
SUBSTITUTE SENATE BILL 5407

State of Washington

65th Legislature

2018 Regular Session

By Senate Financial Institutions & Insurance (originally sponsored by Senators Frockt, Miloscia, Walsh, Mullet, Billig, Kuderer, Pedersen, Hasegawa, Darneille, and Keiser)

READ FIRST TIME 01/26/18.

1 AN ACT Relating to ensuring housing options; amending RCW
2 36.22.178; amending 2017 3rd sp.s. c 4 s 1028 (uncodified); adding a
3 new section to chapter 59.18 RCW; adding new sections to chapter
4 43.31 RCW; and prescribing penalties.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 59.18
7 RCW to read as follows:

8 (1) A landlord may not, based on the source of income of an
9 otherwise eligible prospective tenant or current tenant:

10 (a) Refuse to lease or rent any real property to a prospective
11 tenant or current tenant, unless the prospective tenant's or current
12 tenant's source of income is conditioned on the real property passing
13 inspection, and the written estimate of the cost of improvements
14 necessary to pass inspection is one times the monthly rent of the
15 real property plus five thousand dollars;

16 (b) Expel a prospective tenant or current tenant from any real
17 property;

18 (c) Make any distinction, discrimination, or restriction against
19 a prospective tenant or current tenant in the price, terms,
20 conditions, fees, or privileges relating to the rental, lease, or
21 occupancy of real property or in the furnishing of any facilities or

1 services in connection with the rental, lease, or occupancy of real
2 property;

3 (d) Attempt to discourage the rental or lease of any real
4 property to a prospective tenant or current tenant;

5 (e) Assist, induce, incite, or coerce another person to commit an
6 act or engage in a practice that violates this section;

7 (f) Coerce, intimidate, threaten, or interfere with any person in
8 the exercise or enjoyment of, or on account of the person having
9 exercised or enjoyed or having aided or encouraged any other person
10 in the exercise or enjoyment of, any right granted or protected under
11 this section;

12 (g) Represent to a person that a dwelling unit is not available
13 for inspection or rental when the dwelling unit in fact is available
14 for inspection or rental; or

15 (h) Otherwise make unavailable or deny a dwelling unit to a
16 prospective tenant or current tenant that, but for his or her source
17 of income, would be eligible to rent real property.

18 (2) A landlord may not, based on the source of income of an
19 otherwise eligible prospective tenant or current tenant, publish,
20 circulate, issue, or display, or cause to be published, circulated,
21 issued, or displayed, any communication, notice, advertisement, or
22 sign of any kind relating to the rental or lease of real property
23 that indicates any source of income.

24 (3) If a landlord requires that a prospective tenant or current
25 tenant have a certain threshold level of income, any source of income
26 in the form of a rent voucher or subsidy must be subtracted from the
27 total of the monthly rent prior to calculating if the income criteria
28 have been met.

29 (4) A person in violation of this section shall be held liable in
30 a civil action for up to four times the monthly rent of the real
31 property at issue, as well as court costs and reasonable attorneys'
32 fees.

33 (5) As used in this section, "source of income" includes benefits
34 or subsidy programs including housing assistance, public assistance,
35 emergency rental assistance, veterans benefits, social security,
36 supplemental security income or other retirement programs, and other
37 programs administered by any federal, state, local, or nonprofit
38 entity. "Source of income" does not include income derived in an
39 illegal manner.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.31
2 RCW to read as follows:

3 (1) Subject to the availability of funds for this purpose, the
4 landlord mitigation program is created. The department may reimburse
5 eligible claims for property damage, cost of unpaid rent, matching
6 amounts for eligible repairs required after an inspection under
7 section 1(1)(a) of this act, attorneys' fees and costs to obtain the
8 judgment, and up to fourteen days of lost rental income from the date
9 of offer of housing to the subsidy holder to the date of move-in by
10 the subsidy holder.

11 (a) The following reimbursement requirements apply:

12 (i) To be eligible for reimbursement for lost rental income, the
13 landlord must rent to the tenant applying for the rental unit.

14 (ii) To be eligible for reimbursement for late fees and
15 attorneys' fees, the landlord must have a court judgment.

16 (iii) To be eligible for reimbursements for repairs required due
17 to an inspection under section 1(1)(a) of this act, after subtracting
18 the value of one month's rent from the total cost of repairs, a
19 landlord must match dollar for dollar eligible costs up to five
20 thousand dollars in total costs.

21 (b) All reimbursements for eligible claims must be made on a
22 first come, first served basis, to the extent of available funds.

23 (c) The department may request to inspect the property and the
24 landlord's records related to a claim to assist in making its claim
25 review and determination of eligibility.

26 (2)(a) In order for a claim to be eligible for reimbursement from
27 the landlord mitigation program account:

28 (i) A landlord may submit a judgment against the tenant through
29 either an unlawful detainer proceeding, or through a civil action in
30 a court of competent jurisdiction after a hearing; or

31 (ii) A landlord may submit a claim directly to the department.

32 (b) In order for a damage claim to be eligible for reimbursement
33 from the landlord mitigation program account, a landlord must:

34 (i) First make repairs and then apply for reimbursement; and

35 (ii) Submit copies of the move-in inspection, descriptions and
36 documentation of the damages upon move-out, including before repair
37 and after repair photographs, and copies of repair receipts for labor
38 and materials.

39 (3) Properly submitted and complete claims shall be reviewed by
40 the department within ten business days of receipt. In reviewing a

1 claim, and determining eligibility for reimbursement, the department
2 must also confirm that the claim involves a private market rental
3 unit rented to a tenant whose source of income is specified in
4 section 1(5) of this act. A landlord making a claim must sign a
5 statement under penalty of perjury attesting to the receipt of a
6 judgment or damages caused by a tenant participating in the source of
7 income landlord mitigation program, and that the damages are real and
8 beyond normal wear and tear, and the landlord agrees that the
9 department may inspect records and the property to verify a claim.

10 (4) Damages from a tenancy must total at least five hundred
11 dollars in order for a claim to be eligible for reimbursement from
12 the program. Damages may exceed five thousand dollars, however
13 reimbursement from the program may not exceed five thousand dollars
14 per tenancy.

15 (5) Damages, beyond wear and tear, that are eligible for
16 reimbursement include, but are not limited to: Interior wall gouges
17 and holes; damage to doors and cabinets, including hardware; carpet
18 stains or burns; cracked tiles; broken windows; damage to household
19 fixtures such as disposal, toilet, sink, sink handle, ceiling fan,
20 and lighting. Other property damage beyond normal wear and tear may
21 also be eligible for reimbursement. Damages may also include unpaid
22 rent.

23 (6) A landlord in receipt of reimbursement from the program is
24 prohibited from:

25 (a) Taking legal action against the tenant for damages during the
26 tenancy in which reimbursed damages occurred including, but not
27 limited to, legal action based on the same damages for which the
28 landlord was reimbursed; or

29 (b) Pursuing collection, or authorizing another entity to pursue
30 collection on the landlord's behalf, of a judgment against the tenant
31 during the tenancy in which reimbursed damages occurred including,
32 but not limited to, the same damages for which the landlord was
33 reimbursed.

34 (7) A tenant may request that the department provide notice to
35 the tenant regarding the result of a claim involving the tenant and
36 landlord from the landlord mitigation program.

37 (8)(a) A report to the appropriate committees of the legislature
38 on the effectiveness of the program and modifications recommended by
39 the department shall be submitted by January 1, 2021. The department
40 shall convene a group of stakeholders to include representatives of

1 large multifamily housing property owners or managers, small rental
2 housing owners in both rural and urban markets, a representative of
3 tenant advocates, and a representative of the housing authorities.

4 (b) The report shall include effectiveness and recommendations of
5 the following:

6 (i) The number and amount of claims reimbursed to landlords by
7 the landlord mitigation program account;

8 (ii) Any indices of fraud identified by the department;

9 (iii) Any reports by the department regarding inspections
10 authorized by and conducted on behalf of the department;

11 (iv) The process to obtain reimbursement to landlords by the
12 landlord mitigation program account;

13 (v) The amount and process to obtain reimbursement for lost
14 rental income due to the rental inspection and tenant screening
15 process;

16 (vi) Any other modifications and recommendations made by
17 stakeholders to improve the effectiveness and applicability of the
18 program.

19 (9) Determinations regarding reimbursements shall be made by the
20 department in its sole discretion. Notwithstanding subsection (6) of
21 this section, any landlord denied reimbursement under the landlord
22 mitigation program may seek to obtain a judgment from a court of
23 competent jurisdiction and if successful may resubmit a claim for
24 damages supported by the judgment, along with a certified copy of the
25 judgment. The department shall reimburse the landlord for that
26 portion of such judgment that is based on damages reimbursable under
27 the landlord mitigation program, subject to the limitations in this
28 section.

29 (10) Neither the state, the department, or persons acting on
30 behalf of the department, while acting within the scope of their
31 employment or agency, is liable to any person for any loss, damage,
32 harm, or other consequence resulting directly or indirectly from the
33 department's administration of the landlord mitigation program or
34 determinations under this section.

35 (11) As used in this section, "private market rental unit" means
36 any unit available for rent that is owned by an individual,
37 corporation, limited liability company, nonprofit housing provider,
38 or other entity structure, but does not include housing acquired, or
39 assisted by a public housing agency under 42 U.S.C. Sec. 1437 as it

1 existed on January 1, 2018. Assistance does not extend to that
2 provided under 42 U.S.C. Sec. 1437f as it existed on January 1, 2018.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.31
4 RCW to read as follows:

5 (1) The landlord mitigation program account is created in the
6 custody of the state treasury. All transfers and appropriations by
7 the legislature, repayments, private contributions, and all other
8 sources must be deposited into the account. Expenditures from the
9 account may only be used for the landlord mitigation program under
10 this chapter to reimburse landlords for eligible claims identified in
11 section 2 of this act to private market rental units during the time
12 of their rental to tenants whose source of income is specified in
13 section 1(5) of this act. Only the director or the director's
14 designee may authorize expenditures from the account. The account is
15 subject to allotment procedures under chapter 43.88 RCW, but an
16 appropriation is not required for expenditures.

17 (2) Administrative costs associated with application,
18 distribution, and other program activities of the department may not
19 exceed ten percent of the annual funds available for the landlord
20 mitigation program. Reappropriations must not be included in the
21 calculation of the annual funds available for determining the
22 administrative costs.

23 **Sec. 4.** RCW 36.22.178 and 2011 c 110 s 1 are each amended to
24 read as follows:

25 The surcharge provided for in this section shall be named the
26 affordable housing for all surcharge.

27 (1) Except as provided in subsection (3) of this section, a
28 surcharge of (~~ten~~) thirteen dollars per instrument shall be charged
29 by the county auditor for each document recorded, which will be in
30 addition to any other charge authorized by law. The county may retain
31 up to five percent of these funds collected solely for the
32 collection, administration, and local distribution of these funds. Of
33 the remaining funds, forty percent of the revenue generated through
34 this surcharge will be transmitted monthly to the state treasurer who
35 will deposit the portion of funds attributable to ten dollars of the
36 surcharge into the affordable housing for all account created in RCW
37 43.185C.190 and deposit the portion of funds attributable to three
38 dollars of the surcharge into the landlord mitigation account created

1 in section 3 of this act. The department of commerce must use these
2 funds to provide housing and shelter for extremely low-income
3 households, including but not limited to housing for victims of human
4 trafficking and their families and grants for building operation and
5 maintenance costs of housing projects or units within housing
6 projects that are affordable to extremely low-income households with
7 incomes at or below thirty percent of the area median income, and
8 that require a supplement to rent income to cover ongoing operating
9 expenses.

10 (2) All of the remaining funds generated by this surcharge will
11 be retained by the county and be deposited into a fund that must be
12 used by the county and its cities and towns for eligible housing
13 activities as described in this subsection that serve very low-income
14 households with incomes at or below fifty percent of the area median
15 income. The portion of the surcharge retained by a county shall be
16 allocated to eligible housing activities that serve extremely low and
17 very low-income households in the county and the cities within a
18 county according to an interlocal agreement between the county and
19 the cities within the county consistent with countywide and local
20 housing needs and policies. A priority must be given to eligible
21 housing activities that serve extremely low-income households with
22 incomes at or below thirty percent of the area median income.
23 Eligible housing activities to be funded by these county funds are
24 limited to:

25 (a) Acquisition, construction, or rehabilitation of housing
26 projects or units within housing projects that are affordable to very
27 low-income households with incomes at or below fifty percent of the
28 area median income, including units for homeownership, rental units,
29 seasonal and permanent farmworker housing units, units reserved for
30 victims of human trafficking and their families, and single room
31 occupancy units;

32 (b) Supporting building operation and maintenance costs of
33 housing projects or units within housing projects eligible to receive
34 housing trust funds, that are affordable to very low-income
35 households with incomes at or below fifty percent of the area median
36 income, and that require a supplement to rent income to cover ongoing
37 operating expenses;

38 (c) Rental assistance vouchers for housing units that are
39 affordable to very low-income households with incomes at or below
40 fifty percent of the area median income, including rental housing

1 vouchers for victims of human trafficking and their families, to be
2 administered by a local public housing authority or other local
3 organization that has an existing rental assistance voucher program,
4 consistent with or similar to the United States department of housing
5 and urban development's section 8 rental assistance voucher program
6 standards; and

7 (d) Operating costs for emergency shelters and licensed overnight
8 youth shelters.

9 (3) The surcharge imposed in this section does not apply to
10 assignments or substitutions of previously recorded deeds of trust.

11 **Sec. 5.** 2017 3rd sp.s. c 4 s 1028 (uncodified) is amended to
12 read as follows:

13 **FOR THE DEPARTMENT OF COMMERCE**

14 Rapid Housing Improvement Program (30000863)

15 The reappropriation in this section is subject to the following
16 conditions and limitations:

17 (1) Except as provided in subsection (2) of this section, the
18 reappropriation is subject to the provisions of section 1010, chapter
19 35, Laws of 2016 sp. sess.

20 (2) The department may use the reappropriation to implement this
21 act.

22 Reappropriation:

23	Washington Housing Trust Account—State.	\$194,000
24	Prior Biennia (Expenditures).	\$31,000
25	Future Biennia (Projected Costs).	\$0
26	TOTAL.	\$225,000

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