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Senate Committee Services

DRAFT

AN ACT Relating to residential and manufactured/mobile home tenant and landlord protections in response to the COVID-19 public health emergency; amending RCW ...; adding new sections to chapter 59.18 RCW; adding a new section to chapter 2.53 RCW; repealing RCW ...; prescribing penalties; and declaring an emergency.

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

NEW SECTION. **Sec.** INTENT SECTION

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

The definitions in this section apply throughout sections 3 through 5 and 18 of this act unless the context clearly requires otherwise.

(1) "Dwelling unit" has the same meaning as defined in RCW 59.18.030, and includes a manufactured/mobile home or a mobile home lot as defined in RCW 59.20.030.

(2) "Eviction moratorium" refers to the Governor of the State of Washington's Proclamation 20-19.4, proclaiming a moratorium on certain evictions for all counties throughout Washington state on October 15, 2020, and any subsequent orders extending or amending such proclamation until it expires or is terminated by the Governor of the State of Washington.

(3) "Landlord" has the same meaning as defined in RCW 59.18.030 and RCW 59.20.030.

(4) "Public health emergency" refers to the governor of the State of Washington's Proclamation 20-05, proclaiming a state of emergency for all counties throughout Washington state on February 29, 2020, and any subsequent orders extending or amending such proclamation due to COVID-19 until the proclamation expires or is terminated by the Governor of the State of Washington. "Public health emergency" also refers to any proclamation declaring a state of emergency for all counties in Washington state.

(5) "Rent" has the same meaning as defined in RCW 59.18.030.

(6) "Reprisal or retaliatory action" has the same meaning as defined in RCW 59.18.240(2).

(7) "Tenant" refers to any individual renting a dwelling unit or lot primarily for living purposes, including any individual with a tenancy subject to chapter 59.18 or 59.20 RCW.

TENANT PROTECTIONS

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

(1) (a) Until two years after expiration of the public health emergency, a landlord may not terminate a tenancy or refuse to renew a rental agreement pursuant to RCW 59.12.030(2), 59.18.200, or 59.18.220 unless the landlord intends to sell the rental dwelling unit or the property on which the rental dwelling sits or intends to occupy the rental dwelling unit as their primary residence.

(b) When the landlord seeks to terminate a tenancy or refuse to renew a rental agreement as allowed under (a) of this subsection, the landlord must provide at least sixty days' notice to the tenant in the form of an affidavit signed under penalty of perjury.

(2) If a tenant has any unpaid rent that accrued between March 1, 2020, and [Gov eviction moratorium exp. date], and except as provided in subsection (1) of this section, there is a presumption

that any notice issued to a tenant under RCW 59.12.030(2), 59.18.200, or 59.18.220 constitutes a reprisal or retaliatory action. A landlord may not take any adverse action against a tenant who raises their rights under this section.

(3) A landlord in violation of this section is liable in a civil action for up to four and one-half times the monthly rent of the real property at issue, as well as court costs and reasonable attorneys' fees.

NEW SECTION. **Sec. 4.** A new section is added to chapter 59.18 RCW to read as follows:

(1) A tenant's right to possession of a dwelling unit used primarily for residential purposes cannot be conditioned on satisfaction of any rent that accrued between March 1, 2020, and [Gov eviction moratorium exp. date]. A landlord may not treat any unpaid rent accrued between March 1, 2020, and [Gov eviction moratorium exp. date], as an enforceable debt or obligation that is owing or collectable within an action for possession of the rental dwelling unit.

(2) A tenant who has been adversely impacted during the public health emergency may elect to terminate their tenancy upon a twenty-day written notice, which includes a statement that they are terminating their tenancy due to COVID-19. Any tenant who elects to terminate their tenancy under this subsection must not be assessed any penalty, early termination fee, or any other amount for the failure to continue their tenancy for a predetermined amount of time. Any deposit paid by the tenant must not be deemed forfeited by their election to terminate their tenancy under this subsection.

(3) A tenant's nonpayment of rent for rent that accrued between March 1, 2020, and [Gov eviction moratorium exp. date], must not be a factor in any housing decision effecting a tenant's right or ability to occupy a rental dwelling unit. A tenant's early termination of a prior lease in accordance with subsection (2) of this section must not be a factor in any housing decision effecting

the tenant's right or ability to occupy a rental dwelling unit. This subsection applies equally to tenants and prospective tenants.

(4) A landlord may not charge or impose any late fees or other charges against any tenant for the nonpayment of rent that became due during the public health emergency.

(5) (a) A landlord may not deny, discourage, or otherwise make unavailable any rental dwelling unit based on a tenant's or prospective tenant's medical history, including, but not limited to, the tenant's or prospective tenant's prior or current exposure or infection to the COVID-19 virus.

(b) A landlord may not inquire about, consider, or require disclosure of a tenant's or prospective tenant's medical records or history, unless such disclosure is necessary to evaluate a reasonable accommodation request or reasonable modification request under RCW 49.60.222.

(c) A violation of this subsection (5) constitutes a violation of chapter 49.60 RCW.

(6) A landlord in violation of this section is liable in a civil action for up to four and one-half times the monthly rent of the real property at issue, as well as court costs and reasonable attorneys' fees.

REPAYMENT PLANS

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

(1) (a) To seek any remaining unpaid rent that accrued between March 1, 2020, and [Gov eviction moratorium exp. date], from the tenant before taking any collection action, a landlord must first offer the tenant a repayment plan providing for the following payment arrangements:

(i) If the tenant owes X months of rent or less, the rent must be payable in at least three equal and consecutive monthly installments;

(ii) If the tenant owes more than X months of rent but no more than Y months of rent, the rent must be payable in at least five equal and consecutive monthly installments;

(iii) If the tenant owes more than Y months of rent, the rent must be payable in at least six equal and consecutive monthly installments.

(b) Nothing in this section prohibits the landlord from providing repayment plan agreements with terms more favorable to the tenant.

(c) For purposes of this section, "collection action" means any attempts to collect, or threats to collect, through a collection agency, by filing a judicial action other than one for possession, withholding any portion of a security deposit, billing or invoicing, reporting to credit bureaus, reporting to tenant screening companies, or by any other means.

(2) Any repayment plan entered into under this section must:

(a) Not require payment until sixty days after the repayment plan is offered to the tenant;

(b) Cover rent only and not any late fees, attorneys' fees, or any other fees and charges;

(c) Allow for payments from any source of income as defined in RCW 59.18.255(5) or from pledges by nonprofit organizations, churches, religious institutions, or governmental entities;

(d) Not include provisions or be conditioned on: The tenant's compliance with the rental agreement, payment of attorneys' fees, court costs, or other costs related to litigation if the tenant defaults on the rental agreement; or a requirement that the tenant apply for governmental benefits or provide proof of receipt of governmental benefits; or

(e) Authorize any form of expedited unlawful detainer or eviction process other than that provided for under chapter 59.12 RCW or this chapter.

(3) (a) If a tenant refuses the offer of a repayment plan or defaults on any rent owed under a repayment plan entered under this

section, the landlord may proceed with an unlawful detainer action pursuant to section 6 of this act.

(b) It is a defense to an eviction under RCW 59.12.030 that a landlord did not offer a repayment plan under this section. This defense is not available if a landlord demonstrates by a preponderance of the evidence to a court that the tenant was offered, and refused or failed to comply with, a repayment plan.

MEDIATION SESSION & RIGHT TO COUNSEL

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

(1) Before issuance of any writ of restitution or judgment for the landlord, the landlord must schedule with the court a mediation session with at least seven days' notice to the tenant in which the parties must engage in good faith efforts to resolve the unlawful detainer before a trial may be scheduled. Any such notice must inform the tenant that failure to appear at the mediation session may result in a writ of restitution being issued and an eviction. The cost of the mediation, if any, must be shared evenly between the parties, but the tenant's portion may be included as part of any agreed upon repayment plan. Any party who does not participate in the mediation process in good faith is liable for the entire cost of the mediation, if any.

(2) (a) Within X days after the conclusion of the mediation session, the mediator must send a written certification to the court stating:

(i) The date, time, and location of the mediation session;

(ii) The names of all persons attending in person, or participating by telephone or video conference;

(iii) Whether resolution was reached by the parties, including whether any repayment plan or some other alternative to an unlawful detainer action was agreed upon by the parties; and

(iv) Whether the parties participated in the mediation in good faith.

(b) If the parties fail to reach a resolution after inquiry by the court, the court must order the parties to proceed with a trial on a future court date as soon as practicable with no bond or rent required of either party.

(c) On the day of the trial hearing, the tenant may submit any defenses to the pleadings by asserting them orally or in writing unless, at the mediation session, the court has issued a schedule for asserting any subsequent pleadings. If the tenant fails to appear at the mediation session or trial hearing, the court may issue an order of writ of restitution for the landlord, but may not award any monetary judgment to the plaintiff.

(2) Except as provided in this section, a writ of restitution may not be issued by a court against a tenant covered under this chapter before a trial on the pleadings.

(3) A party may seek discovery from the opposing party before the hearing by order of the court and upon terms the court deems necessary for a full and fair hearing on the merits of the pleadings.

(4) RCW 59.12.150 does not apply to proceedings brought under this chapter.

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

(1) In accordance with RCW 59.18.365 and upon filing of the notice required under section 6 of this act, the landlord must also notify the tenant of the right to be represented by counsel and, if indigent, to have counsel appointed for the tenant by the court.

(2) The court must appoint an attorney for an indigent tenant at any mediation session or scheduled trial on the pleadings. Subject to the availability of amounts appropriated for this specific purpose, the state shall pay the costs of legal services provided by an attorney appointed pursuant to this subsection. The

office of civil legal aid is responsible for implementation of this subsection as provided in section 8 of this act.

(3) If a tenant has been represented by counsel during the mediation session described under section 6 of this act, the court must make every effort to appoint the same counsel, if possible, when the matter is scheduled for trial on the pleadings.

(4) For purposes of this section, "indigent" means any person who is financially unable to obtain counsel or other necessary expert or professional services without causing substantial hardship to the person or his or her family.

NEW SECTION. **Sec. 8.** A new section is added to chapter 2.53 RCW to read as follows:

Money appropriated by the legislature for legal services provided by an attorney appointed pursuant to section 7 of this act must be administered by the office of civil legal aid established under RCW 2.53.020. The office of civil legal aid must enter into contracts with attorneys and agencies for the provision of legal services under section 7 of this act to remain within appropriated amounts.

Sec. 9. RCW 36.18.020 and 2018 c 269 s 17 are each amended to read as follows:

(1) Revenue collected under this section is subject to division with the state under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsection (5) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial document in any civil action, including, but not limited to an action for restitution, adoption, or change of

name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the document is filed, a fee of two hundred dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include ~~((an order to show cause or))~~ any ~~((other))~~ order or judgment except a default order or default judgment in an unlawful detainer action. The plaintiff in an unlawful detainer action must pay the balance of the filing fee upon conclusion of the mediation session or before a trial on the pleadings is scheduled.

(b) Any party, except a defendant in a criminal case, filing the first or initial document on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the document is filed, a fee of two hundred dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of two hundred dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first document therein, a fee of two hundred dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition

objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of two hundred dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, an adult defendant in a criminal case shall be liable for a fee of two hundred dollars, except this fee shall not be imposed on a defendant who is indigent as defined in RCW 10.101.010(3) (a) through (c).

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972. However, no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

(4) No fee shall be collected when an abstract of judgment is filed by the county clerk of another county for the purposes of collection of legal financial obligations.

(5) (a) Until July 1, 2021, in addition to the fees required to be collected under this section, clerks of the superior courts must collect surcharges as provided in this subsection (5) of which seventy-five percent must be remitted to the state treasurer for deposit in the judicial stabilization trust account and twenty-five percent must be retained by the county.

(b) On filing fees required to be collected under subsection (2) (b) of this section, a surcharge of thirty dollars must be collected.

(c) On all filing fees required to be collected under this section, except for fees required under subsection (2)(b), (d), and (h) of this section, a surcharge of forty dollars must be collected.

Sec. 10. RCW 59.12.040 and 2010 c 8 s 19007 are each amended to read as follows:

Any notice provided for in this chapter shall be served either (1) by delivering a copy personally to the person entitled thereto; or (2) if he or she be absent from the premises unlawfully held, by leaving there a copy, with some person of suitable age and discretion, and sending a copy through the mail addressed to the person entitled thereto at his or her place of residence; or (3) if the person to be notified be a tenant, or an unlawful holder of premises, and his or her place of residence is not known, or if a person of suitable age and discretion there cannot be found then by affixing a copy of the notice in a conspicuous place on the premises unlawfully held, and also delivering a copy to a person there residing, if such a person can be found, and also sending a copy through the mail addressed to the tenant, or unlawful occupant, at the place where the premises unlawfully held are situated. Service upon a subtenant may be made in the same manner: PROVIDED, That in cases where the tenant or unlawful occupant, shall be conducting a hotel, inn, lodging house, boarding house, or shall be renting rooms while still retaining control of the premises as a whole, that the guests, lodgers, boarders, or persons renting such rooms shall not be considered as subtenants within the meaning of this chapter, but all such persons may be served by affixing a copy of the notice to be served in two conspicuous places upon the premises unlawfully held; and such persons shall not be necessary parties defendant in an action to recover possession of said premises. Service of any

notice provided for in this chapter may be had upon a corporation by delivering a copy thereof to any officer, agent, or person having charge of the business of such corporation, at the premises unlawfully held, and in case no such officer, agent, or person can be found upon such premises, then service may be had by affixing a copy of such notice in a conspicuous place upon said premises and by sending a copy through the mail addressed to such corporation at the place where said premises are situated. Proof of any service under this section may be made by the affidavit of the person making the same in like manner and with like effect as the proof of service of summons in civil actions. When a copy of notice is sent through the mail, as provided in this section, service shall be deemed complete when such copy is deposited in the United States mail in the county in which the property is situated properly addressed with postage prepaid: PROVIDED, HOWEVER, That when service is made by mail one additional day shall be allowed before the commencement of an action based upon such notice. (~~RCW 59.18.375 may also apply to notice given under this chapter.~~)

Sec. 11. RCW 59.18.057 and 2020 c 315 s 2 are each amended to read as follows:

(1) Every fourteen-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

"TO:

AND TO:

ADDRESS:

FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES

You are receiving this notice because the landlord alleges you are not in compliance with the terms of the lease agreement by

failing to pay rent and/or utilities and/or recurring or periodic charges that are past due.

(1) Monthly rent due for (list month(s)): \$ (dollar amount)

AND/OR

(2) Utilities due for (list month(s)): \$ (dollar amount)

AND/OR

(3) Other recurring or periodic charges identified in the lease for (list month(s)): \$ (dollar amount)

TOTAL AMOUNT DUE: \$ (dollar amount)

Note - payment must be made pursuant to the terms of the rental agreement or by nonelectronic means including, but not limited to, cashier's check, money order, or other certified funds.

You must pay the total amount due to your landlord within fourteen (14) days after service of this notice or you must vacate the premises. Any payment you make to the landlord must first be applied to the total amount due as shown on this notice. Any failure to comply with this notice within fourteen (14) days after service of this notice may result in a judicial proceeding that leads to your eviction from the premises.

The Washington state Office of the Attorney General has this notice in multiple languages on its web site. You will also find information there on (~~how to find a lawyer or advocate at low or no cost and~~) any available resources to help you pay your rent.

State law provides you the right to legal representation and to an appointed lawyer if indigent. Alternatively, for no-cost legal assistance for low-income renters who are not indigent call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. - 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional information to help you at <http://www.washingtonlawhelp.org>.

State law also provides you the right to receive interpreter services at court.

OWNER/LANDLORD: _____ DATE: _____

WHERE TOTAL AMOUNT DUE IS TO BE PAID: ____ (owner/landlord name) ____
____ (address) ____"

(2) The form required in this section does not abrogate any additional notice requirements to tenants as required by federal, state, or local law.

Sec. 12. RCW 59.18.115 and 1989 c 342 s 16 are each amended to read as follows:

(1) The legislature finds that some tenants live in residences that are substandard and dangerous to their health and safety and that the repair and deduct remedies of RCW 59.18.100 may not be adequate to remedy substandard and dangerous conditions. Therefore, an extraordinary remedy is necessary if the conditions substantially endanger or impair the health and safety of the tenant.

(2) (a) If a landlord fails to fulfill any substantial obligation imposed by RCW 59.18.060 that substantially endangers or impairs the health or safety of a tenant, including (i) structural members that are of insufficient size or strength to carry imposed loads with safety, (ii) exposure of the occupants to the weather, (iii) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (iv) lack of water, including hot water, (v) heating or ventilation systems that are not functional or are hazardous, (vi) defective, hazardous, or missing electrical

wiring or electrical service, (vii) defective or inadequate exits that increase the risk of injury to occupants, and (viii) conditions that increase the risk of fire, the tenant shall give notice in writing to the landlord, specifying the conditions, acts, omissions, or violations. Such notice shall be sent to the landlord or to the person or place where rent is normally paid.

(b) If after receipt of the notice described in (a) of this subsection the landlord fails to remedy the condition or conditions within a reasonable amount of time under RCW 59.18.070, the tenant may request that the local government provide for an inspection of the premises with regard to the specific condition or conditions that exist as provided in (a) of this subsection. The local government shall have the appropriate government official, or may designate a public or disinterested private person or company capable of conducting the inspection and making the certification, conduct an inspection of the specific condition or conditions listed by the tenant, and shall not inspect nor be liable for any other condition or conditions of the premises. The purpose of this inspection is to verify, to the best of the inspector's ability, whether the tenant's listed condition or conditions exist and substantially endanger the tenant's health or safety under (a) of this subsection; the inspection is for the purposes of this private civil remedy, and therefore shall not be related to any other governmental function such as enforcement of any code, ordinance, or state law.

(c) The local government or its designee, after receiving the request from the tenant to conduct an inspection under this section, shall conduct the inspection and make any certification within a reasonable amount of time not more than five days from the date of receipt of the request. The local government or its designee may

enter the premises at any reasonable time to do the inspection, provided that he or she first shall display proper credentials and request entry. The local government or its designee shall whenever practicable, taking into consideration the imminence of any threat to the tenant's health or safety, give the landlord at least twenty-four hours' notice of the date and time of inspection and provide the landlord with an opportunity to be present at the time of the inspection. The landlord shall have no power or authority to prohibit entry for the inspection.

(d) The local government or its designee shall certify whether the condition or the conditions specified by the tenant do exist and do make the premises substantially unfit for human habitation or can be a substantial risk to the health and safety of the tenant as described in (a) of this subsection. The certification shall be provided to the tenant, and a copy shall be included by the tenant with the notice sent to the landlord under subsection (3) of this section. The certification may be appealed to the local board of appeals, but the appeal shall not delay or preclude the tenant from proceeding with the escrow under this section.

(e) The tenant shall not be entitled to deposit rent in escrow pursuant to this section unless the tenant first makes a good faith determination that he or she is unable to repair the conditions described in the certification issued pursuant to subsection (2)(d) of this section through use of the repair remedies authorized by RCW 59.18.100.

(f) If the local government or its designee certifies that the condition or conditions specified by the tenant exist, the tenant shall then either pay the periodic rent due to the landlord or deposit all periodic rent then called for in the rental agreement and all rent thereafter called for in the rental agreement into an

escrow account maintained by a person authorized by law to set up and maintain escrow accounts, including escrow companies under chapter 18.44 RCW, financial institutions, or attorneys, or with the clerk of the court of the district or superior court where the property is located. These depositories are hereinafter referred to as "escrow." The tenant shall notify the landlord in writing of the deposit by mailing the notice postage prepaid by first-class mail or by delivering the notice to the landlord promptly but not more than twenty-four hours after the deposit.

(g) This section, when elected as a remedy by the tenant by sending the notice under subsection (3) of this section, shall be the exclusive remedy available to the tenant regarding defects described in the certification under subsection (2)(d) of this section: PROVIDED, That the tenant may simultaneously commence or pursue an action in an appropriate court, or at arbitration if so agreed, to determine past, present, or future diminution in rental value of the premises due to any defective conditions.

(3) The notice to the landlord of the rent escrow under this section shall be a sworn statement by the tenant in substantially the following form:

NOTICE TO LANDLORD OF RENT ESCROW

Name of tenant:

Name of landlord:

Name and address of escrow:

Date of deposit of rent into escrow:

Amount of rent deposited into escrow:

The following condition has been certified by a local building official to substantially endanger, impair, or affect the health or safety of a tenant:

That written notice of the conditions needing repair was provided to the landlord on . . . , and . . . days have elapsed and the repairs have not been made.

.

(Sworn Signature)

(4) The escrow shall place all rent deposited in a separate rent escrow account in the name of the escrow in a bank or savings and loan association domiciled in this state. The escrow shall keep in a separate docket an account of each deposit, with the name and address of the tenant, and the name and address of the landlord and of the agent, if any.

(5) (a) A landlord who receives notice that the rent due has been deposited with an escrow pursuant to subsection (2) of this section may:

(i) Apply to the escrow for release of the funds after the local government certifies that the repairs to the conditions listed in the notice under subsection (3) of this section have been properly repaired. The escrow shall release the funds to the landlord less any escrow costs for which the tenant is entitled to reimbursement pursuant to this section, immediately upon written receipt of the local government certification that the repairs to the conditions listed in the notice under subsection (3) of this section have been properly completed.

(ii) File an action with the court and apply to the court for release of the rent on the grounds that the tenant did not comply with the notice requirement of subsection (2) or (3) of this section. (~~Proceedings under this subsection shall be governed by the time, service, and filing requirements of RCW 59.18.370 regarding show cause hearings.~~)

(iii) File an action with the court and apply to the court for release of the rent on the grounds that there was no violation of any obligation imposed upon the landlord or that the condition has been remedied.

(iv) This action may be filed in any court having jurisdiction, including small claims court. If the tenant has vacated the premises or if the landlord has failed to commence an action with the court for release of the funds within sixty days after rent is deposited in escrow, the tenant may file an action to determine how and when any rent deposited in escrow shall be released or disbursed. The landlord shall not commence an unlawful detainer action for nonpayment of rent by serving or filing a summons and complaint if the tenant initially pays the rent called for in the rental agreement that is due into escrow as provided for under this section on or before the date rent is due or on or before the expiration of a three-day notice to pay rent or vacate and continues to pay the rent into escrow as the rent becomes due or prior to the expiration of a three-day notice to pay rent or vacate; provided that the landlord shall not be barred from commencing an unlawful detainer action for nonpayment of rent if the amount of rent that is paid into escrow is less than the amount of rent agreed upon in the rental agreement between the parties.

(b) The tenant shall be named as a party to any action filed by the landlord under this section, and shall have the right to file an answer and counterclaim, although any counterclaim shall be dismissed without prejudice if the court or arbitrator determines that the tenant failed to follow the notice requirements contained in this section. Any counterclaim can only claim diminished rental value related to conditions specified by the tenant in the notice required under subsection (3) of this section. This limitation on

the tenant's right to counterclaim shall not affect the tenant's right to bring his or her own separate action. A trial shall be held within sixty days of the date of filing of the landlord's or tenant's complaint.

(c) The tenant shall be entitled to reimbursement for any escrow costs or fees incurred for setting up or maintaining an escrow account pursuant to this section, unless the tenant did not comply with the notice requirements of subsection (2) or (3) of this section. Any escrow fees that are incurred for which the tenant is entitled to reimbursement shall be deducted from the rent deposited in escrow and remitted to the tenant at such time as any rent is released to the landlord. The prevailing party in any court action or arbitration brought under this section may also be awarded its costs and reasonable attorneys' fees.

(d) If a court determines a diminished rental value of the premises, the tenant may pay the rent due based on the diminished value of the premises into escrow until the landlord makes the necessary repairs.

(6) (a) If a landlord brings an action for the release of rent deposited, the court may, upon application of the landlord, release part of the rent on deposit for payment of the debt service on the premises, the insurance premiums for the premises, utility services, and repairs to the rental unit.

(b) In determining whether to release rent for the payments described in (a) of this subsection, the court shall consider the amount of rent the landlord receives from other rental units in the buildings of which the residential premises are a part, the cost of operating those units, and the costs which may be required to remedy the condition contained in the notice. The court shall also consider whether the expenses are due or have already been paid, whether the

landlord has other financial resources, or whether the landlord or tenant will suffer irreparable damage. The court may request the landlord to provide additional security, such as a bond, prior to authorizing release of any of the funds in escrow.

Sec. 13. RCW 59.18.180 and 2011 c 132 s 10 are each amended to read as follows:

(1) If the tenant fails to comply with any portion of RCW 59.18.130 or 59.18.140, and such noncompliance can (a) substantially affect the health and safety of the tenant or other tenants, or substantially increase the hazards of fire or accident, and (b) be remedied by repair, replacement of a damaged item, or cleaning, the tenant shall comply within thirty days after written notice by the landlord specifying the noncompliance, or, in the case of emergency as promptly as conditions require. If the tenant fails to remedy the noncompliance within that period the landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by the landlord and tenant, or immediately if the rental agreement has terminated. The tenant shall have a defense to an unlawful detainer action filed solely on this ground if it is determined at the hearing authorized under the provisions of chapter 59.12 RCW that the tenant is in substantial compliance with the provisions of this section, or if the tenant remedies the noncomplying condition within the thirty day period provided for above or any shorter period determined at the hearing to have been required because of an emergency: PROVIDED, That if the defective condition is remedied after the commencement of an unlawful detainer action, the tenant

may be liable to the landlord for statutory costs and reasonable attorneys' fees.

(2) Any other substantial noncompliance by the tenant of RCW 59.18.130 or 59.18.140 constitutes a ground for commencing an action in unlawful detainer in accordance with chapter 59.12 RCW. A landlord may commence such action at any time after written notice pursuant to chapter 59.12 RCW.

(3) If drug-related activity is alleged to be a basis for termination of tenancy under RCW 59.18.130(6), 59.12.030(5), or 59.20.140(5), the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action.

(4) If criminal activity on the premises as described in RCW 59.18.130(8) is alleged to be the basis for termination of the tenancy, and the tenant is arrested as a result of this activity, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action against the tenant who was arrested for this activity.

(5) If gang-related activity, as prohibited under RCW 59.18.130(9), is alleged to be the basis for termination of the tenancy, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action in accordance with chapter 59.12 RCW, and a landlord may commence such an action at any time after written notice under chapter 59.12 RCW.

(6) A landlord may not be held liable in any cause of action for bringing an unlawful detainer action against a tenant for drug-related activity, for creating an imminent hazard to the physical safety of others, or for engaging in gang-related activity that renders people in at least two or more dwelling units or

residences insecure in life or the use of property or that injures or endangers the safety or health of people in at least two or more dwelling units or residences under this section, if the unlawful detainer action was brought in good faith. (~~Nothing in this section shall affect a landlord's liability under RCW 59.18.380 to pay all damages sustained by the tenant should the writ of restitution be wrongfully sued out.~~)

Sec. 14. RCW 59.18.365 and 2020 c 315 s 4 are each amended to read as follows:

(1) The summons must contain the names of the parties to the proceeding, the attorney or attorneys if any, the court in which the same is brought, the nature of the action, in concise terms, and the relief sought, and also the return day; and must notify the defendant to appear and answer within the time designated or that the relief sought will be taken against him or her. The summons must contain a street address for service of the notice of appearance or answer and, if available, a facsimile number for the plaintiff or the plaintiff's attorney, if represented. The summons must be served and returned in the same manner as a summons in other actions is served and returned.

(2) A defendant may serve a copy of an answer or notice of appearance by any of the following methods:

(a) By delivering a copy of the answer or notice of appearance to the person who signed the summons at the street address listed on the summons;

(b) By mailing a copy of the answer or notice of appearance addressed to the person who signed the summons to the street address listed on the summons;

(c) By facsimile to the facsimile number listed on the summons. Service by facsimile is complete upon successful transmission to the facsimile number listed upon the summons;

(d) As otherwise authorized by the superior court civil rules.

(3) The summons for unlawful detainer actions for tenancies covered by this chapter shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND
FOR COUNTY

Plaintiff/ | NO.
Landlord/ |
Owner, |
 |
 | EVICTON SUMMONS
 |
 | (Residential)
Defendant/ |
Tenant/ |
Occupant. |
 |
 |
 |

THIS IS AN IMPORTANT LEGAL DOCUMENT TO EVICT YOU.

YOUR WRITTEN

RESPONSE MUST BE RECEIVED BY: 5:00 p.m., on

TO: (Defendant's Name)

. (Defendant's Address)

GET HELP: If you do not respond by the deadline above, you will lose your right to defend yourself or be represented in court and could be evicted. ((If you cannot afford a lawyer))You have the right to legal representation, and if you are indigent, a lawyer

will be appointed for you. Otherwise, you may call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. - 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). They can refer you to free or low-cost legal help. You may find additional information to help you at <http://www.washingtonlawhelp.org>.

HOW TO RESPOND: Phone calls to your Landlord or your Landlord's lawyer are not a response. You may respond with a "notice of appearance." This is a letter that includes the following:

- (1) A statement that you are appearing in the (~~court case~~) mediation session
- (2) Names of the landlord(s) and the tenant(s) (as listed above)
- (3) Your name, your address where legal documents may be sent, your signature, phone number (if any), and case number (if the case is filed)

This case is / is not filed with the court. If this case is filed, you need to also file your response with the court by delivering a copy to the clerk of the court at:
 . (Clerk's Office/Address/Room number/Business hours of court clerk)

WHERE TO RESPOND: You must mail, fax, or hand deliver your response letter to your Landlord's lawyer, or if no lawyer is named in the complaint, to your Landlord. If you mail the response letter, you must do it 3 days before the deadline above. Request receipt of a proof of mailing from the post office. If you hand deliver or fax it, you must do it by the deadline above. The address is:

- (Attorney/Landlord Name)
- (Address)
- (Fax - required if available)

(~~COURT~~) MEDIATION SESSION DATE: If you respond to this Summons, you will be notified of your (~~hearing date in a document called an~~

~~"Order to Show Cause."~~) mediation session date. This is usually mailed to you. If you get notice of a ~~((hearing))~~ mediation session, **you must go to the ~~((hearing))~~ mediation session**. If you do not show up, your landlord can evict you. Your landlord might also charge you more money. If you move before the ~~((court))~~ mediation session date, you must tell your landlord or the landlord's attorney.

Sec. 15. RCW 59.18.410 and 2020 c 315 s 5 are each amended to read as follows:

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

(2) When the tenant is liable for unlawful detainer after a default in the payment of rent, execution upon the judgment shall not occur until the expiration of five court days after the entry of the judgment. Before entry of a judgment or until five court days have expired after entry of the judgment, the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court or to the landlord the amount of the rent due, any court costs incurred at the time of payment, late fees if such fees are due under the lease and do not exceed seventy-five dollars in total, and attorneys' fees if awarded, in which event any judgment entered shall be satisfied and the tenant restored to his or her tenancy. If the tenant seeks to restore his or her tenancy after entry of a judgment, the tenant may tender the amount stated within the judgment as long as that amount does not exceed the amount authorized under subsection (1) of this section. If a tenant seeks to restore his or her tenancy and pay the amount set forth in this subsection with funds acquired through an emergency rental assistance program provided by a governmental or nonprofit entity, the tenant shall provide a copy of the pledge of emergency rental assistance provided from the appropriate governmental or nonprofit entity and have an opportunity to exercise such rights under this subsection, which may include a stay of judgment and provision by the landlord of documentation necessary for processing the assistance. The landlord shall accept any pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity before the expiration of any pay or vacate notice for nonpayment of rent for the full amount of the rent owing under the rental agreement. The landlord shall accept any written pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity after the expiration

of the pay or vacate notice if the pledge will contribute to the total payment of both the amount of rent due, including any current rent, and other amounts if required under this subsection. The landlord shall suspend any court action for seven court days after providing necessary payment information to the nonprofit or governmental entity to allow for payment of the emergency rental assistance funds. By accepting such pledge of emergency rental assistance, the landlord is not required to enter into any additional conditions not related to the provision of necessary payment information and documentation. If a judgment has been satisfied, the landlord shall file a satisfaction of judgment with the court. A tenant seeking to exercise rights under this subsection shall pay an additional fifty dollars for each time the tenant was reinstated after judgment pursuant to this subsection within the previous twelve months prior to payment. If payment of the amount specified in this subsection is not made within five court days after the entry of the judgment, the judgment may be enforced for its full amount and for the possession of the premises.

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

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

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

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

(iv) The tenant's payment history;

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

(vi) Hardship on the tenant if evicted; and

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

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

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

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

(ii) Within any payment plan ordered by the court, the court shall require the tenant to pay to the landlord or to the court one month's rent within five court days of issuance of the order. If the date of the order is on or before the fifteenth of the month, the tenant shall remain current with ongoing rental payments as they become due for the duration of the payment plan; if the date of the

order is after the fifteenth of the month, the tenant shall have the option to apportion the following month's rental payment within the payment plan, but monthly rental payments thereafter shall be paid according to the rental agreement.

(iii) The sheriff may serve the writ of restitution upon the tenant before the expiration of the five court days of issuance of the order; however, the sheriff shall not execute the writ of restitution until after expiration of the five court days in order for payment to be made of one month's rent as required by (c)(ii) of this subsection. In the event payment is made as provided in (c)(ii) of this subsection for one month's rent, the court shall stay the writ of restitution ex parte without prior notice to the landlord upon the tenant filing and presenting a motion to stay with a declaration of proof of payment demonstrating full compliance with the required payment of one month's rent. Any order staying the writ of restitution under this subsection (3)(c)(iii) shall require the tenant to serve a copy of the order on the landlord by personal delivery, first-class mail, facsimile, or email if agreed to by the parties.

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

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

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

NAME(S)

ADDRESS

CITY, STATE, ZIP

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

DATE

AMOUNT

DATE

AMOUNT

DATE

AMOUNT

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

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

DATE

SIGNATURE

LANDLORD/AGENT

NAME

ADDRESS

PHONE

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

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

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

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

(ii) After a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order:

(A) Finding that the landlord is eligible to receive on behalf of the tenant and may apply for reimbursement from the landlord mitigation program; and (B) directing the clerk to remit, without further order of the court, any future payments made by the tenant in order to reimburse the department of commerce pursuant to RCW 43.31.605(1)(c)(iii). In accordance with RCW 43.31.605(1)(c), such an order must be accompanied by a copy of the order staying the writ of restitution. Nothing in this subsection (3)(e) shall be deemed to obligate the department of commerce to provide assistance in claim reimbursement through the landlord mitigation program if there are not sufficient funds.

(iii) If the department of commerce fails to disburse payment to the landlord for the judgment pursuant to this subsection (3)(e) within thirty days from submission of the application, the landlord may renew an application for a writ of restitution pursuant to (~~RCW 59.18.370~~) section 6 of this act and for other rent owed by the tenant since the time of entry of the prior judgment. In such event, the tenant may exercise rights afforded under this section.

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

(v) Nothing in this subsection (3)(e) prohibits the landlord from otherwise applying for reimbursement for an unpaid judgment pursuant to RCW 43.31.605(1)(c) after the tenant defaults on a payment plan ordered pursuant to (c) of this subsection.

(4) If a tenant seeks to stay a writ of restitution issued pursuant to this chapter, the court may issue an ex parte stay of the writ of restitution provided the tenant or tenant's attorney submits a declaration indicating good faith efforts were made to

notify the other party or, if no efforts were made, why notice could not be provided prior to the application for an ex parte stay, and describing the immediate or irreparable harm that may result if an immediate stay is not granted. The court shall require service of the order and motion to stay the writ of restitution by personal delivery, mail, facsimile, or other means most likely to afford all parties notice of the court date.

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

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

Sec. 16. RCW 59.20.040 and 1999 c 359 s 3 are each amended to read as follows:

This chapter shall regulate and determine legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot and including specified amenities within the mobile home park, mobile home park cooperative, or mobile home park subdivision, where the tenant has no ownership interest in the property or in the association which owns the property, whose uses are referred to as a part of the rent structure paid by the tenant. All such rental agreements shall be unenforceable to the extent of any conflict with any provision of this chapter. Chapter 59.12 RCW shall be applicable only in implementation of the provisions of this chapter and not as an alternative remedy to this chapter which shall be exclusive where applicable: PROVIDED, That the provision of RCW 59.12.090, 59.12.100, and 59.12.170 shall not apply to any rental agreement

included under the provisions of this chapter. RCW 59.18.055, sections 6 and 7 of this act, and (~~59.18.370~~) 59.18.390 through 59.18.410 shall be applicable to any action of forcible entry or detainer or unlawful detainer arising from a tenancy under the provisions of this chapter, except when a mobile home, manufactured home, or park model or a tenancy in a mobile home lot is abandoned. Rentals of mobile homes, manufactured homes, or park models themselves are governed by the residential landlord-tenant act, chapter 59.18 RCW.

NEW SECTION. **Sec. 17.** The following acts or parts of acts are each repealed:

(1) RCW 59.18.080 (Payment of rent condition to exercising remedies—Exceptions) and 2010 c 8 s 19019 & 1973 1st ex.s. c 207 s 8.

(2) RCW 59.18.370 (Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Application—Order—Hearing) and 2005 c 130 s 2 & 1973 1st ex.s. c 207 s 38.

(3) RCW 59.18.375 (Forcible entry or detainer or unlawful detainer actions—Payment of rent into court registry—Writ of restitution—Notice) and 2008 c 75 s 2, 2006 c 51 s 2, & 1983 c 264 s 13.

(4) RCW 59.18.380 (Forcible entry or detainer or unlawful detainer actions—Writ of restitution—Answer—Order—Stay—Bond) and 2011 c 132 s 18, 2010 c 8 s 19032, & 1973 1st ex.s. c 207 s 39.

EMERGENCY RENTAL ASSISTANCE PROGRAM

NEW SECTION. **Sec. 18.** A new section is added to chapter 43.185C RCW to read as follows:

(1) The emergency rental assistance program is created in the department to reimburse landlords for claims of unpaid rent and utilities while simultaneously preserving tenancies when possible. The department must provide grants to eligible organizations, as described in RCW 43.185.060, to provide assistance to program participants. The eligible organizations must use grant moneys for:

(a) Rental assistance, up to X months of back rent and X months of future rent;

(b) Utility assistance; and

(c) Administrative costs of the eligible organization, which must not exceed limits prescribed by the department.

(2) Eligible to receive assistance through the emergency rental and assistance program in the following priority order are:

(a) Landlords who own no more than four rental dwelling units;

(b) Landlords who own between five and one hundred units;

(c) All other landlords.

(3) As a condition of receipt of funds, eligible landlords must provide an affidavit signed under penalty of perjury declaring:

(a) That the tenancy for which the application is submitted is preserved and has not been terminated unless the tenant has terminated the lease or abandoned the rental dwelling unit pursuant to RCW 59.18.310;

(b) The number of rental dwelling units owned by the landlord;

(c) The name of the tenant and address of the rental dwelling unit; and

(d) To the best of the landlord's knowledge, that the tenant for which the application has been submitted has not applied for or received any other rental assistance.

(3) An eligible landlord must also agree to waive any remaining unpaid rent if program funds are sufficient to reimburse at least eighty percent of the fair market rent rate of the application amount. The landlord must waive any other monetary claims for other fees or charges once reimbursed under this section.

(4) Any landlord that is found to have committed fraud under this section must have any pending applications denied and may no longer file any other reimbursement claims under the emergency rental assistance program.

(5) The department may develop rules and any additional requirements, procedures, and guidelines as necessary to implement and operate the emergency rental assistance program.

NEW SECTION. **Sec. 19.** A new section is added to chapter 43.185C RCW to read as follows:

The emergency rental assistance account is created in the state treasury. All receipts from sources directed to the emergency rental assistance program must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used solely for the purpose of the emergency rental assistance program as described in section 18 of this act.

MISCELLANEOUS

Sec. 20. RCW 59.18.230 and 2020 c 315 s 6 are each amended to read as follows:

(1) (a) Any provision of a lease or other agreement, whether oral or written, whereby any section or subsection of this chapter is waived except as provided in RCW 59.18.360 and shall be deemed against public policy and shall be unenforceable. Such unenforceability shall not affect other provisions of the agreement which can be given effect without them.

(b) Any agreement, whether oral or written, between a landlord and tenant, or their representatives, and entered into pursuant to an unlawful detainer action under this chapter that requires the tenant to pay any amount in violation of RCW 59.18.283 or the statutory judgment amount limits under RCW 59.18.410 (1) or (2), or

waives any rights of the tenant under RCW 59.18.410 or any other rights afforded under this chapter except as provided in RCW 59.18.360 is void and unenforceable. A landlord may not threaten a tenant with eviction for failure to pay nonpossessory charges limited under RCW 59.18.283.

(2) No rental agreement may provide that the tenant:

(a) Agrees to waive or to forgo rights or remedies under this chapter; or

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to pay the landlord's attorneys' fees, except as authorized in this chapter; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith; or

(e) And landlord have agreed to a particular arbitrator at the time the rental agreement is entered into; or

(f) Agrees to pay late fees for rent that is paid within five days following its due date. If rent is more than five days past due, the landlord may charge late fees commencing from the first day after the due date until paid. Nothing in this subsection prohibits a landlord from serving a notice to pay or vacate at any time after the rent becomes due.

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him or her to be prohibited, the tenant may recover actual damages sustained by him or her, statutory damages not to exceed five hundred dollars, costs of suit, and reasonable attorneys' fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific written consent of the tenant to such incident of taking or detention, and who, after written demand by the tenant for the return of his or her personal property, refuses to return the same promptly shall be liable to the tenant for the value of the property retained, actual damages, and if the refusal is intentional, may also be liable for damages of up to five hundred dollars per day but not to exceed five thousand dollars, for each day or part of a day that the tenant is deprived of his or her property. The prevailing party may recover his or her costs of suit and a reasonable attorneys' fee.

In any action, including actions pursuant to chapters 7.64 or 12.28 RCW, brought by a tenant or other person to recover possession of his or her personal property taken or detained by a landlord in violation of this section, the court, upon motion and after notice to the opposing parties, may waive or reduce any bond requirements where it appears to be to the satisfaction of the court that the moving party is proceeding in good faith and has, prima facie, a meritorious claim for immediate delivery or redelivery of said property.

NEW SECTION. **Sec. 21.** A new section is added to chapter 59.18 RCW to read as follows:

(1) If a mediation session under section 6 of this act fails to resolve the dispute between the parties and a trial on the pleadings is scheduled, a court must order the mediation session to be of limited dissemination.

(2) An order to limit dissemination of a mediation session must be in writing.

(3) When an order for limited dissemination of a mediation session has been entered, a tenant screening service provider must not: (a) Disclose the existence of that mediation session in a tenant screening report pertaining to the person participating in the mediation session, or (b) use the participation in the mediation session as a factor in determining any score or recommendation to be included in a tenant screening report pertaining to the person for whom dissemination has been limited.

Sec. 22. RCW 59.18.367 and 2016 c 66 s 3 are each amended to read as follows:

(1) A court may order an unlawful detainer action to be of limited dissemination for one or more persons if: (a) The court finds that the plaintiff's case was sufficiently without basis in fact or law; (b) the tenancy was reinstated under RCW 59.18.410 or other law; or (c) other good cause exists for limiting dissemination of the unlawful detainer action, which may include any rent default as the result of COVID-19.

(2) An order to limit dissemination of an unlawful detainer action must be in writing.

(3) When an order for limited dissemination of an unlawful detainer action has been entered with respect to a person, a tenant screening service provider must not: (a) Disclose the existence of that unlawful detainer action in a tenant screening report pertaining to the person for whom dissemination has been limited, or (b) use the unlawful detainer action as a factor in determining any score or recommendation to be included in a tenant screening report pertaining to the person for whom dissemination has been limited.

NEW SECTION. **Sec. 23.** Sections 2 through 5 of this act supersede any other provisions within this chapter or chapter 59.12 RCW, or chapter 59.20 RCW as applicable, that conflict with sections 2 through 5 of this act.

NEW SECTION. **Sec. 24.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

--- END ---