
HOUSE BILL 1398

State of Washington

67th Legislature

2021 Regular Session

By Representatives Dufault and Caldier

1 AN ACT Relating to preserving affordable housing and assisting
2 tenants and rental housing providers in response to the COVID-19
3 public health crisis; creating new sections; making an appropriation;
4 providing an expiration date; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the COVID-19
7 public health crisis is causing sustained economic downturn
8 throughout Washington state and is also causing many tenants and
9 rental housing providers to experience economic hardship. It is the
10 intent of the legislature to create a temporary program to provide
11 funds for tenants significantly impacted by the COVID-19 public
12 health crisis to pay rent to their housing providers and remain in
13 compliance with the terms of their leases.

14 NEW SECTION. **Sec. 2.** The definitions in this section apply
15 throughout sections 3 through 7 of this act unless the context
16 clearly requires otherwise.

17 (1) "COVID" refers to the COVID-19 public health crisis.

18 (2) "Eviction moratorium" refers to the governor of the state of
19 Washington's proclamation 20-19, proclaiming a moratorium on certain
20 evictions throughout Washington state on March 18, 2020, and any

1 subsequent orders extending or amending such proclamation by the
2 governor of the state of Washington, as well as any other eviction
3 moratorium or ban entered by any city, town, or county in the state
4 in response to COVID.

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

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

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

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

10 (2) (a) A landlord may immediately initiate an action under RCW
11 59.12.030(4) upon acts in violation of RCW 59.18.130 and 59.18.140 by
12 the tenant, guests of the tenant, and invitees of the tenant,
13 occurring as of the effective date of this section.

14 (b) Beginning on the effective date of this section, a landlord
15 must provide to a tenant who has delinquent rent and has not already
16 agreed to a payment plan notice of the affidavit of COVID hardship
17 and option of payment plan described in sections 4 through 6 of this
18 act.

19 (3) Within seven days of receiving the landlord's notice under
20 this section, a tenant must respond to the notice provided by a
21 landlord by returning the affidavit of COVID hardship and entering
22 into a payment plan described in section 4 of this act. If a tenant
23 does not respond as described in this subsection, a landlord may
24 serve a tenant with a 14-day notice pursuant to RCW 59.12.030(3).

25 (4) When a landlord serves a 14-day notice pursuant to RCW
26 59.12.030, the following notice packet must be served on the tenant:
27 14-day notice as required by RCW 59.18.057, the affidavit of COVID
28 hardship, and the notice of payment plan options.

29 (5) All forms required by this act must comply with the
30 requirements of RCW 59.18.058.

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

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

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

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

7 NEW SECTION. **Sec. 5.** (1)(a) A tenant who has received notice
8 under section 3 of this act must complete and return to his or her
9 landlord an affidavit of COVID hardship within seven days of service
10 of the notice packet described in section 3 of this act.

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

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

16 (a) Loss of income directly related to COVID;

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

19 (c) 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; or

22 (d) 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) A tenant completing the affidavit of COVID hardship must
34 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 seven 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 directly related to COVID.

15 (b) Extraordinary expenses directly related to health impacts of
16 COVID.

17 (c) Child care responsibilities or responsibilities to care for
18 an elderly, disabled, or sick family member directly related to COVID
19 that limit my ability to earn income.

20 (d) Extraordinary costs for child care or attending to an
21 elderly, disabled, or sick family member directly related to COVID.

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

27 (3) A tenant completing the affidavit of COVID hardship must
28 provide proof of hardship.

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

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

34 (6) I understand that I must still pay rent or make a housing
35 payment, and comply with other obligations that I may have under my
36 tenancy, lease agreement, or similar contract. I further understand
37 that fees, penalties, or interest for not paying rent or making a
38 housing payment on time as required by my tenancy, lease agreement,
39 or similar contract may still be charged or collected on rent due.

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

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

14 **State law provides you the right to receive interpreter services at**
15 **court.**

16 Signature of Tenant: _____ Date: _____

17 NEW SECTION. **Sec. 6.** (1) The emergency rental assistance grant
18 program is created in the department of commerce to reimburse tenants
19 and landlords for past due rental payments. Tenants or landlords may
20 apply for grant assistance for reimbursement of past due rental
21 payments owing by tenants.

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

24 (3) To be eligible for a grant, a tenant must have experienced or
25 demonstrated a COVID hardship certified by an affidavit of COVID
26 hardship as described in section 5 of this act.

27 (4) When a landlord applies for a grant award under this section,
28 the department of commerce must notify the tenant of any grant
29 awarded to a tenant of that landlord along with repayment
30 requirements by tenant and acknowledgment that rent remains due and
31 payable by tenant to landlord.

32 (5) Grant recipients shall receive 100 percent of total contract
33 rental amount in arrears at the time of anticipated payment date,
34 which shall occur not later than 15 days from date of application.

35 (6) The department of commerce must provide notification of
36 rejection of application to both tenant and landlord, regardless of
37 which party applied.

1 (7) Administrative costs associated with application,
2 distribution, and other program activities of the department of
3 commerce may not exceed five percent of the annual funds available
4 for the landlord mitigation program. Reappropriations must not be
5 included in the calculation of the annual funds available for
6 determining the administrative costs.

7 NEW SECTION. **Sec. 7.** The emergency rental assistance account is
8 created in the state treasury. All receipts from sources directed to
9 the emergency rental assistance grant program must be deposited in
10 the account. Moneys in the account may be spent only after
11 appropriation. Expenditures from the account may be used solely for
12 the purpose of the emergency rental assistance grant program as
13 described in section 6 of this act.

14 NEW SECTION. **Sec. 8.** The sum of \$300,000,000, or as much
15 thereof as may be necessary, is appropriated from the budget
16 stabilization account for the fiscal year ending June 30, 2021, and
17 is provided solely for expenditure into the emergency rental
18 assistance grant program to implement the emergency rental assistance
19 grant program described in section 6 of this act. For purposes of RCW
20 43.88.055(4), the appropriation in this section does not alter the
21 requirement to balance in the ensuing biennium. All appropriated
22 funds shall be distributed such that each county receives a
23 percentage of total appropriated funds in proportion to each county's
24 percentage of total state population.

25 NEW SECTION. **Sec. 9.** Sections 1 through 7 of this act expire
26 one year after the effective date of this section.

27 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of
29 the state government and its existing public institutions, and takes
30 effect immediately.

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