
SUBSTITUTE HOUSE BILL 1388

State of Washington

68th Legislature

2023 Regular Session

By House Housing (originally sponsored by Representatives Macri, Ramel, Peterson, Thai, Gregerson, Hackney, Ormsby, Alvarado, Doglio, Cortes, Riccelli, Mena, Kloba, Bateman, Fitzgibbon, Street, Taylor, Lekanoff, Simmons, Farivar, Pollet, Stonier, Berry, Reed, Bergquist, Morgan, Davis, Santos, Chopp, Stearns, and Fosse)

READ FIRST TIME 02/14/23.

1 AN ACT Relating to protecting tenants by prohibiting predatory
2 residential rent practices and by applying the consumer protection
3 act to the residential landlord-tenant act and the manufactured/
4 mobile home landlord-tenant act; adding new sections to chapter 59.18
5 RCW; adding new sections to chapter 59.20 RCW; prescribing penalties;
6 and declaring an emergency.

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

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

10 (1) Except as provided in subsection (2) of this section, a
11 landlord is prohibited from engaging in any of the following
12 practices:

13 (a) A landlord may not rent or seek to rent a dwelling unit at an
14 excessive rent, if such rent increase is beyond the amount reasonably
15 necessary to maintain or improve the dwelling unit, and is:

16 (i) Substantially likely to cause the tenant or household to move
17 or involuntarily relocate from the home; or

18 (ii) Used as a means to avoid other protections afforded to
19 tenants under this chapter or any other applicable law;

20 (b) A landlord may not charge a higher rent or include terms of
21 payment or other material conditions in a rental agreement that are

1 more burdensome to a tenant for a month-to-month rental agreement
2 than for a rental agreement where the term is greater than month-to-
3 month, or vice versa; and

4 (c) A landlord may not charge a tenant move-in fees or security
5 deposits that exceed one month's rent.

6 (2) This section does not apply to:

7 (a) A tenancy in a federally funded property owned or operated by
8 a public housing authority under chapter 35.82 RCW, or a tenancy in a
9 property that is funded through a housing assistance program under
10 chapter 43.185 RCW; and

11 (b) A tenancy in a dwelling unit for which the first certificate
12 of occupancy for the dwelling unit was issued 12 or less years before
13 the date of the notice of the rent increase.

14 (3) The attorney general may investigate practices that are
15 violations of this section. The attorney general may issue civil
16 investigative demands for documents, answers to written
17 interrogatories, or testimony to any person that the attorney general
18 has reason to believe has violated this section or has information or
19 knowledge pertaining to a violation of this section. When
20 investigating, the attorney general may consider, in addition to any
21 other relevant information:

22 (a) The condition of the dwelling unit. For example, outstanding
23 repair issues, maintenance costs other than for cosmetic upgrades,
24 property taxes, or other information pertaining to the care and
25 maintenance of the dwelling unit and premises;

26 (b) Whether a rent increase, move-in fee, security deposit, term
27 of payment, or other material condition in the lease was used to
28 evade protections afforded to tenants under this chapter or any other
29 source of legal rights. For example, whether the tenant made any
30 complaints regarding repair issues prior to the issuance of the rent
31 increase notice; and

32 (c) Whether a rent increase will cause the tenant or household to
33 move or involuntarily relocate from the home. For example, the
34 economic and financial position of the tenant's household.

35 (4) The attorney general may issue a cease and desist letter to
36 any person to restrain and prevent violations of this section. If the
37 recipient of a cease and desist letter does not comply within five
38 calendar days of receipt of the letter, the attorney general may file
39 an action in superior court to enforce this section. If the court
40 finds that the person violated this section and failed to comply with

1 a cease and desist letter, the court shall enjoin the person from
2 engaging in conduct that violates this section and impose a civil
3 penalty of no more than \$10,000 in addition to other remedies per
4 violation of the cease and desist letter. In any successful action to
5 enforce a cease and desist letter under this section, the court shall
6 award the attorney general the costs of bringing the action,
7 including reasonable investigative costs and reasonable attorneys'
8 fees, plus damages and restitution for any persons harmed by the
9 violation.

10 (5) The attorney general may enforce this section in superior
11 court. In any successful action under this section, the court shall
12 impose a civil penalty of no more than \$25,000 per violation, and
13 shall award the attorney general the costs of bringing the action,
14 including reasonable investigative costs and reasonable attorneys'
15 fees, plus damages and restitution for any persons harmed by the
16 violation. The remedies under this subsection are in addition to, and
17 are not prerequisites for, any other remedies a court may order under
18 subsection (6) of this section. Additional civil penalties may not be
19 assessed for the same violation under the consumer protection act
20 pursuant to RCW 19.86.140.

21 (6) A tenant whose landlord engages in practices in violation of
22 this section and pays rent or other charges in excess of amounts
23 permitted by this section has a cause of action against the landlord
24 to recover actual damages in the amount of the excess rent or other
25 charges paid, mandatory punitive damages equal to three months of the
26 unlawful higher rent or charges that the tenant paid, and reasonable
27 attorneys' fees and costs incurred in bringing the action.

28 (7) The remedies provided by this section are in addition to any
29 other remedies provided by law.

30 (8) It is a defense to an unlawful detainer action under chapter
31 59.12 RCW that the action to remove the tenant and recover possession
32 of the premises was for nonpayment of rent that was unlawfully
33 increased in violation of this section.

34 (9) A landlord may not report the tenant to a tenant screening
35 service provider for failure to pay rent that was unlawfully
36 increased in violation of this section.

37 (10) By January 1, 2024, the office of the attorney general shall
38 produce and maintain on its website translated versions of this
39 section in the 10 languages most frequently spoken in Washington
40 state and, at the discretion of the office of the attorney general,

1 other languages as requested by individuals who have limited English
2 language proficiency. A translation must be made available upon
3 request in printed form on letter size paper, eight and one-half by
4 11 inches, and in an easily readable font size.

5 (11) For the purposes of this section:

6 (a) "Excessive rent" means a rent increase during any 12-month
7 period that is greater than the rate of inflation as measured by the
8 consumer price index or three percent, whichever is greater, up to a
9 maximum of seven percent above the existing rent. The maximum annual
10 rent increase percentage allowed for each calendar year is calculated
11 and published by the department of commerce as required in section 2
12 of this act.

13 (b) "Rate of inflation as measured by the consumer price index"
14 means the September 12-month percent change in the consumer price
15 index for all urban consumers (CPI-U), west region, all items, not
16 seasonally adjusted, or a successor index, as published by the bureau
17 of labor statistics of the United States department of labor in
18 September of the current calendar year.

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

21 (1) On September 30, 2023, and on each following September 30th,
22 the department of commerce shall calculate the maximum annual rent
23 increase percentage allowed by sections 1 and 4 of this act for the
24 following calendar year. The maximum annual rent increase percentage
25 allowed for the following calendar year is the rate of inflation as
26 measured by the consumer price index or three percent, whichever is
27 greater, up to a maximum of seven percent. For the purposes of this
28 section, "rate of inflation as measured by the consumer price index"
29 means the September 12-month percent change in the consumer price
30 index for all urban consumers (CPI-U), west region, all items, not
31 seasonally adjusted, or a successor index, as published by the bureau
32 of labor statistics of the United States department of labor in
33 September of the current calendar year.

34 (2) On September 30, 2023, and on each following September 30th,
35 the department of commerce shall publish the maximum annual rent
36 increase percentage calculated under subsection (1) of this section,
37 along with the relevant excessive rent protection provisions in
38 sections 1 and 4 of this act, in a press release.

1 (3) The department of commerce shall maintain publicly available
2 information on its website about the maximum annual rent increase
3 percentage for the previous calendar year and for the current
4 calendar year, and on or after September 30th of each year, for the
5 following calendar year.

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

8 (1) The legislature finds that the practices covered by this
9 chapter are matters vitally affecting the public interest for the
10 purpose of applying the consumer protection act, chapter 19.86 RCW.

11 (2) A violation of this chapter by a landlord including, but not
12 limited to, a violation of a cease and desist letter issued pursuant
13 to section 1 of this act, is not reasonable in relation to the
14 development and preservation of business and is an unfair or
15 deceptive act in trade or commerce and an unfair method of
16 competition for the purpose of applying the consumer protection act,
17 chapter 19.86 RCW.

18 (3) Any violation of this chapter by a landlord is also a
19 violation of RCW 19.86.020 of the consumer protection act.

20 NEW SECTION. **Sec. 4.** A new section is added to chapter 59.20
21 RCW to read as follows:

22 (1) Except as provided in subsection (2) of this section and in
23 RCW 59.20.060(2)(c), a landlord is prohibited from engaging in any of
24 the following practices:

25 (a) A landlord may not rent or seek to rent a mobile home lot at
26 an excessive rent, if such rent increase is beyond the amount
27 reasonably necessary to maintain or improve the mobile home lot, and
28 is:

29 (i) Substantially likely to cause the tenant or household to move
30 or involuntarily relocate from the mobile home lot; or

31 (ii) Used as a means to avoid other protections afforded to
32 tenants under this chapter or any other applicable law;

33 (b) A landlord may not charge a higher rent or include terms of
34 payment or other material conditions in a rental agreement that are
35 more burdensome to a tenant for a month-to-month rental agreement
36 than for a rental agreement where the term is greater than month-to-
37 month, or vice versa; and

1 (c) A landlord may not charge a tenant move-in fees or security
2 deposits that exceed one month's rent.

3 (2) This section does not apply to a tenancy in a federally
4 funded property owned or operated by a public housing authority under
5 chapter 35.82 RCW, or a tenancy in a property that is funded through
6 a housing assistance program under chapter 43.185 RCW.

7 (3) The attorney general may investigate practices that are
8 violations of this section. The attorney general may issue civil
9 investigative demands for documents, answers to written
10 interrogatories, or testimony to any person that the attorney general
11 has reason to believe has violated this section or has information or
12 knowledge pertaining to a violation of this section. When
13 investigating, the attorney general may consider, in addition to any
14 other relevant information:

15 (a) The condition of the mobile home lot. For example,
16 outstanding repair issues, maintenance costs other than for cosmetic
17 upgrades, property taxes, or other information pertaining to the care
18 and maintenance of the mobile home lot and premises;

19 (b) Whether a rent increase, move-in fee, security deposit, term
20 of payment, or other material condition in the lease was used to
21 evade protections afforded to tenants under this chapter or any other
22 source of legal rights. For example, whether the tenant made any
23 complaints regarding repair issues prior to the issuance of the rent
24 increase notice; and

25 (c) Whether a rent increase will cause the tenant or household to
26 move or involuntarily relocate from the mobile home lot. For example,
27 the economic and financial position of the tenant's household.

28 (4) The attorney general may issue a cease and desist letter to
29 any person to restrain and prevent violations of this section. If the
30 recipient of a cease and desist letter does not comply within five
31 calendar days of receipt of the letter, the attorney general may file
32 an action in superior court to enforce this section. If the court
33 finds that the person violated this section and failed to comply with
34 a cease and desist letter, the court shall enjoin the person from
35 engaging in conduct that violates this section and impose a civil
36 penalty of no more than \$10,000 in addition to other remedies per
37 violation of the cease and desist letter. In any successful action to
38 enforce a cease and desist letter under this section, the court shall
39 award the attorney general the costs of bringing the action,
40 including reasonable investigative costs and reasonable attorneys'

1 fees, plus damages and restitution for any persons harmed by the
2 violation.

3 (5) The attorney general may enforce this section in superior
4 court. In any successful action under this section, the court shall
5 impose a civil penalty of no more than \$25,000 per violation, and
6 shall award the attorney general the costs of bringing the action,
7 including reasonable investigative costs and reasonable attorneys'
8 fees, plus damages and restitution for any persons harmed by the
9 violation. The remedies under this subsection are in addition to, and
10 are not prerequisites for, any other remedies a court may order under
11 subsection (6) of this section. Additional civil penalties may not be
12 assessed for the same violation under the consumer protection act
13 pursuant to RCW 19.86.140.

14 (6) A tenant whose landlord engages in practices in violation of
15 this section and pays rent or other charges in excess of amounts
16 permitted by this section has a cause of action against the landlord
17 to recover actual damages in the amount of the excess rent or other
18 charges paid, mandatory punitive damages equal to three months of the
19 unlawful higher rent or charges that the tenant paid, and reasonable
20 attorneys' fees and costs incurred in bringing the action.

21 (7) The remedies provided by this section are in addition to any
22 other remedies provided by law.

23 (8) It is a defense to an unlawful detainer action under chapter
24 59.12 RCW that the action to remove the tenant and recover possession
25 of the premises was for nonpayment of rent that was unlawfully
26 increased in violation of this section.

27 (9) A landlord may not report the tenant to a tenant screening
28 service provider for failure to pay rent that was unlawfully
29 increased in violation of this section.

30 (10) By January 1, 2024, the office of the attorney general shall
31 produce and maintain on its website translated versions of this
32 section in the 10 languages most frequently spoken in Washington
33 state and, at the discretion of the office of the attorney general,
34 other languages as requested by individuals who have limited English
35 language proficiency. A translation must be made available upon
36 request in printed form on letter size paper, eight and one-half by
37 11 inches, and in an easily readable font size.

38 (11) For the purposes of this section:

39 (a) "Excessive rent" means a rent increase during any 12-month
40 period that is greater than the rate of inflation as measured by the

1 consumer price index or three percent, whichever is greater, up to a
2 maximum of seven percent above the existing rent. The maximum annual
3 rent increase percentage allowed for each calendar year is calculated
4 and published by the department of commerce as required in section 2
5 of this act.

6 (b) "Rate of inflation as measured by the consumer price index"
7 means the September 12-month percent change in the consumer price
8 index for all urban consumers (CPI-U), west region, all items, not
9 seasonally adjusted, or a successor index, as published by the bureau
10 of labor statistics of the United States department of labor in
11 September of the current calendar year.

12 NEW SECTION. **Sec. 5.** A new section is added to chapter 59.20
13 RCW to read as follows:

14 (1) The legislature finds that the practices covered by this
15 chapter are matters vitally affecting the public interest for the
16 purpose of applying the consumer protection act, chapter 19.86 RCW.

17 (2) A violation of this chapter by a landlord including, but not
18 limited to, a violation of a cease and desist letter issued pursuant
19 to section 4 of this act, is not reasonable in relation to the
20 development and preservation of business and is an unfair or
21 deceptive act in trade or commerce and an unfair method of
22 competition for the purpose of applying the consumer protection act,
23 chapter 19.86 RCW.

24 (3) Any violation of this chapter by a landlord is also a
25 violation of RCW 19.86.020 of the consumer protection act.

26 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of
28 the state government and its existing public institutions, and takes
29 effect immediately.

--- END ---