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**SENATE BILL 5733**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senator Saldaña

1 AN ACT Relating to protecting tenants in residential tenancies;  
2 amending RCW 59.18.040, 59.18.220, 61.24.060, 59.18.250, 59.18.230,  
3 and 59.18.280; reenacting and amending RCW 59.18.030; adding new  
4 sections to chapter 59.18 RCW; creating a new section; and  
5 prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

8 (a) There is a housing crisis in Washington state that is  
9 worsened by the absence of a state law prohibiting a landlord from  
10 evicting a tenant without cause.

11 (b) The state's prolonged affordable housing crisis  
12 disproportionately impacts low-income and working class persons and  
13 families, people of color, women, immigrants, seniors, and the LGBTQ  
14 community. These communities are disproportionately impacted by no  
15 cause eviction and displacement, creating residential segregation in  
16 our communities.

17 (c) Renters, who constitute a large percentage of the residents  
18 of Washington, suffer great and serious hardship when forced to move  
19 from their homes. No cause evictions have a negative, destabilizing  
20 impact on the peace, health, and safety of renters and their  
21 families.

1 (d) Studies have shown that women, especially women of color, are  
2 disproportionately impacted by evictions. The presence of children in  
3 a household increases the likelihood of eviction, even though  
4 discrimination based on family status is illegal under federal law.  
5 Without cause eviction protection, preventing discriminatory eviction  
6 practices is impossible.

7 (e) Renters deserve access to safe and healthy housing, but many  
8 renters in our state live in substandard rentals. Cause eviction  
9 protection allows renters to raise concerns with the habitability of  
10 a rental without the fear of retaliation in the form of a no cause  
11 eviction.

12 (f) Displacement through eviction uproots children from schools,  
13 disrupting the social ties and networks that are integral to  
14 residents' welfare and the stability of communities within  
15 Washington. Studies have shown students who have moved multiple times  
16 are more likely to have poorer grades in reading and math, and have a  
17 higher risk of dropping out of school, thus impacting the state's  
18 economy.

19 (g) Displacement through eviction creates undue hardship for  
20 renters with low incomes through additional relocation costs, stress  
21 and anxiety, and the threat of homelessness due to the lack of  
22 alternative housing.

23 (h) Basic fairness requires that a landlord must not terminate  
24 the tenancy of a residential tenant without good, just, nonarbitrary,  
25 nondiscriminatory reasons.

26 (2) The legislature further finds that the cause eviction  
27 protections enacted in other states such as New Jersey and New  
28 Hampshire have aided community stability and reduced problems  
29 associated with arbitrary disruption of stable households.

30 (3) The legislature, therefore, concludes that the general  
31 welfare of all residents of Washington would be enhanced if no cause  
32 evictions were prohibited, and declares its intention to create long-  
33 term housing stability among all renters in Washington through cause  
34 eviction protections.

35 **Sec. 2.** RCW 59.18.030 and 2016 c 66 s 1 are each reenacted and  
36 amended to read as follows:

37 As used in this chapter:

38 (1) "Certificate of inspection" means an unsworn statement,  
39 declaration, verification, or certificate made in accordance with the

1 requirements of RCW 9A.72.085 by a qualified inspector that states  
2 that the landlord has not failed to fulfill any substantial  
3 obligation imposed under RCW 59.18.060 that endangers or impairs the  
4 health or safety of a tenant, including (a) structural members that  
5 are of insufficient size or strength to carry imposed loads with  
6 safety, (b) exposure of the occupants to the weather, (c) plumbing  
7 and sanitation defects that directly expose the occupants to the risk  
8 of illness or injury, (d) not providing facilities adequate to supply  
9 heat and water and hot water as reasonably required by the tenant,  
10 (e) providing heating or ventilation systems that are not functional  
11 or are hazardous, (f) defective, hazardous, or missing electrical  
12 wiring or electrical service, (g) defective or hazardous exits that  
13 increase the risk of injury to occupants, and (h) conditions that  
14 increase the risk of fire.

15 (2) "Commercially reasonable manner," with respect to a sale of a  
16 deceased tenant's personal property, means a sale where every aspect  
17 of the sale, including the method, manner, time, place, and other  
18 terms, must be commercially reasonable. If commercially reasonable, a  
19 landlord may sell the tenant's property by public or private  
20 proceedings, by one or more contracts, as a unit or in parcels, and  
21 at any time and place and on any terms.

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

31 (4) "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 (5) "Designated person" means a person designated by the tenant  
40 under RCW 59.18.590.

1 (6) "Distressed home" has the same meaning as in RCW 61.34.020.  
2 (7) "Distressed home conveyance" has the same meaning as in RCW  
3 61.34.020.  
4 (8) "Distressed home purchaser" has the same meaning as in RCW  
5 61.34.020.  
6 (9) "Dwelling unit" is a structure or that part of a structure  
7 which is used as a home, residence, or sleeping place by one person  
8 or by two or more persons maintaining a common household, including  
9 but not limited to single-family residences and units of multiplexes,  
10 apartment buildings, and mobile homes.  
11 (10) "Eviction history" means a report containing or summarizing  
12 the contents of any records of unlawful detainer actions concerning  
13 the prospective tenant that are reportable in accordance with state  
14 law, are lawful for landlords to consider, and are obtained after a  
15 search based on at least seven years of address history and alias  
16 information provided by the prospective tenant or available in the  
17 consumer credit report.  
18 (11) "Gang" means a group that: (a) Consists of three or more  
19 persons; (b) has identifiable leadership or an identifiable name,  
20 sign, or symbol; and (c) on an ongoing basis, regularly conspires and  
21 acts in concert mainly for criminal purposes.  
22 (12) "Gang-related activity" means any activity that occurs  
23 within the gang or advances a gang purpose.  
24 (13) "In danger of foreclosure" means any of the following:  
25 (a) The homeowner has defaulted on the mortgage and, under the  
26 terms of the mortgage, the mortgagee has the right to accelerate full  
27 payment of the mortgage and repossess, sell, or cause to be sold the  
28 property;  
29 (b) The homeowner is at least thirty days delinquent on any loan  
30 that is secured by the property; or  
31 (c) The homeowner has a good faith belief that he or she is  
32 likely to default on the mortgage within the upcoming four months due  
33 to a lack of funds, and the homeowner has reported this belief to:  
34 (i) The mortgagee;  
35 (ii) A person licensed or required to be licensed under chapter  
36 19.134 RCW;  
37 (iii) A person licensed or required to be licensed under chapter  
38 19.146 RCW;  
39 (iv) A person licensed or required to be licensed under chapter  
40 18.85 RCW;

1 (v) An attorney-at-law;

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

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

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

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

13 (16) "Normal wear and tear resulting from ordinary use of the  
14 premises" means deterioration that results from the intended use of a  
15 dwelling unit, including breakage or malfunction due to age or  
16 deteriorated condition. Such wear does not include deterioration that  
17 results from negligence, carelessness, accident, or abuse of the  
18 unit, fixtures, equipment, or other tangible personal property of the  
19 landlord by the tenant or the tenant's guests.

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

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

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

25 (~~(17)~~) (18) "Person" means an individual, group of individuals,  
26 corporation, government, or governmental agency, business trust,  
27 estate, trust, partnership, or association, two or more persons  
28 having a joint or common interest, or any other legal or commercial  
29 entity.

30 (~~(18)~~) (19) "Premises" means a dwelling unit, appurtenances  
31 thereto, grounds, and facilities held out for the use of tenants  
32 generally and any other area or facility which is held out for use by  
33 the tenant.

34 (~~(19)~~) (20) "Property" or "rental property" means all dwelling  
35 units on a contiguous quantity of land managed by the same landlord  
36 as a single, rental complex.

37 (~~(20)~~) (21) "Prospective landlord" means a landlord or a person  
38 who advertises, solicits, offers, or otherwise holds a dwelling unit  
39 out as available for rent.

1           ~~((21))~~ (22) "Prospective tenant" means a tenant or a person who  
2 has applied for residential housing that is governed under this  
3 chapter.

4           ~~((22))~~ (23) "Qualified inspector" means a United States  
5 department of housing and urban development certified inspector; a  
6 Washington state licensed home inspector; an American society of home  
7 inspectors certified inspector; a private inspector certified by the  
8 national association of housing and redevelopment officials, the  
9 American association of code enforcement, or other comparable  
10 professional association as approved by the local municipality; a  
11 municipal code enforcement officer; a Washington licensed structural  
12 engineer; or a Washington licensed architect.

13           ~~((23))~~ (24) "Reasonable attorneys' fees," where authorized in  
14 this chapter, means an amount to be determined including the  
15 following factors: The time and labor required, the novelty and  
16 difficulty of the questions involved, the skill requisite to perform  
17 the legal service properly, the fee customarily charged in the  
18 locality for similar legal services, the amount involved and the  
19 results obtained, and the experience, reputation and ability of the  
20 lawyer or lawyers performing the services.

21           ~~((24))~~ (25) "Reasonable manner," with respect to disposing of a  
22 deceased tenant's personal property, means to dispose of the property  
23 by donation to a not-for-profit charitable organization, by removal  
24 of the property by a trash hauler or recycler, or by any other method  
25 that is reasonable under the circumstances.

26           ~~((25))~~ (26) "Rent" or "rental amount" means consideration for  
27 use and occupancy of the premises. These terms do not include charges  
28 for costs incurred due to late fees, damages, utilities, deposits,  
29 legal costs, or other fees, including attorneys' fees.

30           (27) "Rental agreement" means all agreements which establish or  
31 modify the terms, conditions, rules, regulations, or any other  
32 provisions concerning the use and occupancy of a dwelling unit.

33           ~~((26))~~ (28) A "single-family residence" is a structure  
34 maintained and used as a single dwelling unit. Notwithstanding that a  
35 dwelling unit shares one or more walls with another dwelling unit, it  
36 shall be deemed a single-family residence if it has direct access to  
37 a street and shares neither heating facilities nor hot water  
38 equipment, nor any other essential facility or service, with any  
39 other dwelling unit.

1       (~~(27)~~) (29) A "tenant" is any person who is entitled to occupy  
2 a dwelling unit primarily for living or dwelling purposes under a  
3 rental agreement and any occupant who has coresided with the tenant  
4 for six months or more prior to the tenant vacating the property.

5       (~~(28)~~) (30) "Tenant representative" means:

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

8       (b) If the landlord has no knowledge that a personal  
9 representative has been appointed for the deceased tenant's estate, a  
10 person claiming to be a successor of the deceased tenant who has  
11 provided the landlord with proof of death and an affidavit made by  
12 the person that meets the requirements of RCW 11.62.010(2);

13       (c) In the absence of a personal representative under (a) of this  
14 subsection or a person claiming to be a successor under (b) of this  
15 subsection, a designated person; or

16       (d) In the absence of a personal representative under (a) of this  
17 subsection, a person claiming to be a successor under (b) of this  
18 subsection, or a designated person under (c) of this subsection, any  
19 person who provides the landlord with reasonable evidence that he or  
20 she is a successor of the deceased tenant as defined in RCW  
21 11.62.005. The landlord has no obligation to identify all of the  
22 deceased tenant's successors.

23       (~~(29)~~) (31) "Tenant screening" means using a consumer report or  
24 other information about a prospective tenant in deciding whether to  
25 make or accept an offer for residential rental property to or from a  
26 prospective tenant.

27       (~~(30)~~) (32) "Tenant screening report" means a consumer report  
28 as defined in RCW 19.182.010 and any other information collected by a  
29 tenant screening service.

30       **Sec. 3.** RCW 59.18.040 and 1989 c 342 s 3 are each amended to  
31 read as follows:

32       The following living arrangements are not intended to be governed  
33 by the provisions of this chapter, unless established primarily to  
34 avoid its application, in which event the provisions of this chapter  
35 shall control:

36       (1) Residence at an institution, whether public or private, where  
37 residence is merely incidental to detention or the provision of  
38 medical, religious, educational, recreational, or similar services,

1 including but not limited to correctional facilities, licensed  
2 nursing homes, monasteries and convents, and hospitals;

3 (2) Occupancy under a bona fide earnest money agreement to  
4 purchase or contract of sale of the dwelling unit or the property of  
5 which it is a part, where the tenant is, or stands in the place of,  
6 the purchaser;

7 (3) Residence in a hotel, motel, or other transient lodging whose  
8 operation is defined in RCW 19.48.010;

9 (4) Rental agreements entered into pursuant to the provisions of  
10 chapter 47.12 RCW where occupancy is by an owner-condemnee and where  
11 such agreement does not violate the public policy of this state of  
12 ensuring decent, safe, and sanitary housing and is so certified by  
13 the consumer protection division of the attorney general's office;

14 (5) Rental agreements for the use of any single-family residence  
15 which are incidental to leases or rentals entered into in connection  
16 with a lease of land to be used primarily for agricultural purposes;

17 (6) Rental agreements providing housing for seasonal agricultural  
18 employees while provided in conjunction with such employment;

19 (7) Rental agreements with the state of Washington, department of  
20 natural resources, on public lands governed by Title 79 RCW ((~~7~~

21 ~~(8) Occupancy by an employee of a landlord whose right to occupy~~  
22 ~~is conditioned upon employment in or about the premises)).~~

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

25 (1) A landlord may not evict or attempt to evict, or otherwise  
26 terminate or attempt to terminate, the tenancy of any tenant without  
27 a court order, and the order may be issued by a court only after the  
28 landlord pleads cause with specificity, the tenant has an opportunity  
29 at a show cause hearing to contest the eviction pursuant to RCW  
30 59.18.380, and the landlord proves that cause exists. The following  
31 reasons for termination of tenancy listed in this subsection, and no  
32 others, constitute cause under this chapter:

33 (a) The tenant continues in possession in person or by subtenant  
34 after a default in the payment of rent, and after written notice  
35 requiring, in the alternative, the payment of the rent or the  
36 surrender of the detained premises has remained uncomplied with for  
37 the period of twenty-one days after service thereof, provided the  
38 property is in compliance with local codes. The written notice may be  
39 served at any time after the rent becomes due;



1 (b) The tenant continues, after thirty days' written notice to  
2 cease, to substantially violate a material term subscribed by the  
3 tenant within the original lease or rental agreement other than one  
4 for monetary damages. Within thirty days after the service of the  
5 written notice, the tenant, or any subtenant in actual occupation of  
6 the premises, or any mortgagee of the term, or other person  
7 interested in its continuance, may perform such condition and thereby  
8 save the lease or rental agreement from forfeiture;

9 (c) The tenant continues to commit, after three days' written  
10 notice to cease, an ongoing, substantial interference with the use  
11 and enjoyment of the premises;

12 (d) The tenant continues in possession after the owner of a  
13 residential building with three units or less in good faith seeks  
14 possession so that the owner or his or her immediate family may  
15 occupy the unit as that person's principal residence and no  
16 substantially equivalent unit is vacant and available to house the  
17 owner or his or her immediate family in the same building, and the  
18 owner has given at least ninety days' advance written notice of the  
19 date the tenant's possession is to end. An owner may not exercise  
20 this subsection (1)(d) against any tenant who is sixty years of age  
21 or older or is a person with a disability as defined within RCW  
22 49.60.040(7) unless the owner makes available a comparable dwelling  
23 to the tenant prior to taking possession. There is a rebuttable  
24 presumption that the owner did not act in good faith if the owner or  
25 his or her immediate family fail to occupy the unit as a principal  
26 residence for at least sixty consecutive days during the ninety days  
27 immediately after the tenant vacated the unit pursuant to a notice of  
28 termination or eviction using this subsection (1)(d) as the cause for  
29 eviction;

30 (e) The tenant continues in possession after the owner elects to  
31 withdraw the premises from the rental market, including to pursue a  
32 conversion pursuant to RCW 64.34.440, and after the owner has given  
33 at least one hundred twenty days' advance written notice of the date  
34 the tenant's possession is to end. A notice made in bad faith is  
35 subject to damages pursuant to this subsection;

36 (f) The tenant continues in possession of the premises after the  
37 landlord serves the tenant by one hundred twenty days' advance  
38 written notice with plans to substantially rehabilitate or demolish  
39 the dwelling. A notice under this subsection (1)(f) must include  
40 approvals and plans from the local jurisdictions for the

1 rehabilitation project in accordance with local law. A notice made in  
2 bad faith is subject to damages pursuant to this section;

3 (g) The tenant continues in possession, after the landlord has  
4 served thirty days' advance written notice that: (i) The premises has  
5 been certified or condemned as uninhabitable by a local agency  
6 charged with the authority to issue such an order; (ii) continued  
7 habitation of the premises would subject the landlord to civil or  
8 criminal penalties; and (iii) it is economically unfeasible to  
9 restore the premises to a habitable condition. However, if the terms  
10 of the local agency's order do not allow the landlord to provide  
11 thirty days' advance written notice, the landlord shall provide as  
12 much advance written notice as is possible and still comply with the  
13 order.

14 (2) A person in violation of this section shall be held liable in  
15 a civil action up to four and one-half times the monthly rent of the  
16 real property at issue, as well as court costs and reasonable  
17 attorneys' fees.

18 (3) Nothing in subsection (1)(d), (e), or (f) of this section  
19 permits a landlord to terminate a fixed term tenancy before the  
20 completion of the term.

21 (4) All written notices required under subsection (1) of this  
22 section must be served in a manner consistent with RCW 59.12.040.

23 **Sec. 5.** RCW 59.18.220 and 2003 c 7 s 2 are each amended to read  
24 as follows:

25 (1) In all cases where premises are rented for a specified time,  
26 by express or implied contract, (~~the tenancy shall be deemed~~  
27 ~~terminated at the end of such specified time~~) upon expiration and  
28 absent an agreement to renew the lease or rental agreement, the  
29 tenancy shall be construed to be a tenancy from month to month with  
30 rent payable on the same terms and conditions in existence at the  
31 time of expiration and subject to the protections of this chapter.

32 (2) Any tenant who is a member of the armed forces, including the  
33 national guard and armed forces reserves, or that tenant's spouse or  
34 dependent, may terminate a tenancy for a specified time if the tenant  
35 receives reassignment or deployment orders. The tenant shall provide  
36 notice of the reassignment or deployment order to the landlord no  
37 later than seven days after receipt.

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

3        Under this chapter:

4        (1) A landlord must first apply any payment made by a tenant  
5    toward rent, as that term is defined in RCW 59.18.030, before  
6    applying any payment toward late fees, damages, utilities, deposits,  
7    legal costs, or other fees, including attorneys' fees.

8        (2) Continued tenancy or relief from forfeiture may not be  
9    conditioned on a tenant's payment or satisfaction of any monetary  
10   amount other than rent. However, this does not foreclose a landlord  
11   from pursuing other lawful remedies to collect late payments,  
12   damages, legal costs, or other fees, including attorneys' fees.

13       (3) A landlord may not unreasonably restrict the ability of a  
14   tenant to have an immediate family member or members reside with the  
15   tenant. Nothing in this subsection shall be construed as invalidating  
16   or impairing the operation of, or the right of, a landlord to  
17   restrict occupancy in order to comply with federal, state, or local  
18   laws, regulations, ordinances, or codes.

19       **Sec. 7.**    RCW 61.24.060 and 2009 c 292 s 10 are each amended to  
20   read as follows:

21       (1) The purchaser at the trustee's sale shall be entitled to  
22   possession of the property on the twentieth day following the sale,  
23   as against the borrower and grantor under the deed of trust and  
24   anyone having an interest junior to the deed of trust, including  
25   occupants who are not tenants, who were given all of the notices to  
26   which they were entitled under this chapter. The purchaser shall also  
27   have a right to the summary proceedings to obtain possession of real  
28   property provided in chapter 59.12 RCW; except that protections  
29   afforded to a tenant or an occupant pursuant to chapter 59.18 RCW  
30   shall survive such sale.

31       (2) If the trustee elected to foreclose the interest of any  
32   occupant or tenant, the purchaser of tenant-occupied property at the  
33   trustee's sale shall provide written notice to the occupants and  
34   tenants at the property purchased in substantially the following  
35   form:

36       "NOTICE: The property located at . . . . . was purchased at a  
37   trustee's sale by . . . . . on . . . . . (date).

1 1. If you are the previous owner or an occupant who is not a  
2 tenant of the property that was purchased, pursuant to RCW 61.24.060,  
3 the purchaser at the trustee's sale is entitled to possession of the  
4 property on . . . . . (date), which is the twentieth day following  
5 the sale.

6 2. If you are a tenant or subtenant in possession of the property  
7 that was purchased, pursuant to RCW 61.24.146, the purchaser at the  
8 trustee's sale may either give you a new rental agreement OR give you  
9 a written notice to vacate the property in sixty days or more before  
10 the end of the monthly rental period."

11 (3) The notice required in subsection (2) of this section must be  
12 given to the property's occupants and tenants by both first-class  
13 mail and either certified or registered mail, return receipt  
14 requested.

15 **Sec. 8.** RCW 59.18.250 and 2010 c 8 s 19026 are each amended to  
16 read as follows:

17 Initiation by the landlord of any action listed in RCW 59.18.240  
18 within ninety days after a good faith and lawful act by the tenant as  
19 enumerated in RCW 59.18.240, or within ninety days after any  
20 inspection or proceeding of a governmental agency resulting from such  
21 act, shall create a rebuttable presumption affecting the burden of  
22 proof, that the action is a reprisal or retaliatory action against  
23 the tenant: (~~PROVIDED, That if at the time the landlord gives notice~~  
24 ~~of termination of tenancy pursuant to chapter 59.12 RCW the tenant is~~  
25 ~~in arrears in rent or in breach of any other lease or rental~~  
26 ~~obligation, there is a rebuttable presumption affecting the burden of~~  
27 ~~proof that the landlord's action is neither a reprisal nor~~  
28 ~~retaliatory action against the tenant:)) PROVIDED ((FURTHER)), That  
29 if the court finds that the tenant made a complaint or report to a  
30 governmental authority within ninety days after notice of a proposed  
31 increase in rent or other action in good faith by the landlord, there  
32 is a rebuttable presumption that the complaint or report was not made  
33 in good faith: PROVIDED FURTHER, That no presumption against the  
34 landlord shall arise under this section, with respect to an increase  
35 in rent, if the landlord, in a notice to the tenant of increase in  
36 rent, specifies reasonable grounds for said increase, which grounds  
37 may include a substantial increase in market value due to remedial  
38 action under this chapter: PROVIDED FURTHER, That the presumption of~~

1 retaliation, with respect to an eviction, may be rebutted by evidence  
2 that it is not practical to make necessary repairs while the tenant  
3 remains in occupancy. In any action or eviction proceeding where the  
4 tenant prevails upon his or her claim or defense that the landlord  
5 has violated this section, the tenant shall be entitled to recover  
6 his or her costs of suit or arbitration, including a reasonable  
7 attorney's fee, and where the landlord prevails upon his or her claim  
8 he or she shall be entitled to recover his or her costs of suit or  
9 arbitration, including a reasonable ~~((attorney's))~~ attorneys' fee(~~(+~~  
10 ~~PROVIDED FURTHER, That neither party may recover attorney's fees to~~  
11 ~~the extent that their legal services are provided at no cost to~~  
12 ~~them))~~).

13 **Sec. 9.** RCW 59.18.230 and 2011 c 132 s 11 are each amended to  
14 read as follows:

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

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

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

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

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

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

31 (e) And landlord have agreed to a particular arbitrator at the  
32 time the rental agreement is entered into.

33 (3) A provision prohibited by subsection (2) of this section  
34 included in a rental agreement is unenforceable. If a landlord  
35 deliberately uses a rental agreement containing provisions known by  
36 him or her to be prohibited, the tenant may recover actual damages  
37 sustained by him or her, statutory damages not to exceed ~~((five~~  
38 ~~hundred dollars))~~ one month's rent or treble actual damages,  
39 whichever is greater, costs of suit, and reasonable attorneys' fees.

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

16 In any action, including actions pursuant to chapters 7.64 or  
17 12.28 RCW, brought by a tenant or other person to recover possession  
18 of his or her personal property taken or detained by a landlord in  
19 violation of this section, the court, upon motion and after notice to  
20 the opposing parties, may waive or reduce any bond requirements where  
21 it appears to be to the satisfaction of the court that the moving  
22 party is proceeding in good faith and has, prima facie, a meritorious  
23 claim for immediate delivery or redelivery of said property.

24 **Sec. 10.** RCW 59.18.280 and 2016 c 66 s 4 are each amended to  
25 read as follows:

26 (1) Within twenty-one days after the termination of the rental  
27 agreement and vacation of the premises or, if the tenant abandons the  
28 premises as defined in RCW 59.18.310, within twenty-one days after  
29 the landlord learns of the abandonment, the landlord shall give a  
30 full and specific statement of the basis for retaining any of the  
31 deposit together with the payment of any refund due the tenant under  
32 the terms and conditions of the rental agreement. The landlord shall  
33 include copies of estimates received or invoices paid to substantiate  
34 damage charges. Any damages not substantiated by third-party  
35 documentation may not be charged to the tenant.

36 (a) No portion of any deposit shall be withheld on account of  
37 normal wear and tear resulting from ordinary use of the premises.

38 (b) The landlord complies with this section if the required  
39 statement or payment, or both, are delivered to the tenant personally

1 or deposited in the United States mail properly addressed to the  
2 tenant's last known address with first-class postage prepaid within  
3 the twenty-one days.

4 (2) If the landlord fails to give such statement and  
5 documentation together with any refund due the tenant within the time  
6 limits specified above he or she shall be liable to the tenant for  
7 the full amount of the deposit. The landlord is also barred in any  
8 action brought by the tenant to recover the deposit from asserting  
9 any claim or raising any defense for retaining any of the deposit  
10 unless the landlord shows that circumstances beyond the landlord's  
11 control prevented the landlord from providing the statement within  
12 the twenty-one days or that the tenant abandoned the premises as  
13 defined in RCW 59.18.310. The court (~~may in its discretion~~) shall  
14 award up to two times the amount of the deposit for the intentional  
15 refusal of the landlord to give the statement, documentation, or  
16 refund due. In any action brought by the tenant to recover the  
17 deposit, the prevailing party shall additionally be entitled to the  
18 cost of suit or arbitration including a reasonable attorneys' fee.

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

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