

SHB 2453 - H AMD 1367

By Representative Stokesbary

1 On page 15, after line 4, insert the following:

2

3 **"Sec. 6.** RCW 59.18.410 and 2019 c 356 s 7 are each amended to
4 read as follows:

5 (1) If at trial the verdict of the jury or, if the case is tried
6 without a jury, the finding of the court is in favor of the landlord
7 and against the tenant, judgment shall be entered for the
8 restitution of the premises; and if the proceeding is for unlawful
9 detainer after neglect or failure to perform any condition or
10 covenant of a lease or agreement under which the property is held,
11 or after default in the payment of rent, the judgment shall also
12 declare the forfeiture of the lease, agreement, or tenancy. The
13 jury, or the court, if the proceedings are tried without a jury,
14 shall also assess the damages arising out of the tenancy occasioned
15 to the landlord by any forcible entry, or by any forcible or
16 unlawful detainer, alleged in the complaint and proved at trial,
17 and, if the alleged unlawful detainer is based on default in the
18 payment of rent, find the amount of any rent due, and the judgment
19 shall be rendered against the tenant liable for the forcible entry,
20 forcible detainer, or unlawful detainer for the amount of damages
21 thus assessed, for the rent, if any, found due, and late fees if
22 such fees are due under the lease and do not exceed seventy-five
23 dollars in total. The court may award statutory costs. The court may
24 also award reasonable attorneys' fees as provided in RCW 59.18.290.

25 (2) When the tenant is liable for unlawful detainer after a
26 default in the payment of rent, execution upon the judgment shall
27 not occur until the expiration of five court days after the entry of

1 the judgment. Before such time has expired, and only if the landlord
2 agrees, the tenant or any subtenant, or any mortgagee of the term,
3 or other party interested in the continuance of the tenancy, may pay
4 into court or to the landlord the amount of the rent due, any court
5 costs incurred at the time of payment, late fees if such fees are
6 due under the lease and do not exceed seventy-five dollars in total,
7 and attorneys' fees if awarded, in which event any judgment entered
8 shall be satisfied and the tenant restored to his or her tenancy. If
9 a judgment has been satisfied, the landlord shall file a
10 satisfaction of judgment with the court. A tenant seeking to
11 exercise rights under this subsection shall pay an additional fifty
12 dollars for each time the tenant was reinstated after judgment
13 pursuant to this subsection within the previous twelve months prior
14 to payment. If payment of the amount specified in this subsection is
15 not made within five court days after the entry of the judgment, or
16 if the landlord does not agree to restoration of the tenancy
17 pursuant to this subsection, the judgment may be enforced for its
18 full amount and for the possession of the premises.

19 (3)(a) Following the entry of a judgment in favor of the
20 landlord and against the tenant for the restitution of the premises
21 and forfeiture of the tenancy due to nonpayment of rent, the court,
22 at the time of the show cause hearing or trial, or upon subsequent
23 motion of the tenant but before the execution of the writ of
24 restitution, may stay the writ of restitution upon good cause and on
25 such terms that the court deems fair and just for both parties, but
26 only if the landlord agrees to the stay. In making this decision,
27 the court shall consider evidence of the following factors:

28 (i) The tenant's willful or intentional default or intentional
29 failure to pay rent;

30 (ii) Whether nonpayment of the rent was caused by exigent
31 circumstances that were beyond the tenant's control and that are not
32 likely to recur;

33 (iii) The tenant's ability to timely pay the judgment;

34 (iv) The tenant's payment history;

1 (v) Whether the tenant is otherwise in substantial compliance
2 with the rental agreement;

3 (vi) Hardship on the tenant if evicted; and

4 (vii) Conduct related to other notices served within the last
5 six months.

6 (b) The burden of proof for such relief under this subsection
7 (3) shall be on the tenant. If the tenant seeks relief pursuant to
8 this subsection (3) at the time of the show cause hearing, the court
9 shall hear the matter at the time of the show cause hearing or as
10 expeditiously as possible so as to avoid unnecessary delay or
11 hardship on the parties.

12 (c) In any order issued pursuant to this subsection (3):

13 (i) The court shall not stay the writ of restitution more than
14 ninety days from the date of order, but may order repayment of the
15 judgment balance within such time. If the payment plan is to exceed
16 thirty days, the total cumulative payments for each thirty-day
17 period following the order shall be no less than one month of the
18 tenant's share of the rent, and the total amount of the judgment and
19 all additional rent that is due shall be paid within ninety days.

20 (ii) Within any payment plan ordered by the court, the court
21 shall require the tenant to pay to the landlord or to the court one
22 month's rent within five court days of issuance of the order. If the
23 date of the order is on or before the fifteenth of the month, the
24 tenant shall remain current with ongoing rental payments as they
25 become due for the duration of the payment plan; if the date of the
26 order is after the fifteenth of the month, the tenant shall have the
27 option to apportion the following month's rental payment within the
28 payment plan, but monthly rental payments thereafter shall be paid
29 according to the rental agreement.

30 (iii) The sheriff may serve the writ of restitution upon the
31 tenant before the expiration of the five court days of issuance of
32 the order; however, the sheriff shall not execute the writ of
33 restitution until after expiration of the five court days in order
34 for payment to be made of one month's rent as required by (c)(ii) of

1 this subsection. In the event payment is made as provided in (c)(ii)
2 of this subsection for one month's rent, the court shall stay the
3 writ of restitution (~~((ex parte without prior notice to the~~
4 ~~landlord))~~) upon the tenant filing and presenting a motion to stay
5 with a declaration of proof of payment demonstrating full compliance
6 with the required payment of one month's rent and a declaration from
7 the landlord indicating his or her agreement with the stay. Any
8 order staying the writ of restitution under this subsection (3)(c)
9 (iii) shall require the tenant to serve a copy of the order on the
10 landlord by personal delivery, first-class mail, facsimile, or email
11 if agreed to by the parties.

12 (A) If the tenant has satisfied (c)(ii) of this subsection by
13 paying one month's rent within five court days, but defaults on a
14 subsequent payment required by the court pursuant to this subsection
15 (3)(c), the landlord may enforce the writ of restitution after
16 serving a notice of default in accordance with RCW 59.12.040
17 informing the tenant that he or she has defaulted on rent due under
18 the lease agreement or payment plan entered by the court. Upon
19 service of the notice of default, the tenant shall have three
20 calendar days from the date of service to vacate the premises before
21 the sheriff may execute the writ of restitution.

22 (B) If the landlord serves the notice of default described under
23 this subsection (3)(c)(iii), an additional day is not included in
24 calculating the time before the sheriff may execute the writ of
25 restitution. The notice of default must be in substantially the
26 following form:

27 NOTICE OF DEFAULT FOR RENT AND/OR PAYMENT PLAN ORDERED BY COURT

28 NAME(S)

29 ADDRESS

30 CITY, STATE, ZIP

31
32 THIS IS NOTICE THAT YOU ARE IN DEFAULT OF YOUR RENT AND/OR
33 PAYMENT PLAN ORDERED BY THE COURT. YOUR LANDLORD HAS RECEIVED
34 THE FOLLOWING PAYMENTS:

1 DATE
2 AMOUNT
3 DATE
4 AMOUNT
5 DATE
6 AMOUNT

7 THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION WITHIN THREE
8 CALENDAR DAYS OF SERVICE OF THIS NOTICE. TO STOP A PHYSICAL
9 EVICTION, YOU ARE REQUIRED TO PAY THE BALANCE OF YOUR RENT
10 AND/OR PAYMENT PLAN IN THE AMOUNT OF \$.

11 PAYMENT MAY BE MADE TO THE COURT OR TO THE LANDLORD. IF YOU FAIL
12 TO PAY THE BALANCE WITHIN THREE CALENDAR DAYS, THE LANDLORD MAY
13 PROCEED WITH A PHYSICAL EVICTION FOR POSSESSION OF THE UNIT THAT
14 YOU ARE RENTING.

15 DATE
16 SIGNATURE
17 LANDLORD/AGENT
18 NAME
19 ADDRESS
20 PHONE
21

22 (iv) If a tenant seeks to satisfy a condition of this subsection
23 (3)(c) by relying on an emergency rental assistance program provided
24 by a government or nonprofit entity and provides an offer of proof,
25 the court shall stay the writ of restitution as necessary to afford
26 the tenant an equal opportunity to comply.

27 (v) The court shall extend the writ of restitution as necessary
28 to enforce the order issued pursuant to this subsection (3)(c) in
29 the event of default.

30 (d) A tenant who has been served with three or more notices to
31 pay or vacate for failure to pay rent as set forth in RCW 59.12.040
32 within twelve months prior to the notice to pay or vacate upon which
33 the proceeding is based may not seek relief under this subsection (3).

1 (e)(i) In any application seeking relief pursuant to this
2 subsection (3), the court shall issue a finding as to whether the
3 tenant is low-income, limited resourced, or experiencing hardship to
4 determine if the parties would be eligible for disbursement through
5 the landlord mitigation program account established within RCW
6 43.31.605(1)(c). In making this finding, the court may include an
7 inquiry regarding the tenant's income relative to area median
8 income, household composition, any extenuating circumstances, or
9 other factors, and may rely on written declarations or oral
10 testimony by the parties at the hearing.

11 (ii) After a finding that the tenant is low-income, limited
12 resourced, or experiencing hardship, the court may issue an order:
13 (A) Finding that the landlord is eligible to receive on behalf of
14 the tenant and may apply for reimbursement from the landlord
15 mitigation program; and (B) directing the clerk to remit, without
16 further order of the court, any future payments made by the tenant
17 in order to reimburse the department of commerce pursuant to RCW
18 43.31.605(1)(c)(iii). Nothing in this subsection (3)(c) shall be
19 deemed to obligate the department of commerce to provide assistance
20 in claim reimbursement through the landlord mitigation program if
21 there are not sufficient funds.

22 (iii) If the department of commerce fails to disburse payment to
23 the landlord for the judgment pursuant to this subsection (3)(e)
24 within thirty days from submission of the application, the landlord
25 may renew an application for a writ of restitution pursuant to RCW
26 59.18.370 and for other rent owed by the tenant since the time of
27 entry of the prior judgment. In such event, the tenant may exercise
28 rights afforded under this section.

29 (iv) Upon payment by the department of commerce to the landlord
30 for the remaining or total amount of the judgment, as applicable,
31 the judgment is satisfied and the landlord shall file a satisfaction
32 of judgment with the court.

33 (v) Nothing in this subsection (3)(e) prohibits the landlord
34 from otherwise applying for reimbursement for an unpaid judgment

1 pursuant to RCW 43.31.605(1)(c) after the tenant defaults on a
2 payment plan ordered pursuant to (c) of this subsection.

3 (4) If a tenant seeks to stay a writ of restitution issued
4 pursuant to this chapter, the court may issue an ex parte stay of
5 the writ of restitution provided the tenant or tenant's attorney
6 submits a declaration indicating good faith efforts were made to
7 notify the other party or, if no efforts were made, why notice could
8 not be provided prior to the application for an ex parte stay, and
9 describing the immediate or irreparable harm that may result if an
10 immediate stay is not granted.

11 (5) In all other cases the judgment may be enforced immediately.
12 If a writ of restitution shall have been executed prior to judgment
13 no further writ or execution for the premises shall be required.

14 (6) This section also applies if the writ of restitution is
15 issued pursuant to a final judgment entered after a show cause
16 hearing conducted in accordance with RCW 59.18.380."

17

18 Renumber the remaining section consecutively, and correct any
19 internal references accordingly. Correct the title.

20

21

EFFECT: Amends current law to: require that a landlord approve before a tenant who is liable for unlawful detainer for failure to pay rent may, within 5 days after the judgment is entered, pay the full amount of the judgment and restore the tenancy; and preclude the court's entry of a stay of a writ of restitution when a tenant is liable for unlawful detainer for failure to pay rent without landlord approval.

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