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**SUBSTITUTE HOUSE BILL 2811**

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**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Judiciary (originally sponsored by Representatives Walkinshaw, Harris, Jenkins, Walsh, Robinson, Zeiger, Tarleton, McBride, Ormsby, Stanford, Pollet, Frame, Bergquist, and Santos)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to tenant screening, evictions, and refunds under  
2 the residential landlord-tenant act; amending RCW 59.18.257 and  
3 59.18.280; reenacting and amending RCW 59.18.030; and adding a new  
4 section to chapter 59.18 RCW.

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

6 **Sec. 1.** RCW 59.18.030 and 2015 c 264 s 1 are each reenacted and  
7 amended to read as follows:

8 As used in this chapter:

9 (1) "Certificate of inspection" means an unsworn statement,  
10 declaration, verification, or certificate made in accordance with the  
11 requirements of RCW 9A.72.085 by a qualified inspector that states  
12 that the landlord has not failed to fulfill any substantial  
13 obligation imposed under RCW 59.18.060 that endangers or impairs the  
14 health or safety of a tenant, including (a) structural members that  
15 are of insufficient size or strength to carry imposed loads with  
16 safety, (b) exposure of the occupants to the weather, (c) plumbing  
17 and sanitation defects that directly expose the occupants to the risk  
18 of illness or injury, (d) not providing facilities adequate to supply  
19 heat and water and hot water as reasonably required by the tenant,  
20 (e) providing heating or ventilation systems that are not functional  
21 or are hazardous, (f) defective, hazardous, or missing electrical

1 wiring or electrical service, (g) defective or hazardous exits that  
2 increase the risk of injury to occupants, and (h) conditions that  
3 increase the risk of fire.

4 (2) "Commercially reasonable manner," with respect to a sale of a  
5 deceased tenant's personal property, means a sale where every aspect  
6 of the sale, including the method, manner, time, place, and other  
7 terms, must be commercially reasonable. If commercially reasonable, a  
8 landlord may sell the tenant's property by public or private  
9 proceedings, by one or more contracts, as a unit or in parcels, and  
10 at any time and place and on any terms.

11 (3) "Designated person" means a person designated by the tenant  
12 under RCW 59.18.590.

13 (4) "Distressed home" has the same meaning as in RCW 61.34.020.

14 (5) "Distressed home conveyance" has the same meaning as in RCW  
15 61.34.020.

16 (6) "Distressed home purchaser" has the same meaning as in RCW  
17 61.34.020.

18 (7) "Dwelling unit" is a structure or that part of a structure  
19 which is used as a home, residence, or sleeping place by one person  
20 or by two or more persons maintaining a common household, including  
21 but not limited to single-family residences and units of multiplexes,  
22 apartment buildings, and mobile homes.

23 (8) "Gang" means a group that: (a) Consists of three or more  
24 persons; (b) has identifiable leadership or an identifiable name,  
25 sign, or symbol; and (c) on an ongoing basis, regularly conspires and  
26 acts in concert mainly for criminal purposes.

27 (9) "Gang-related activity" means any activity that occurs within  
28 the gang or advances a gang purpose.

29 (10) "In danger of foreclosure" means any of the following:

30 (a) The homeowner has defaulted on the mortgage and, under the  
31 terms of the mortgage, the mortgagee has the right to accelerate full  
32 payment of the mortgage and repossess, sell, or cause to be sold the  
33 property;

34 (b) The homeowner is at least thirty days delinquent on any loan  
35 that is secured by the property; or

36 (c) The homeowner has a good faith belief that he or she is  
37 likely to default on the mortgage within the upcoming four months due  
38 to a lack of funds, and the homeowner has reported this belief to:

39 (i) The mortgagee;

1 (ii) A person licensed or required to be licensed under chapter  
2 19.134 RCW;

3 (iii) A person licensed or required to be licensed under chapter  
4 19.146 RCW;

5 (iv) A person licensed or required to be licensed under chapter  
6 18.85 RCW;

7 (v) An attorney-at-law;

8 (vi) A mortgage counselor or other credit counselor licensed or  
9 certified by any federal, state, or local agency; or

10 (vii) Any other party to a distressed property conveyance.

11 (11) "Landlord" means the owner, lessor, or sublessor of the  
12 dwelling unit or the property of which it is a part, and in addition  
13 means any person designated as representative of the owner, lessor,  
14 or sublessor including, but not limited to, an agent, a resident  
15 manager, or a designated property manager.

16 (12) "Mortgage" is used in the general sense and includes all  
17 instruments, including deeds of trust, that are used to secure an  
18 obligation by an interest in real property.

19 (13) "Owner" means one or more persons, jointly or severally, in  
20 whom is vested:

21 (a) All or any part of the legal title to property; or

22 (b) All or part of the beneficial ownership, and a right to  
23 present use and enjoyment of the property.

24 (14) "Person" means an individual, group of individuals,  
25 corporation, government, or governmental agency, business trust,  
26 estate, trust, partnership, or association, two or more persons  
27 having a joint or common interest, or any other legal or commercial  
28 entity.

29 (15) "Premises" means a dwelling unit, appurtenances thereto,  
30 grounds, and facilities held out for the use of tenants generally and  
31 any other area or facility which is held out for use by the tenant.

32 (16) "Property" or "rental property" means all dwelling units on  
33 a contiguous quantity of land managed by the same landlord as a  
34 single, rental complex.

35 (17) "Prospective landlord" means a landlord or a person who  
36 advertises, solicits, offers, or otherwise holds a dwelling unit out  
37 as available for rent.

38 (18) "Prospective tenant" means a tenant or a person who has  
39 applied for residential housing that is governed under this chapter.

1 (19) "Qualified inspector" means a United States department of  
2 housing and urban development certified inspector; a Washington state  
3 licensed home inspector; an American society of home inspectors  
4 certified inspector; a private inspector certified by the national  
5 association of housing and redevelopment officials, the American  
6 association of code enforcement, or other comparable professional  
7 association as approved by the local municipality; a municipal code  
8 enforcement officer; a Washington licensed structural engineer; or a  
9 Washington licensed architect.

10 (20) "Reasonable attorneys' fees," where authorized in this  
11 chapter, means an amount to be determined including the following  
12 factors: The time and labor required, the novelty and difficulty of  
13 the questions involved, the skill requisite to perform the legal  
14 service properly, the fee customarily charged in the locality for  
15 similar legal services, the amount involved and the results obtained,  
16 and the experience, reputation and ability of the lawyer or lawyers  
17 performing the services.

18 (21) "Reasonable manner," with respect to disposing of a deceased  
19 tenant's personal property, means to dispose of the property by  
20 donation to a not-for-profit charitable organization, by removal of  
21 the property by a trash hauler or recycler, or by any other method  
22 that is reasonable under the circumstances.

23 (22) "Rental agreement" means all agreements which establish or  
24 modify the terms, conditions, rules, regulations, or any other  
25 provisions concerning the use and occupancy of a dwelling unit.

26 (23) A "single-family residence" is a structure maintained and  
27 used as a single dwelling unit. Notwithstanding that a dwelling unit  
28 shares one or more walls with another dwelling unit, it shall be  
29 deemed a single-family residence if it has direct access to a street  
30 and shares neither heating facilities nor hot water equipment, nor  
31 any other essential facility or service, with any other dwelling  
32 unit.

33 (24) A "tenant" is any person who is entitled to occupy a  
34 dwelling unit primarily for living or dwelling purposes under a  
35 rental agreement.

36 (25) "Tenant representative" means:

37 (a) A personal representative of a deceased tenant's estate if  
38 known to the landlord;

39 (b) If the landlord has no knowledge that a personal  
40 representative has been appointed for the deceased tenant's estate, a

1 person claiming to be a successor of the deceased tenant who has  
2 provided the landlord with proof of death and an affidavit made by  
3 the person that meets the requirements of RCW 11.62.010(2);

4 (c) In the absence of a personal representative under (a) of this  
5 subsection or a person claiming to be a successor under (b) of this  
6 subsection, a designated person; or

7 (d) In the absence of a personal representative under (a) of this  
8 subsection, a person claiming to be a successor under (b) of this  
9 subsection, or a designated person under (c) of this subsection, any  
10 person who provides the landlord with reasonable evidence that he or  
11 she is a successor of the deceased tenant as defined in RCW  
12 11.62.005. The landlord has no obligation to identify all of the  
13 deceased tenant's successors.

14 (26) "Tenant screening" means using a consumer report or other  
15 information about a prospective tenant in deciding whether to make or  
16 accept an offer for residential rental property to or from a  
17 prospective tenant.

18 (27) "Tenant screening report" means a consumer report as defined  
19 in RCW 19.182.010 and any other information collected by a tenant  
20 screening service.

21 (28) "Comprehensive reusable tenant screening report" means a  
22 tenant screening report prepared by a consumer reporting agency at  
23 the direction of and paid for by the prospective tenant and made  
24 available directly to a prospective landlord at no charge, which  
25 contains all of the following: (a) A consumer credit report prepared  
26 by one of the national credit bureaus within the past thirty days;  
27 (b) a report containing the prospective tenant's criminal history;  
28 (c) a report containing the prospective tenant's eviction history;  
29 (d) an employment verification; and (e) a report containing the  
30 prospective tenant's address and rental history.

31 (29) "Criminal history" means a report containing or summarizing  
32 (a) the prospective tenant's criminal convictions and pending cases,  
33 the final disposition of which antedates the report by no more than  
34 seven years, and (b) the results of a sex offender registry and  
35 United States department of the treasury's office of foreign assets  
36 control search, all based on at least seven years of address history  
37 and alias information provided by the prospective tenant or available  
38 in the consumer credit report.

39 (30) "Eviction history" means a report containing or summarizing  
40 the contents of any records of unlawful detainer actions concerning

1 the prospective tenant that are reportable in accordance with state  
2 law, are lawful for landlords to consider, and are obtained after a  
3 search based on at least seven years of address history and alias  
4 information provided by the prospective tenant or available in the  
5 consumer credit report.

6 **Sec. 2.** RCW 59.18.257 and 2012 c 41 s 3 are each amended to read  
7 as follows:

8 (1)(a) Prior to obtaining any information about a prospective  
9 tenant, the prospective landlord shall first notify the prospective  
10 tenant in writing, or by posting, of the following:

11 (i) What types of information will be accessed to conduct the  
12 tenant screening;

13 (ii) What criteria may result in denial of the application;  
14 ((and))

15 (iii) If a consumer report is used, the name and address of the  
16 consumer reporting agency and the prospective tenant's rights to  
17 obtain a free copy of the consumer report in the event of a denial or  
18 other adverse action, and to dispute the accuracy of information  
19 appearing in the consumer report; and

20 (iv) Whether or not the landlord will accept a comprehensive  
21 reusable tenant screening report made available to the landlord by a  
22 consumer reporting agency. If the landlord indicates its willingness  
23 to accept a comprehensive reusable tenant screening report, the  
24 landlord may access the landlord's own tenant screening report  
25 regarding a prospective tenant as long as the prospective tenant is  
26 not charged for the landlord's own tenant screening report.

27 (b)(i) The landlord may charge a prospective tenant for costs  
28 incurred in obtaining a tenant screening report only if the  
29 prospective landlord provides the information as required in (a) of  
30 this subsection.

31 (ii) If a prospective landlord conducts his or her own screening  
32 of tenants, the prospective landlord may charge his or her actual  
33 costs in obtaining the background information only if the prospective  
34 landlord provides the information as required in (a) of this  
35 subsection. The amount charged may not exceed the customary costs  
36 charged by a screening service in the general area. The prospective  
37 landlord's actual costs include costs incurred for long distance  
38 phone calls and for time spent calling landlords, employers, and  
39 financial institutions.

1 (c) If a prospective landlord takes an adverse action, the  
2 prospective landlord shall provide a written notice of the adverse  
3 action to the prospective tenant that states the reasons for the  
4 adverse action. The adverse action notice must contain the following  
5 information in a substantially similar format, including additional  
6 information as may be required under chapter 19.182 RCW:

7 "ADVERSE ACTION NOTICE

8 Name

9 Address

10 City/State/Zip Code

11 This notice is to inform you that your application has been:

12 ..... Rejected

13 ..... Approved with conditions:

14 ..... Residency requires an increased deposit

15 ..... Residency requires a qualified guarantor

16 ..... Residency requires last month's rent

17 ..... Residency requires an increased monthly rent of \$.....

18 ..... Other:

19 Adverse action on your application was based on the following:

20 ..... Information contained in a consumer report (The prospective  
21 landlord must include the name, address, and phone number of the  
22 consumer reporting agency that furnished the consumer report that  
23 contributed to the adverse action.)

24 ..... The consumer credit report did not contain sufficient  
25 information

26 ..... Information received from previous rental history or reference

27 ..... Information received in a criminal record

28 ..... Information received in a civil record

29 ..... Information received from an employment verification

30 Dated this ..... day of ....., ((20))....(year)

31 Agent/Owner Signature"

32 (2) Any landlord who maintains a web site advertising the rental  
33 of a dwelling unit or as a source of information for current or  
34 prospective tenants must include a statement on the property's home  
35 page stating whether or not the landlord will accept a comprehensive  
36 reusable tenant screening report made available to the landlord by a  
37 consumer reporting agency. If the landlord indicates its willingness

1 to accept a comprehensive reusable tenant screening report, the  
2 landlord may access the landlord's own tenant screening report  
3 regarding a prospective tenant as long as the prospective tenant is  
4 not charged for the landlord's own tenant screening report.

5 (3) Any landlord or prospective landlord who violates subsection  
6 (1) of this section may be liable to the prospective tenant for an  
7 amount not to exceed one hundred dollars. The prevailing party may  
8 also recover court costs and reasonable attorneys' fees.

9 ~~((3) A stakeholder work group comprised of landlords, tenant~~  
10 ~~advocates, and representatives of consumer reporting and tenant~~  
11 ~~screening companies shall convene for the purposes of addressing the~~  
12 ~~issues of tenant screening including, but not limited to: A tenant's~~  
13 ~~cost of obtaining a tenant screening report; the portability of~~  
14 ~~tenant screening reports; criteria used to evaluate a prospective~~  
15 ~~tenant's background, including which court records may or may not be~~  
16 ~~considered; and the regulation of tenant screening services. Specific~~  
17 ~~recommendations on these issues are due to the legislature by~~  
18 ~~December 1, 2012.))~~

19 (4) This section does not limit a prospective tenant's rights or  
20 the duties of a screening service as otherwise provided in chapter  
21 19.182 RCW.

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

24 (1) A court may order an unlawful detainer action to be of  
25 limited dissemination for one or more persons if: (a) The court finds  
26 that the plaintiff's case was sufficiently without basis in fact or  
27 law; (b) the tenancy was reinstated under RCW 59.18.410 or other law;  
28 or (c) other good cause exists for limiting dissemination of the  
29 unlawful detainer action.

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

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

1       **Sec. 4.** RCW 59.18.280 and 2010 c 8 s 19027 are each amended to  
2 read as follows:

3       (1) Within (~~fourteen~~) twenty-one days after the termination of  
4 the rental agreement and vacation of the premises or, if the tenant  
5 abandons the premises as defined in RCW 59.18.310, within  
6 (~~fourteen~~) twenty-one days after the landlord learns of the  
7 abandonment, the landlord shall give a full and specific statement of  
8 the basis for retaining any of the deposit together with the payment  
9 of any refund due the tenant under the terms and conditions of the  
10 rental agreement.

11       (a) No portion of any deposit shall be withheld on account of  
12 wear resulting from ordinary use of the premises.

13       (b) The landlord complies with this section if the required  
14 statement or payment, or both, are delivered to the tenant personally  
15 or deposited in the United States mail properly addressed to the  
16 tenant's last known address with first-class postage prepaid within  
17 the (~~fourteen~~) twenty-one days.

18       (~~The notice shall be delivered to the tenant personally or by~~  
19 ~~mail to his or her last known address.)) (2) If the landlord fails to  
20 give such statement together with any refund due the tenant within  
21 the time limits specified above he or she shall be liable to the  
22 tenant for the full amount of the deposit. The landlord is also  
23 barred in any action brought by the tenant to recover the deposit  
24 from asserting any claim or raising any defense for retaining any of  
25 the deposit unless the landlord shows that circumstances beyond the  
26 landlord's control prevented the landlord from providing the  
27 statement within the (~~fourteen~~) twenty-one days or that the tenant  
28 abandoned the premises as defined in RCW 59.18.310. The court may in  
29 its discretion award up to two times the amount of the deposit for  
30 the intentional refusal of the landlord to give the statement or  
31 refund due. In any action brought by the tenant to recover the  
32 deposit, the prevailing party shall additionally be entitled to the  
33 cost of suit or arbitration including a reasonable attorneys' fee.~~

34       (3) Nothing in this chapter shall preclude the landlord from  
35 proceeding against, and the landlord shall have the right to proceed  
36 against a tenant to recover sums exceeding the amount of the tenant's  
37 damage or security deposit for damage to the property for which the  
38 tenant is responsible together with reasonable attorneys' fees.

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