains unsold
3 in a reasonable manner.

4 (ii) If the value of the stored property does not meet the
5 threshold provided in (a)(i) of this subsection, the landlord may
6 dispose of the property in a reasonable manner.

7 (iii) The landlord may apply any income derived from the sale of
8 the property pursuant to this section against any costs of sale and
9 moneys due the landlord, including actual or reasonable costs,
10 whichever is less, of drayage and storage of the deceased tenant's
11 property. Any excess income derived from the sale of such property
12 under this section must be held by the landlord for a period of one
13 year from the date of sale, and if no claim is made for recovery of
14 the excess income before the expiration of that one-year period, the
15 balance must be treated as abandoned property and deposited by the
16 landlord with the department of revenue pursuant to chapter 63.29
17 RCW.

18 (b) Personal papers and personal photographs that are not claimed
19 by a tenant representative within ninety days after a sale or other
20 disposition of the deceased tenant's other property shall be either
21 destroyed or held for the benefit of any successor of the deceased
22 tenant as defined in RCW 11.62.005.

23 (c) No landlord or employee of a landlord, or his or her family
24 members, may acquire, directly or indirectly, the property sold
25 pursuant to (a)(i) of this subsection or disposed of pursuant to
26 (a)(ii) of this subsection.

27 (4) Upon learning of the death of the tenant, the landlord may
28 enter the deceased tenant's dwelling unit and immediately dispose of
29 any perishable food, hazardous materials, and garbage found on the
30 premises and turn over animals to a tenant representative or to an
31 animal control officer, humane society, or other individual or
32 organization willing to care for the animals.

33 (5) Any notices sent by the landlord under this section must
34 include a mailing address, any address used for the receipt of
35 electronic communications, and a telephone number of the landlord.

36 (6) If a landlord knowingly violates this section, the landlord
37 is liable to the deceased tenant's estate for actual damages. The
38 prevailing party in any action pursuant to this subsection may
39 recover costs and reasonable attorneys' fees.

1 (7) A landlord who complies with this section is relieved from
2 any liability relating to the deceased tenant's property.

3 **Sec. 4.** RCW 59.18.310 and 2011 c 132 s 16 are each amended to
4 read as follows:

5 (1) If the tenant defaults in the payment of rent and reasonably
6 indicates by words or actions the intention not to resume tenancy,
7 the tenant shall be liable for the following for such abandonment:
8 PROVIDED, That upon learning of such abandonment of the premises the
9 landlord shall make a reasonable effort to mitigate the damages
10 resulting from such abandonment:

11 ~~((1))~~ (a) When the tenancy is month-to-month, the tenant shall
12 be liable for the rent for the thirty days following either the date
13 the landlord learns of the abandonment, or the date the next regular
14 rental payment would have become due, whichever first occurs.

15 ~~((2))~~ (b) When the tenancy is for a term greater than month-to-
16 month, the tenant shall be liable for the lesser of the following:

17 ~~((a))~~ (i) The entire rent due for the remainder of the term; or
18 ~~((b))~~ (ii) All rent accrued during the period reasonably
19 necessary to rerent the premises at a fair rental, plus the
20 difference between such fair rental and the rent agreed to in the
21 prior agreement, plus actual costs incurred by the landlord in
22 rerenting the premises together with statutory court costs and
23 reasonable attorneys' fees.

24 (2) In the event of such abandonment of tenancy and an
25 accompanying default in the payment of rent by the tenant, the
26 landlord may immediately enter and take possession of any property of
27 the tenant found on the premises and may store the same in any
28 reasonably secure place. A landlord shall make reasonable efforts to
29 provide the tenant with a notice containing the name and address of
30 the landlord and the place where the property is stored and informing
31 the tenant that a sale or disposition of the property shall take
32 place pursuant to this section, and the date of the sale or disposal,
33 and further informing the tenant of the right under RCW 59.18.230 to
34 have the property returned prior to its sale or disposal. The
35 landlord's efforts at notice under this subsection shall be satisfied
36 by the mailing by first-class mail, postage prepaid, of such notice
37 to the tenant's last known address and to any other address provided
38 in writing by the tenant or actually known to the landlord where the
39 tenant might receive the notice. The landlord shall return the

1 property to the tenant after the tenant has paid the actual or
2 reasonable drayage and storage costs whichever is less if the tenant
3 makes a written request for the return of the property before the
4 landlord has sold or disposed of the property. After forty-five days
5 from the date the notice of such sale or disposal is mailed or
6 personally delivered to the tenant, the landlord may sell or dispose
7 of such property, including personal papers, family pictures, and
8 keepsakes. The landlord may apply any income derived therefrom
9 against moneys due the landlord, including actual or reasonable costs
10 whichever is less of drayage and storage of the property. If the
11 property has a cumulative value of two hundred fifty dollars or less,
12 the landlord may sell or dispose of the property in the manner
13 provided in this section, except for personal papers, family
14 pictures, and keepsakes, after seven days from the date the notice of
15 sale or disposal is mailed or personally delivered to the tenant:
16 PROVIDED, That the landlord shall make reasonable efforts, as defined
17 in this section, to notify the tenant. Any excess income derived from
18 the sale of such property under this section shall be held by the
19 landlord for the benefit of the tenant for a period of one year from
20 the date of sale, and if no claim is made or action commenced by the
21 tenant for the recovery thereof prior to the expiration of that
22 period of time, the balance shall be the property of the landlord,
23 including any interest paid on the income.

24 (3) This section does not apply to the disposition of property of
25 a deceased tenant. Section 3 of this act governs the disposition of
26 property on the death of a tenant when the tenant is the sole
27 occupant of the dwelling unit.

--- END ---