

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 1694

66th Legislature
2020 Regular Session

Passed by the House March 7, 2020
Yeas 53 Nays 44

**Speaker of the House of
Representatives**

Passed by the Senate March 3, 2020
Yeas 30 Nays 17

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 1694** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED HOUSE BILL 1694

AS AMENDED BY THE SENATE

Passed Legislature - 2020 Regular Session

State of Washington 66th Legislature 2019 Regular Session

By Representatives Morgan, Macri, Riccelli, Goodman, Jinkins, Cody, Stonier, Robinson, Appleton, Pollet, Gregerson, and Frame

Read first time 01/28/19. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to allowing tenants to pay certain sums in
2 installments; amending RCW 43.31.605 and 59.18.253; and adding a new
3 section to chapter 59.18 RCW.

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

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

7 (1) (a) Except as provided in (b) of this subsection, upon receipt
8 of a tenant's written request, a landlord must permit the tenant to
9 pay any deposits, nonrefundable fees, and last month's rent in
10 installments.

11 (b) A landlord is not required to permit a tenant to pay in
12 installments if the total amount of the deposits and nonrefundable
13 fees do not exceed twenty-five percent of the first full month's rent
14 and payment of the last month's rent is not required at the inception
15 of the tenancy.

16 (2) In all cases where premises are rented for a specified time
17 that is three months or longer, the tenant may elect to pay any
18 deposits, nonrefundable fees, and last month's rent in three
19 consecutive and equal monthly installments, beginning at the
20 inception of the tenancy. In all other cases, the tenant may elect to
21 pay any deposits, nonrefundable fees, and last month's rent in two

1 consecutive and equal monthly installments, beginning at the
2 inception of the tenancy.

3 (3) A landlord may not impose any fee, charge any interest, or
4 otherwise impose a cost on a tenant because a tenant elects to pay in
5 installments. Installment payments are due at the same time as rent
6 is due. All installment schedules must be in writing and signed by
7 the landlord and the tenant.

8 (4)(a) A fee or deposit to hold a dwelling unit or secure that
9 the prospective tenant will move into a dwelling unit, as authorized
10 under RCW 59.18.253, shall not be considered a deposit or
11 nonrefundable fee for purposes of this section.

12 (b) A landlord may not request a fee or deposit to hold a
13 dwelling unit or secure that the prospective tenant will move into a
14 dwelling unit in excess of twenty-five percent of the first month's
15 rent.

16 (5) Beginning January 1, 2021, any landlord who refuses to permit
17 a tenant to pay any deposits, nonrefundable fees, and last month's
18 rent in installments upon the tenant's written request as described
19 in subsection (1) of this section is subject to a statutory penalty
20 of one month's rent and reasonable attorneys' fees payable to the
21 tenant.

22 (6)(a) In any application seeking relief pursuant RCW
23 59.18.283(3), the court shall issue a finding as to whether the
24 tenant is low-income, limited resourced, or experiencing hardship to
25 determine if the landlord would be eligible for reimbursement through
26 the landlord mitigation program account established within RCW
27 43.31.605(1)(c). In making this finding, the court may include an
28 inquiry regarding the tenant's income relative to area median income,
29 household composition, any extenuating circumstances, or other
30 factors, and may rely on written declarations or oral testimony by
31 the parties at the hearing.

32 (b) After a finding that the tenant is low-income, limited
33 resourced, or experiencing hardship, the court may issue an order:
34 (i) Finding that the landlord is eligible to receive on behalf of the
35 tenant and may apply for reimbursement from the landlord mitigation
36 program; and (ii) directing the clerk to remit, without further order
37 of the court, any future payments made by the tenant in order to
38 reimburse the department of commerce pursuant to RCW
39 43.31.605(1)(c)(iii). Nothing in this subsection shall be deemed to
40 obligate the department of commerce to provide assistance in claim

1 reimbursement through the landlord mitigation program if there are
2 not sufficient funds.

3 (c) Upon payment by the department of commerce to the landlord
4 for the remaining or total amount of the judgment, as applicable, the
5 judgment is satisfied and the landlord shall file a satisfaction of
6 judgment with the court.

7 **Sec. 2.** RCW 43.31.605 and 2019 c 356 s 12 are each amended to
8 read as follows:

9 (1)(a) Subject to the availability of funds for this purpose, the
10 landlord mitigation program is created and administered by the
11 department. The department shall have such rule-making authority as
12 the department deems necessary to administer the program.

13 (b) The following types of claims related to landlord mitigation
14 for renting private market rental units to low-income tenants using a
15 housing subsidy program are eligible for reimbursement from the
16 landlord mitigation program account:

17 (i) Up to one thousand dollars for improvements identified in RCW
18 59.18.255(1)(a). In order to be eligible for reimbursement under this
19 subsection (1)(b)(i), the landlord must pay for the first five
20 hundred dollars for improvements, and rent to the tenant whose
21 housing subsidy program was conditioned on the real property passing
22 inspection. Reimbursement under this subsection (1)(b)(i) may also
23 include up to fourteen days of lost rental income from the date of
24 offer of housing to the applicant whose housing subsidy program was
25 conditioned on the real property passing inspection until move in by
26 that applicant;

27 (ii) Reimbursement for damages as reflected in a judgment
28 obtained against the tenant through either an unlawful detainer
29 proceeding, or through a civil action in a court of competent
30 jurisdiction after a hearing;

31 (iii) Reimbursement for damages established pursuant to
32 subsection (2) of this section; and

33 (iv) Reimbursement for unpaid rent and unpaid utilities, provided
34 that the landlord can evidence it to the department's satisfaction.

35 (c) Claims related to landlord mitigation for an unpaid judgment
36 for rent, unpaid judgments resulting from the tenant's failure to
37 comply with an installment payment agreement identified in section 1
38 of this act, late fees, attorneys' fees, and costs after a court
39 order pursuant to RCW 59.18.410(3), including any unpaid portion of

1 the judgment after the tenant defaults on the payment plan pursuant
2 to RCW 59.18.410(3)(c), are eligible for reimbursement from the
3 landlord mitigation program account and are exempt from any
4 postjudgment interest required under RCW 4.56.110. Any claim for
5 reimbursement under this subsection (1)(c) is not an entitlement.

6 (i) The department shall provide for a form on its web site for
7 tenants and landlords to apply for reimbursement funds for the
8 landlord pursuant to this subsection (1)(c).

9 (ii) The form must include: (A) Space for the landlord and tenant
10 to provide names, mailing addresses, phone numbers, date of birth for
11 the tenant, and any other identifying information necessary for the
12 department to process payment; (B) the landlord's statewide vendor
13 identification number and how to obtain one; (C) name and address to
14 whom payment must be made; (D) the amount of the judgment with
15 instructions to include any other supporting documentation the
16 department may need to process payment; (E) instructions for how the
17 tenant is to reimburse the department under (c)(iii) of this
18 subsection; (F) a description of the consequences if the tenant does
19 not reimburse the department as provided in this subsection (1)(c);
20 (G) a signature line for the landlord and tenant to confirm that they
21 have read and understood the contents of the form and program; and
22 (H) any other information necessary for the operation of the program.
23 If the tenant has not signed the form after the landlord has made
24 good faith efforts to obtain the tenant's signature, the landlord may
25 solely submit the form but must attest to the amount of money owed
26 and sign the form under penalty of perjury.

27 (iii) When a landlord has been reimbursed pursuant to this
28 subsection (1)(c), the tenant for whom payment was made shall
29 reimburse the department by depositing the amount disbursed from the
30 landlord mitigation program account into the court registry of the
31 superior court in which the judgment was entered. The tenant or other
32 interested party may seek an ex parte order of the court under the
33 unlawful detainer action to order such funds to be disbursed by the
34 court. Upon entry of the order, the court clerk shall disburse the
35 funds and include a case number with any payment issued to the
36 department. If directed by the court, a clerk shall issue any
37 payments made by a tenant to the department without further court
38 order.

1 (iv) The department may deny an application made by a tenant who
2 has failed to reimburse the department for prior payments issued
3 pursuant to this subsection (1)(c).

4 (v) With any disbursement from the account to the landlord, the
5 department shall notify the tenant at the address provided within the
6 application that a disbursement has been made to the landlord on the
7 tenant's behalf and that failure to reimburse the account for the
8 payment through the court registry may result in a denial of a future
9 application to the account pursuant to this subsection (1)(c). The
10 department may include any other additional information about how to
11 reimburse the account it deems necessary to fully inform the tenant.

12 (vi) The department's duties with respect to obtaining
13 reimbursement from the tenant to the account are limited to those
14 specified within this subsection (1)(c).

15 (vii) If at any time funds do not exist in the landlord
16 mitigation program account to reimburse claims submitted under this
17 subsection (1)(c), the department must create and maintain a waitlist
18 and distribute funds in the order the claims are received pursuant to
19 subsection (6) of this section. Payment of any claims on the waitlist
20 shall be made only from the landlord mitigation program account. The
21 department shall not be civilly or criminally liable and may not have
22 any penalty or cause of action of any nature arise against it
23 regarding the provision or lack of provision of funds for
24 reimbursement.

25 (2) In order for a claim under subsection (1)(b)(iii) of this
26 section to be eligible for reimbursement from the landlord mitigation
27 program account, a landlord must:

28 (a) Have ensured that the rental property was inspected at the
29 commencement of the tenancy by both the tenant and the landlord or
30 landlord's agent and that a detailed written move-in property
31 inspection report, as required in RCW 59.18.260, was prepared and
32 signed by both the tenant and the landlord or landlord's agent;

33 (b) Make repairs and then apply for reimbursement to the
34 department;

35 (c) Submit a claim on a form to be determined by the department,
36 signed under penalty of perjury; and

37 (d) Submit to the department copies of the move-in property
38 inspection report specified in (a) of this subsection and supporting
39 materials including, but not limited to, before repair and after
40 repair photographs, videos, copies of repair receipts for labor and

1 materials, and such other documentation or information as the
2 department may request.

3 (3) The department shall make reasonable efforts to review a
4 claim within ten business days from the date it received properly
5 submitted and complete claims to the satisfaction of the department.
6 In reviewing a claim pursuant to subsection (1)(b) of this section,
7 and determining eligibility for reimbursement, the department must
8 receive documentation, acceptable to the department in its sole
9 discretion, that the claim involves a private market rental unit
10 rented to a low-income tenant who is using a housing subsidy program.

11 (4) Claims pursuant to subsection (1)(b) of this section related
12 to a tenancy must total at least five hundred dollars in order for a
13 claim to be eligible for reimbursement from the program. While claims
14 or damages may exceed five thousand dollars, total reimbursement from
15 the program may not exceed five thousand dollars per tenancy.

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

24 (6) All reimbursements for eligible claims shall be made on a
25 first-come, first-served basis, to the extent of available funds. The
26 department shall use best efforts to notify the tenant of the amount
27 and the reasons for any reimbursements made.

28 (7) The department, in its sole discretion, may inspect the
29 property and the landlord's records related to a claim, including the
30 use of a third-party inspector as needed to investigate fraud, to
31 assist in making its claim review and determination of eligibility.

32 (8) A landlord in receipt of reimbursement from the program
33 pursuant to subsection (1)(b) of this section is prohibited from:

34 (a) Taking legal action against the tenant for damages
35 attributable to the same tenancy; or

36 (b) Pursuing collection, or authorizing another entity to pursue
37 collection on the landlord's behalf, of a judgment against the tenant
38 for damages attributable to the same tenancy.

39 (9) A landlord denied reimbursement under subsection (1)(b)(iii)
40 of this section may seek to obtain a judgment from a court of

1 competent jurisdiction and, if successful, may resubmit a claim for
2 damages supported by the judgment, along with a certified copy of the
3 judgment. The department may reimburse the landlord for that portion
4 of such judgment that is based on damages reimbursable under the
5 landlord mitigation program, subject to the limitations set forth in
6 this section.

7 (10) Determinations regarding reimbursements shall be made by the
8 department in its sole discretion.

9 (11) The department must establish a web site that advertises the
10 landlord mitigation program, the availability of reimbursement from
11 the landlord mitigation program account, and maintains or links to
12 the agency rules and policies established pursuant to this section.

13 (12) Neither the state, the department, or persons acting on
14 behalf of the department, while acting within the scope of their
15 employment or agency, is liable to any person for any loss, damage,
16 harm, or other consequence resulting directly or indirectly from the
17 department's administration of the landlord mitigation program or
18 determinations under this section.

19 (13)(a) A report to the appropriate committees of the legislature
20 on the effectiveness of the program and recommended modifications
21 shall be submitted to the governor and the appropriate committees of
22 the legislature by January 1, 2021. In preparing the report, the
23 department shall convene and solicit input from a group of
24 stakeholders to include representatives of large multifamily housing
25 property owners or managers, small rental housing owners in both
26 rural and urban markets, a representative of tenant advocates, and a
27 representative of the housing authorities.

28 (b) The report shall include discussion of the effectiveness of
29 the program as well as the department's recommendations to improve
30 the program, and shall include the following:

31 (i) The number of total claims and total amount reimbursed to
32 landlords by the fund;

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

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

36 (iv) An outline of the process to obtain reimbursement for
37 improvements and for damages from the fund;

38 (v) An outline of the process to obtain reimbursement for lost
39 rent due to the rental inspection and tenant screening process,
40 together with the total amount reimbursed for such damages;

1 (vi) An evaluation of the feasibility for expanding the use of
2 the mitigation fund to provide up to ninety-day no interest loans to
3 landlords who have not received timely rental payments from a housing
4 authority that is administering section 8 rental assistance;

5 (vii) Any other modifications and recommendations made by
6 stakeholders to improve the effectiveness and applicability of the
7 program.

8 (14) As used in this section:

9 (a) "Housing subsidy program" means a housing voucher as
10 established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other
11 housing subsidy program including, but not limited to, valid short-
12 term or long-term federal, state, or local government, private
13 nonprofit, or other assistance program in which the tenant's rent is
14 paid either partially by the program and partially by the tenant, or
15 completely by the program directly to the landlord;

16 (b) "Low-income" means income that does not exceed eighty percent
17 of the median income for the standard metropolitan statistical area
18 in which the private market rental unit is located; and

19 (c) "Private market rental unit" means any unit available for
20 rent that is owned by an individual, corporation, limited liability
21 company, nonprofit housing provider, or other entity structure, but
22 does not include housing acquired, or constructed by a public housing
23 agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018.

24 **Sec. 3.** RCW 59.18.253 and 2011 c 132 s 12 are each amended to
25 read as follows:

26 (1) It shall be unlawful for a landlord to require a fee or
27 deposit from a prospective tenant for the privilege of being placed
28 on a waiting list to be considered as a tenant for a dwelling unit.

29 (2) A landlord who charges a prospective tenant a fee or deposit
30 to hold a dwelling unit or secure that the prospective tenant will
31 move into a dwelling unit, after the dwelling unit has been offered
32 to the prospective tenant, must provide the prospective tenant with a
33 receipt for the fee or deposit, together with a written statement of
34 the conditions, if any, under which the fee or deposit may be
35 retained, immediately upon payment of the fee or deposit.

36 (3) A landlord may not request a fee or deposit to hold a
37 dwelling or secure that the prospective tenant will move into the
38 dwelling unit in excess of twenty-five percent of the first month's
39 rent as described in section 1(4) of this act.

1 (4)(a) If the prospective tenant does occupy the dwelling unit,
2 then the landlord must credit the amount of the fee or deposit to the
3 tenant's first month's rent or to the tenant's security deposit. If
4 the prospective tenant does not occupy the dwelling unit, then the
5 landlord may keep up to the full amount of any fee or deposit that
6 was paid by the prospective tenant to secure the tenancy, so long as
7 it is in accordance with the written statement of conditions
8 furnished to the prospective tenant at the time the fee or deposit
9 was charged.

10 (b) A fee or deposit to hold a dwelling unit or secure that the
11 prospective tenant will move into a dwelling unit under this
12 subsection does not include any cost charged by a landlord to use a
13 tenant screening service or obtain background information on a
14 prospective tenant.

15 (c) A portion of the fee or deposit may not be withheld if the
16 dwelling unit fails a tenant-based rental assistance program
17 inspection by a qualified inspector as defined in RCW 59.18.030. If
18 the inspection does not occur within ten days from the date of
19 collection of the fee or deposit or a longer period of time that the
20 landlord and tenant may agree upon, the landlord may notify the
21 tenant that the dwelling unit will no longer be held. The landlord
22 shall promptly return the fee or deposit to the prospective tenant
23 after the landlord is notified that the dwelling unit failed the
24 inspection or the landlord has notified the tenant that the dwelling
25 unit will no longer be held. The landlord complies with this section
26 by promptly depositing the fee or deposit in the United States mail
27 properly addressed with first-class postage prepaid.

28 (~~(4)~~) (5) In any action brought for a violation of this
29 section, a landlord may be liable for the amount of the fee or
30 deposit charged. In addition, any landlord who violates this section
31 may be liable to the prospective tenant for an amount not to exceed
32 two times the fee or deposit. The prevailing party may also recover
33 court costs and a reasonable attorneys' fee.

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