
HOUSE BILL 1228

State of Washington

67th Legislature

2021 Regular Session

By Representatives Barkis and Walen

1 AN ACT Relating to residential landlord-tenant requirements in
2 response to the COVID-19 public health emergency; reenacting and
3 amending RCW 59.18.200; creating new sections; making an
4 appropriation; providing an expiration date; and declaring an
5 emergency.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
8 COVID-19 pandemic is causing sustained economic downturn throughout
9 Washington state with unprecedented numbers of layoffs and reduced
10 work hours forcing many residents to suffer economic hardship while
11 being ordered to remain in their residences for extended periods of
12 time. The inability to pay basic household expenses, including rent
13 is restricting housing providers' ability to maintain the costs of
14 operating residences and damaging property owners' ability to secure
15 financing, threatening the future viability of rental housing
16 opportunities across Washington state.

17 (2) The legislature finds that it is the long-standing practice
18 of the state to make rental assistance available in many such urgent
19 situations, and it is the intent of the legislature to create
20 programs to address rental housing debt and provide payments for
21 tenants to make rental payments to housing providers so that

1 residents are able to remain as rental units to allow tenants to
2 remain in their homes.

3 (3) The legislature finds that Washington state has underproduced
4 housing by approximately 225,600 units, from 2000 to 2015, which is
5 approximately 7.5 percent of the total 2015 housing stock, with
6 populous regions creating only one new unit of housing for every
7 three new jobs created. Due to the devastating effects of a lack of
8 rental payments available to housing providers, the legislature
9 resolves that it is imperative the state preserve rental housing
10 units as a critical component of the affordable housing portfolio of
11 the state.

12 NEW SECTION. **Sec. 2.** The definitions in this section apply
13 throughout sections 3 through 9 of this act unless the context
14 clearly requires otherwise.

15 (1) "COVID" refers to the COVID-19 pandemic, declared a pandemic
16 by the world health organization on March 11, 2020.

17 (2) "Eviction moratorium" refers to the governor of the state of
18 Washington's proclamation 20-19, proclaiming a moratorium on certain
19 evictions throughout Washington state on March 18, 2020, and any
20 subsequent orders extending or amending such proclamation by the
21 governor of the state of Washington, as well as any other eviction
22 moratorium or ban entered by any city, town, or county in the state
23 in response to the COVID-19 pandemic.

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

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

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

27 NEW SECTION. **Sec. 3.** (1) Any eviction moratorium currently in
28 effect is hereby suspended.

29 (2) (a) A landlord may immediately initiate an action under RCW
30 59.12.030(4) upon acts in violation of RCW 59.18.130 and 59.18.140 by
31 the tenant, guests of the tenant, and invitees of the tenant,
32 occurring as of the effective date of this section.

33 (b) Beginning 30 days after the effective date of this section, a
34 landlord must provide to a tenant who has delinquent rent and has not
35 already agreed to a payment plan notice of the affidavit of COVID
36 hardship, notice of early resolution program, and option of payment
37 plan described in sections 4 through 6 of this act.

1 (3) Within 30 days of receiving the landlord's notice under this
2 section, a tenant must respond to the notice provided by a landlord
3 by returning affidavit of COVID hardship, and selecting notice of
4 early resolution program, or entering into a payment plan described
5 in section 4 of this act. If a tenant does not respond as described
6 in this subsection, a landlord may serve a tenant with a 14-day
7 notice pursuant to RCW 59.12.030(3). A landlord may not serve a
8 tenant with a 14-day notice pursuant to RCW 59.12.030(3) if the
9 tenant has submitted an application for a grant through the emergency
10 rental assistance grant program, but the application has not yet been
11 approved or rejected.

12 (4) When a landlord serves a 14-day notice pursuant to RCW
13 59.12.030, the following notice packet must be served on the tenant:
14 14-day notice as required by RCW 59.18.057, the affidavit of COVID
15 hardship, and the notice of early resolution program described in
16 sections 5 and 6 of this act.

17 (5) A landlord may not charge or impose late fees, interest, or
18 other penalties on any rental arrears accrued from February 29, 2020,
19 through June 30, 2021.

20 (6) All forms required by this act must comply with the
21 requirements of RCW 59.18.058.

22 NEW SECTION. **Sec. 4.** (1) Where there is any delinquency related
23 to rent occurring between February 29, 2020, and June 30, 2021, a
24 landlord must offer the tenant an option of payment plan consisting
25 of a repayment schedule equal to or greater than payment of the
26 outstanding debt in monthly payments of at least one-sixth of the
27 outstanding debt owing, except where federal regulations require a
28 different repayment schedule.

29 (2) A tenant's regular, contractual monthly rental payments must
30 continue.

31 (3) All repayment plan agreements between a landlord and a tenant
32 must be in writing.

33 (4) Failure to comply with a repayment agreement requires service
34 of a notice packet as set forth under section 3 of this act.

35 (5) A tenant becomes ineligible for the early resolution program
36 described in section 6 of this act when the tenant has been served
37 two or more notice packets in six months after defaulting on two or
38 more repayment agreements.

1 (6) Any payment agreement entered into before the effective date
2 of this section remains in full force and effect.

3 NEW SECTION. **Sec. 5.** (1)(a) A tenant who has received notice
4 under section 3 of this act must complete and return to his or her
5 landlord an affidavit of COVID hardship within 60 days of the
6 effective date of this section, or 14 days of service of the notice
7 packet described in section 3 of this act, whichever is later.

8 (b) The tenant must return the affidavit of COVID hardship to the
9 landlord in person, by first-class mail, or by electronically sending
10 a copy or photograph of the affidavit to the landlord.

11 (2) COVID hardship exists when a tenant has experienced at least
12 one of the following hardships since February 29, 2020:

13 (a) Loss of income caused by COVID by more than 50 percent year-
14 over-year;

15 (b) Extraordinary out-of-pocket expenses directly related to
16 performing essential work during COVID;

17 (c) Extraordinary expenses directly related to health impacts of
18 COVID;

19 (d) New care responsibilities for a child or an elderly,
20 disabled, or sick family member directly related to COVID that limit
21 the tenant's ability to earn income;

22 (e) Extraordinary costs for child care or attending to an
23 elderly, disabled, or sick family member directly related to COVID.

24 (3) A tenant whose household income exceeds 130 percent of the
25 area median income for the county where the tenant resides may be
26 required to provide additional documentation supporting the tenant's
27 claim of financial distress with his or her affidavit of COVID
28 hardship. If a tenant fails to submit this documentation together
29 with his or her declaration of COVID-related financial distress, and
30 does not either pay the amount demanded in the landlord's notice or
31 deliver possession of the premises back to the landlord, the landlord
32 may begin an unlawful detainer action against the tenant.

33 (4) Beginning August 31, 2021, a tenant completing the affidavit
34 of COVID hardship must provide proof of hardship.

35 (5) If a tenant fails to complete and return the affidavit of
36 COVID hardship to the landlord within the time frame set forth in
37 subsection (1)(a) of this section, the landlord may commence an
38 unlawful detainer action by filing a summons and complaint with the
39 court pursuant to chapter 59.12 RCW.

1 (6) The affidavit of COVID hardship provided by the landlord must
2 be in substantially the following form:

3 Date: _____

4 Tenant Name(s): _____

5 Tenant Address: _____

6 Landlord Name: _____

7 Landlord Address: _____

8 AFFIDAVIT OF COVID HARDSHIP AFFECTING PAYMENT OF RENT

9 The tenant must provide this signed document to the landlord within
10 14 days of the date above.

11 I attest that the foregoing are true and correct:

12 (1) I am unable to pay my regular monthly rent for one of the
13 following reasons:

14 (a) Loss of income caused by the COVID-19 pandemic by more than
15 50 percent year-over-year.

16 (b) Extraordinary out-of-pocket expenses directly related to
17 performing essential work during the COVID-19 pandemic.

18 (c) Extraordinary expenses directly related to health impacts of
19 the COVID-19 pandemic.

20 (d) Child care responsibilities or responsibilities to care for
21 an elderly, disabled, or sick family member directly related to the
22 COVID-19 pandemic that limit my ability to earn income.

23 (e) Extraordinary costs for child care or attending to an
24 elderly, disabled, or sick family member directly related to the
25 COVID-19 pandemic.

26 (2) My income is less than 130 percent of the area median income
27 for the county where I reside. (If the landlord alleges you earn more
28 than 130 percent of area median income for the county where the
29 rental property is located, you must provide information supporting
30 your claim of COVID hardship.)

31 (3) Beginning August 31, 2021, a tenant completing the affidavit
32 of COVID hardship must provide proof of hardship.

33 (4) I have used best efforts to obtain all available government
34 assistance for rent or housing.

35 (5) I am using best efforts to make timely partial payments that
36 are as close to the full payment as my circumstances may permit,
37 taking into account other nondiscretionary expenses.

1 (6) If evicted I would likely become homeless, need to move into
2 a homeless shelter, or need to move into a new residence shared by
3 other people who live in close quarters because I have no other
4 available housing options.

5 (7) I understand that I must still pay rent or make a housing
6 payment, and comply with other obligations that I may have under my
7 tenancy, lease agreement, or similar contract. I further understand
8 that fees, penalties, or interest for not paying rent or making a
9 housing payment on time as required by my tenancy, lease agreement,
10 or similar contract may still be charged or collected on rent due
11 after June 30, 2021.

12 (8) I further understand that failure to provide this notice to
13 my housing provider may require payment in full for all payments not
14 made from February 29, 2020, to present and may make me subject to
15 eviction pursuant to state and local laws.

16 **The Washington state Office of the Attorney General has this notice**
17 **in multiple languages on its website. You will also find information**
18 **there on how to find a lawyer or advocate at low or no cost and any**
19 **available resources to help you pay your rent. Alternatively, for no-**
20 **cost legal assistance for low-income renters contact your county's**
21 **housing justice project, or, if none, a statewide organization**
22 **providing housing advocacy services for low-income residents. You may**
23 **find additional information to help you at [http://](http://www.washingtonlawhelp.org)**
24 **www.washingtonlawhelp.org.**

25 **State law provides you the right to receive interpreter services at**
26 **court.**

27 Signature of Tenant: _____ Date: _____

28 NEW SECTION. **Sec. 6.** (1) The administrative office of the
29 courts shall establish the early resolution program to facilitate the
30 resolution of nonpayment of rent cases through dispute resolution
31 centers or a third-party facilitator prior to the landlord filing an
32 unlawful detainer action.

33 (2) In counties where the population is under 275,000, at
34 minimum, the program must maintain a facilitator acting as an
35 independent third party to resolve disputes between landlord and
36 tenant. In counties with a population over 275,000, the local dispute

1 resolution center shall be utilized to address and facilitate COVID
2 hardship-related nonpayment of rent cases.

3 (3) The program shall be used only for nonpayment of rent cases
4 between landlord and tenant.

5 (4) Prior to filing any unlawful detainer action, the landlord
6 must provide notice to the tenant of the early resolution program.
7 The landlord's notice to the tenant shall provide the following
8 information regarding the early resolution program:

9 (a) Contact information for the local dispute resolution center
10 or conciliation program;

11 (b) Contact information for the county's housing justice project,
12 or, if none, a statewide organization providing housing advocacy
13 services for low-income residents;

14 (c) "The Washington state Office of the Attorney General has this
15 notice in multiple languages on its website. You will also find
16 information there on how to find a lawyer or advocate at low or no
17 cost and any available resources to help you pay your rent.
18 Alternatively, you may find additional information to help you at
19 <http://www.washingtonlawhelp.org>.";

20 (d) The name and contact information of the landlord and tenant;
21 and

22 (e) That failure to respond to the notice of early resolution
23 program within 14 days may result in the filing of a summons and
24 complaint of unlawful detainer with the court.

25 (5) To engage with the early resolution program, a landlord must
26 also send a copy of the notice to the office of civil legal aid at
27 the time of service to the tenant. The office of civil legal aid
28 shall distribute the notice to the local county dispute resolution
29 center or county facilitator.

30 (6) Every notice of the early resolution program provided by the
31 landlord must be in substantially the following form:

32 ****Tenants: Respond within 14 days of the date below!****

33 Date: _____

TO	FROM (Send Response here)
Name:	Name of Landlord (LL): Name of LL's Attorney:
Telephone:	Telephone for LL: Telephone for LL's Attorney:

<p>1 Email:</p> <p>2</p>	<p>Email for LL:</p> <p>Email for LL's Attorney:</p>
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3 **HELP & RESOURCES ARE AVAILABLE - DO NOT DELAY!**

4 **(1) Tenants:** A NEUTRAL THIRD PARTY OR LOCAL LEGAL AID PROGRAM MAY BE
 5 ABLE TO HELP YOU WITH YOUR RENT AT NO COST TO YOU.

6 **(2) Tenants:** YOU MAY ASK FOR A MEDIATOR TO ASSIST YOU AND THE
 7 LANDLORD.

8 **(3) Tenants: GET HELP:** To get free early resolution or free legal
 9 help contact the **Dispute Resolution Center** or **Get a Lawyer** telephone
 10 numbers below in the county where you live.

11 **RESOURCES**

12 ****Tenants:** You may also complete the information below and return
 13 this Notice to your landlord within 14 days of the date above by
 14 email or other means to access the Early Resolution Program. If
 15 possible, keep a copy of the form for yourself.**

16 I want assistance in resolving my unpaid rent. My contact information
 17 is:

18 Tenant's Name: _____

19 Tenant's Address: _____

20 Tenant's Phone: _____ Tenant's Email: _____

21 **Tenants:** You may return this Form to your landlord to initiate Early
 22 Dispute Resolution.

23 **Tenants:** This Notice is available in different languages.
 24 Failure to respond to the Notice of Early Resolution Program within
 25 14 days may result in the filing of a summons and complaint of
 26 unlawful detainer with the court.

27 **The Washington state Office of the Attorney General has this notice**
 28 **in multiple languages on its website. You will also find information**
 29 **there on how to find a lawyer or advocate at low or no cost and any**
 30 **available resources to help you pay your rent. Alternatively, for no-**
 31 **cost legal assistance for low-income renters contact your county's**
 32 **housing justice project, or, if none, a statewide organization**
 33 **providing housing advocacy services for low-income residents. You may**
 34 **find additional information to help you at [http://](http://www.washingtonlawhelp.org)**
 35 **www.washingtonlawhelp.org.**

1 **State law provides you the right to receive interpreter services.**

2 NEW SECTION. **Sec. 7.** (1) The early resolution program account
3 is created in the state treasury. All receipts from sources directed
4 to the early resolution program must be deposited in the account.
5 Moneys in the account may be spent only after appropriation.
6 Expenditures from the account may be used solely for the purpose of
7 the early resolution program as described in section 6 of this act.

8 (2) Administrative costs associated with application,
9 distribution, and other program activities of the department of
10 commerce may not exceed five percent of the annual funds available
11 for the early resolution program. Reappropriations must not be
12 included in the calculation of the annual funds available for
13 determining the administrative costs.

14 (3) (a) A report to the appropriate committees of the legislature
15 on the effectiveness of the program and recommended modifications
16 shall be submitted to the governor and the appropriate committees of
17 the legislature by June 1, 2022. In preparing the report, the
18 department of commerce shall convene and solicit input from a group
19 of stakeholders to include representatives of large multifamily
20 housing property owners or managers, small rental housing owners in
21 both rural and urban markets, a representative of tenant advocates, a
22 representative of the housing authorities, and representatives of
23 dispute resolution centers in Washington state.

24 (b) The report shall contain discussion of the effectiveness of
25 the program as well as the department of commerce's recommendations
26 to improve the program, and shall include the following:

27 (i) The number of total cases received by the program in each
28 county since inception;

29 (ii) The total cost to administer the program in each county;

30 (iii) A summary of each county's early resolution program,
31 including the cost of each program and an outline of each county's
32 process to permit landlords and tenants to engage in the program;

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

34 (v) An evaluation of the feasibility to expand the use of the
35 program; and

36 (vi) Any other modifications and recommendations made by
37 stakeholders to improve the effectiveness and applicability of the
38 program.

1 NEW SECTION. **Sec. 8.** (1) The emergency rental assistance grant
2 program is created in the department of commerce to reimburse tenants
3 and landlords for past due rental payments. Tenants or landlords may
4 apply for grant assistance for reimbursement of past due rental
5 payments owing by tenants.

6 (2) A tenant applying for a grant must self-certify that he or
7 she has a COVID hardship as described in section 5 of this act.

8 (3) To be eligible for a grant, a tenant must earn less than 80
9 percent of the area median income for the county in which he or she
10 resides or have experienced or demonstrated a COVID hardship
11 certified by an affidavit of COVID hardship as described in section 5
12 of this act.

13 (4) When a landlord applies for a grant award under this section,
14 the department of commerce must notify the tenant of any grant
15 awarded to a tenant of that landlord along with repayment
16 requirements by tenant and acknowledgment that rent remains due and
17 payable by tenant to landlord.

18 (5) Grant recipients shall receive 80 percent of total contract
19 rental amount in arrears at the time of anticipated payment date,
20 which shall occur not later than 15 days from date of application.
21 Upon receipt of 80 percent of rent in arrears, the landlord must
22 forgive the remainder of the tenant's past due rent.

23 (6) The department of commerce must provide notification of
24 rejection of application to both tenant and landlord, regardless of
25 which party applied.

26 (7) The department of commerce must prioritize funding for the
27 biggest areas of need as identified by the department. Within 45 days
28 of establishing the program, the department must expand the program
29 statewide.

30 (8) The program must first prioritize tenants and landlords with
31 largest arrears first and successively assist applications with
32 smaller arrears.

33 (9) Administrative costs associated with application,
34 distribution, and other program activities of the department of
35 commerce may not exceed five percent of the annual funds available
36 for the landlord mitigation program. Reappropriations must not be
37 included in the calculation of the annual funds available for
38 determining the administrative costs.

39 (10)(a) A report to the appropriate committees of the legislature
40 on the effectiveness of the program and recommended modifications

1 shall be submitted to the governor and the appropriate committees of
2 the legislature by June 1, 2022. In preparing the report, the
3 department of commerce shall convene and solicit input from a group
4 of stakeholders to include representatives of large multifamily
5 housing property owners or managers, small rental housing owners in
6 both rural and urban markets, a representative of tenant advocates, a
7 representative of the housing authorities, and representatives of
8 dispute resolution centers in Washington state.

9 (b) The report shall include discussion of the effectiveness of
10 the program as well as the department of commerce's recommendations
11 to improve the program, and shall include the following:

12 (i) The number of total claims and total amount reimbursed by the
13 program in each county since inception;

14 (ii) The total cost to administer the program in each county;

15 (iii) A summary of each county's emergency rental assistance
16 grants, including the cost of each program and an outline of each
17 county's process to permit landlords and tenants to engage in the
18 program;

19 (iv) Any indices of fraud identified by the department of
20 commerce;

21 (v) An evaluation of the feasibility to expand the use of the
22 program; and

23 (vi) Any other modifications and recommendations made by
24 stakeholders to improve the effectiveness and applicability of the
25 program.

26 NEW SECTION. **Sec. 9.** The emergency rental assistance account is
27 created in the state treasury. All receipts from sources directed to
28 the emergency rental assistance grant program must be deposited in
29 the account. Moneys in the account may be spent only after
30 appropriation. Expenditures from the account may be used solely for
31 the purpose of the emergency rental assistance grant program as
32 described in section 8 of this act.

33 NEW SECTION. **Sec. 10.** The sum of \$600,000,000, or as much
34 thereof as may be necessary, is appropriated from the budget
35 stabilization account for the fiscal year ending June 30, 2021, and
36 is provided solely for expenditure into the emergency rental
37 assistance grant program to implement the emergency rental assistance
38 grant program described in section 8 of this act. For purposes of RCW

1 43.88.055(4), the appropriation in this section does not alter the
2 requirement to balance in the ensuing biennium.

3 **Sec. 11.** RCW 59.18.200 and 2019 c 339 s 1 and 2019 c 23 s 2 are
4 each reenacted and amended to read as follows:

5 (1)(a) When premises are rented for an indefinite time, with
6 monthly or other periodic rent reserved, such tenancy shall be
7 construed to be a tenancy from month to month, or from period to
8 period on which rent is payable, and shall be terminated by written
9 notice of (~~twenty~~) 45 days or more, preceding the end of any of the
10 months or periods of tenancy, given by either party to the other.

11 (b) Any tenant who is a member of the armed forces, including the
12 national guard and armed forces reserves, or that tenant's spouse or
13 dependent, may terminate a rental agreement with less than (~~twenty~~)
14 45 days' written notice if the tenant receives permanent change of
15 station or deployment orders that do not allow a (~~twenty-day~~) 45-
16 day written notice.

17 (2)(a) Whenever a landlord plans to change to a policy of
18 excluding children, the landlord shall give a written notice to a
19 tenant at least (~~ninety~~) 90 days before termination of the tenancy
20 to effectuate such change in policy. Such (~~ninety-day~~) 90-day
21 notice shall be in lieu of the notice required by subsection (1) of
22 this section. However, if after giving the (~~ninety-day~~) 90-day
23 notice the change in policy is delayed, the notice requirements of
24 subsection (1) of this section shall apply unless waived by the
25 tenant.

26 (b) Whenever a landlord plans to change any apartment or
27 apartments to a condominium form of ownership, the landlord shall
28 provide a written notice to a tenant at least (~~one hundred twenty~~)
29 120 days before termination of the tenancy, in compliance with RCW
30 64.34.440(1), to effectuate such change. The (~~one hundred twenty-~~
31 ~~day~~) 120-day notice is in lieu of the notice required in subsection
32 (1) of this section. However, if after providing the (~~one hundred~~
33 ~~twenty-day~~) 120-day notice the change to a condominium form of
34 ownership is delayed, the notice requirements in subsection (1) of
35 this section apply unless waived by the tenant.

36 (c)(i) Whenever a landlord plans to demolish or substantially
37 rehabilitate premises or plans a change of use of premises, the
38 landlord shall provide a written notice to a tenant at least (~~one~~
39 ~~hundred twenty~~) 120 days before termination of the tenancy. This

1 subsection (2)(c)(i) does not apply to jurisdictions that have
2 created a relocation assistance program under RCW 59.18.440 and
3 otherwise provide (~~one hundred twenty~~) 120 days' notice.

4 (ii) For purposes of this subsection (2)(c):

5 (A) "Assisted housing development" means a multifamily rental
6 housing development that either receives government assistance and is
7 defined as federally assisted housing in RCW 59.28.020, or that
8 receives other federal, state, or local government assistance and is
9 subject to use restrictions.

10 (B) "Change of use" means: (I) Conversion of any premises from a
11 residential use to a nonresidential use that results in the
12 displacement of an existing tenant; (II) conversion from one type of
13 residential use to another type of residential use that results in
14 the displacement of an existing tenant, such as conversion to a
15 retirement home, emergency shelter, or transient hotel; or (III)
16 conversion following removal of use restrictions from an assisted
17 housing development that results in the displacement of an existing
18 tenant: PROVIDED, That displacement of an existing tenant in order
19 that the owner or a member of the owner's immediate family may occupy
20 the premises does not constitute a change of use.

21 (C) "Demolish" means the destruction of premises or the
22 relocation of premises to another site that results in the
23 displacement of an existing tenant.

24 (D) "Substantially rehabilitate" means extensive structural
25 repair or extensive remodeling of premises that requires a permit
26 such as a building, electrical, plumbing, or mechanical permit, and
27 that results in the displacement of an existing tenant.

28 (3) A person in violation of subsection (2)(c)(i) of this section
29 may be held liable in a civil action up to three times the monthly
30 rent of the real property at issue. The prevailing party may also
31 recover court costs and reasonable attorneys' fees.

32 NEW SECTION. **Sec. 12.** This act expires one year after the
33 effective date of this section.

34 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
35 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

--- END ---