

provisions of this chapter by September 30, 1994. If participation in activities, such as intercollegiate athletics and matriculation in academic programs is not proportionate to the percentages of male and female enrollment, the plan should outline efforts to identify barriers to equal participation and to encourage gender equity in all aspects of college and university life.

(4) The board shall report biennially, beginning December 31, 1990, to the governor and the higher education committees of the house of representatives and the senate on institutional efforts to comply with this chapter. The report shall include recommendations on measures to assist institutions with compliance.

(5) The board may delegate to the state board for community college education any or all responsibility for community college compliance with the provisions of this chapter.

**NEW SECTION.** Sec. 5. A violation of this chapter shall constitute an unfair practice under chapter 49.60 RCW, the law against discrimination. All rights and remedies under chapter 49.60 RCW, including the right to file a complaint with the human rights commission and to bring a civil action, shall apply.

**NEW SECTION.** Sec. 6. This chapter shall supplement, and shall not supersede, existing law and procedures relating to unlawful discrimination based on gender.

**NEW SECTION.** Sec. 7. Institutions of higher education shall distribute copies of the provisions of this chapter to all students.

**NEW SECTION.** Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION.** Sec. 9. Sections 1 through 8 of this act shall constitute a new chapter in Title 28B RCW.

Passed the House March 14, 1989.

Passed the Senate April 13, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 342

[Substitute House Bill No. 2041]

### LANDLORD AND TENANT—RIGHTS AND REMEDIES

AN ACT Relating to changes in landlord-tenant law; amending RCW 59.12.120, 59.18-.040, 59.18.070, 59.18.100, 59.18.140, 59.18.150, 59.18.230, 59.18.280, 59.18.310, 59.18.390, and 59.18.415; reenacting and amending RCW 36.18.020; adding new sections to chapter 59-.18 RCW; and providing an effective date.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 3, chapter 56, Laws of 1987, section 201, chapter 202, Laws of 1987 and section 3, chapter 382, Laws of 1987 and RCW 36.18-.020 are each reenacted and amended to read as follows:

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

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said paper is filed, a fee of seventy-eight dollars except in proceedings filed under RCW 26.50.030 or 49.60.227 where the petitioner shall pay a filing fee of twenty dollars, or an unlawful detainer action under chapter 59.18 or 59.20 RCW where the plaintiff shall pay a filing fee of thirty dollars. If the defendant serves or files an answer to an unlawful detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff shall pay, prior to proceeding with the unlawful detainer action, an additional forty-eight dollars which shall be considered part of the filing fee. The thirty dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(2) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when said paper is filed, a fee of seventy-eight dollars.

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a district court in the county of issuance, shall pay at the time of filing, a fee of fifteen dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) For the filing of a petition for modification of a decree of dissolution, a fee of twenty dollars shall be paid.

(6) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of twenty-five dollars; if the demand is for a jury of twelve the fee shall be fifty dollars. If, after the party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(7) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in the clerk's office for which no other charge is provided by law, or for filing a petition, written agreement, or memorandum as provided in RCW 11.96-.170, the clerk shall collect two dollars.

(8) For preparing, transcribing or certifying any instrument on file or of record in the clerk's office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(9) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(10) For each garnishee defendant named in an affidavit for garnishment and for each writ of attachment, a fee of five dollars shall be charged.

(11) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(12) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of seventy-eight dollars: PROVIDED, HOWEVER, A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated. Except as provided for in subsection ~~((+2){+3})~~ (13) of this section a fee of two dollars shall be charged for filing a petition, written agreement, or memorandum as provided in RCW 11.96.170.

(13) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96.170, there shall be paid a fee of seventy-eight dollars.

(14) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(15) For the preparation of a passport application there shall be a fee of four dollars.

(16) For searching records for which a written report is issued there shall be a fee of eight dollars per hour.

(17) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmation of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of seventy dollars.

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

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

Sec. 2. Section 13, chapter 96, Laws of 1891 and RCW 59.12.120 are each amended to read as follows:

If ~~((at the time))~~ on the date appointed in the summons the defendant ~~((do))~~ does not appear ~~((and defend))~~ or answer, the court ~~((must))~~ shall render judgment in favor of the plaintiff as prayed for in the complaint.

Sec. 3. Section 4, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.040 are each amended to read as follows:

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

(1) Residence at an institution, whether public or private, where residence is merely incidental to detention or the provision of medical, religious, educational, recreational, or similar services, including but not limited to correctional facilities, licensed nursing homes, monasteries and convents, and hospitals;

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

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

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

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

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

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

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

Sec. 4. Section 7, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.070 are each amended to read as follows:

If at any time during the tenancy the landlord fails to carry out the duties required by RCW 59.18.060 or by the rental agreement, the tenant may, in addition to pursuit of remedies otherwise provided him by law, deliver written notice to the person designated in ~~((subsection (11) of))~~ RCW 59.18.060(11), or to the person who collects the rent, which notice shall

specify the premises involved, the name of the owner, if known, and the nature of the defective condition. ~~((For the purposes of this chapter, a reasonable time for))~~ The landlord ((to)) shall commence remedial action after receipt of such notice by the tenant ((shall be)) as soon as possible but not later than the following time periods, except where circumstances are beyond the landlord's control((:));

(1) Not more than twenty-four hours, where the defective condition deprives the tenant of hot or cold water ((or)), heat, or electricity, or is imminently hazardous to life;

(2) Not more than ~~((forty-eight))~~ seventy-two hours, where the ~~((landlord fails to provide hot water or electricity;))~~ defective condition deprives the tenant of the use of a refrigerator, range and oven, or a major plumbing fixture supplied by the landlord; and

(3) ~~((Subject to the provisions of subsections (1) and (2) of this section, not more than seven days in the case of a repair under RCW 59.18.100(3);~~

~~(4))~~ Not more than ~~((thirty))~~ ten days in all other cases.

In each instance the burden shall be on the landlord to see that remedial work under this section is completed ~~((with reasonable promptness:~~

~~Where circumstances beyond the landlord's control, including the availability of financing, prevent him from complying with the time limitations set forth in this section, he shall endeavor to remedy the defective condition with all reasonable speed))~~ promptly. If completion is delayed due to circumstances beyond the landlord's control, including the unavailability of financing, the landlord shall remedy the defective condition as soon as possible.

Sec. 5. Section 10, chapter 207, Laws of 1973 1st ex. sess. as amended by section 35, chapter 185, Laws of 1987 and RCW 59.18.100 are each amended to read as follows:

(1) If at any time during the tenancy, the landlord fails to carry out any of the duties imposed by RCW 59.18.060, and notice of the defect is given to the landlord pursuant to RCW 59.18.070, the tenant may submit to the landlord or his designated agent by certified mail or in person ~~((at least two bids))~~ a good faith estimate by the tenant of the cost to perform the repairs necessary to correct the defective condition ((from)) if the repair is to be done by licensed or registered persons, or if no licensing or registration requirement applies to the type of work to be performed, ((from)) the cost if the repair is to be done by responsible persons capable of performing such repairs. Such ((bids)) estimate may be submitted to the landlord at the same time as notice is given pursuant to RCW 59.18.070: PROVIDED, That the remedy provided in this section shall not be available for a landlord's failure to carry out the duties in ((subsections (6), (9), and (11) of) RCW 59.18.060(9), and (11): PROVIDED FURTHER, That if the tenant utilizes this section for repairs pursuant to RCW 59.18.060(6), the tenant

shall promptly provide the landlord with a key to any new or replaced locks. The amount the tenant may deduct from the rent may vary from the estimate, but cannot exceed the one-month limit as described in subsection (2) of this section.

(2) If the landlord fails to commence ~~((repair))~~ remedial action of the defective condition within ~~((a reasonable time))~~ the applicable time period after receipt of notice and the estimate from the tenant, the tenant may contract with ~~((the))~~ a licensed or registered person ~~((submitting the lowest bid)),~~ or with a responsible person capable of performing the repair if no license or registration is required, to make the repair, and upon the completion of the repair and an opportunity for inspection by the landlord or his designated agent, the tenant may deduct the cost of repair from the rent in an amount not to exceed the sum expressed in dollars representing one month's rental of the tenant's unit ~~((in any twelve-month period))~~ per repair: PROVIDED, That when the landlord must commence to remedy the defective condition within ((thirty)) ten days as provided in ((subsection (4) of)) RCW 59.18.070(3), the tenant cannot contract for repairs for ((at least fifteen days following receipt of said bids by)) ten days after notice or five days after the landlord receives the estimate, whichever is later: PROVIDE FURTHER, That the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed the sum expressed in dollars representing ~~((one))~~ two month's rental of the tenant's unit.

(3) If the landlord fails to carry out the duties imposed by RCW 59.18.060 within ~~((a reasonable time))~~ the applicable time period, and if the cost of repair does not exceed one-half month's rent, including the cost of materials and labor, which shall be computed at the prevailing rate in the community for the performance of such work, and if repair of the condition need not by law be performed only by licensed or registered persons, and if the tenant has given notice under RCW 59.18.070, although no estimate shall be necessary under this subsection, the tenant may repair the defective condition in a workmanlike manner and upon completion of the repair and an opportunity for inspection, the tenant may deduct the cost of repair from the rent: PROVIDED, That repairs under this subsection are limited to defects within the leased premises: PROVIDED FURTHER, That the cost per repair shall not exceed one-half month's rent of the unit and that the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed ((one-half)) one month's rent of the unit ((or seventy-five dollars in any twelve-month period, whichever is the lesser)).

(4) The provisions of this section shall not:

- (a) Create a relationship of employer and employee between landlord and tenant; or
- (b) Create liability under the workers' compensation act; or
- (c) Constitute the tenant as an agent of the landlord for the purposes of RCW 60.04.010 and 60.04.040.

(5) Any repair work performed under the provisions of this section shall comply with the requirements imposed by any applicable code, statute, ordinance, or regulation. A landlord whose property is damaged because of repairs performed in a negligent manner may recover the actual damages in an action against the tenant.

(6) Nothing in this section shall prevent the tenant from agreeing with the landlord to undertake the repairs himself in return for cash payment or a reasonable reduction in rent, the agreement thereof to be agreed upon between the parties, and such agreement does not alter the landlord's obligations under this chapter.

Sec. 6. Section 14, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.140 are each amended to read as follows:

The tenant shall conform to all reasonable obligations or restrictions, whether denominated by the landlord as rules, rental agreement, rent, or otherwise, concerning the use, occupation, and maintenance of his dwelling unit, appurtenances thereto, and the property of which the dwelling unit is a part if such obligations and restrictions are not in violation of any of the terms of this chapter and are not otherwise contrary to law, and if such obligations and restrictions are brought to the attention of the tenant at the time of his initial occupancy of the dwelling unit and thus become part of the rental agreement. Except for termination of tenancy, after thirty days written notice to each affected tenant, a new rule of tenancy including a change in the amount of rent may become effective upon completion of the term of the rental agreement or sooner upon mutual consent.

Sec. 7. Section 15, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.150 are each amended to read as follows:

(1) The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors.

(2) The landlord may enter the dwelling unit without consent of the tenant in case of emergency or abandonment.

(3) The landlord shall not abuse the right of access or use it to harass the tenant. Except in the case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his intent to enter and shall enter only at reasonable times. The tenant shall not unreasonably withhold consent to the landlord to enter the dwelling unit at a specified time where the landlord has given at least one day's notice of intent to enter to exhibit the dwelling unit to prospective or actual purchasers or tenants. A landlord shall not unreasonably interfere with a tenant's enjoyment of the rented dwelling unit by excessively exhibiting the dwelling unit.

(4) The landlord has no other right of access except by court order, arbitrator or by consent of the tenant.

(5) A landlord or tenant who continues to violate this section after being served with one written notification alleging in good faith violations of this section listing the date and time of the violation shall be liable for up to one hundred dollars for each violation after receipt of the notice. The prevailing party may recover costs of the suit or arbitration under this section, and may also recover reasonable attorneys' fees.

Sec. 8. Section 23, chapter 207, Laws of 1973 1st ex. sess. as amended by section 4, chapter 264, Laws of 1983 and RCW 59.18.230 are each amended to read as follows:

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

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

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

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

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

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

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

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him to be prohibited, the tenant may recover actual damages sustained by him and reasonable attorney's fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific written consent of the tenant to such incident of taking or detention, ~~((unless the property has been abandoned as described in RCW 59.18.310;))~~ and who, after written demand by the tenant for the return of his personal property, refuses to return the same promptly shall be liable to the tenant for the value of the property retained, actual damages, and if the refusal is intentional, may also be liable for damages of up to ~~((fifty))~~ one



hundred dollars per day but not to exceed one thousand dollars, for each day or part of a day that the tenant is deprived of his property. The prevailing party may recover his costs of suit and a reasonable attorney's fee.

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

Sec. 9. Section 28, chapter 207, Laws of 1973 1st ex. sess. as amended by section 7, chapter 264, Laws of 1983 and RCW 59.18.280 are each amended to read as follows:

Within fourteen days after the termination of the rental agreement and vacation of the premises or, if the tenant abandons the premises as defined in RCW 59.18.310, within fourteen days after the landlord learns of the abandonment, the landlord shall give a full and specific statement of the basis for retaining any of the deposit together with the payment of any refund due the tenant under the terms and conditions of the rental agreement. No portion of any deposit shall be withheld on account of wear resulting from ordinary use of the premises. The landlord complies with this section if the required statement or payment, or both, are deposited in the United States mail properly addressed with first class postage prepaid within the fourteen days.

The notice shall be delivered to the tenant personally or by mail to his last known address. If the landlord fails to give such statement together with any refund due the tenant within the time limits specified above he shall be liable to the tenant for the full amount of the deposit. The landlord is also barred in any action brought by the tenant to recover the deposit from asserting any claim or raising any defense for retaining any of the deposit unless the landlord shows that circumstances beyond the landlord's control prevented the landlord from providing the statement within the fourteen days or that the tenant abandoned the premises as defined in RCW 59.18.310. The court may in its discretion award up to two times the amount of the deposit for the intentional refusal of the landlord to give the statement or refund due. In any action brought by the tenant to recover the deposit, the prevailing party shall additionally be entitled to the cost of suit or arbitration including a reasonable attorney's fee.

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

Sec. 10. Section 31, chapter 207, Laws of 1973 1st ex. sess. as amended by section 8, chapter 264, Laws of 1983 and RCW 59.18.310 are each amended to read as follows:

If the tenant defaults in the payment of rent and reasonably indicates by words or actions (~~(his)~~) the intention not to resume tenancy, (~~(he)~~) the tenant shall be liable for the following for such abandonment: PROVIDED, That upon learning of such abandonment of the premises the landlord shall make a reasonable effort to mitigate the damages resulting from such abandonment:

(1) When the tenancy is month-to-month, the tenant shall be liable for the rent for the thirty days following either the date the landlord learns of the abandonment, or the date the next regular rental payment would have become due, whichever first occurs.

(2) When the tenancy is for a term greater than month-to-month, the tenant shall be liable for the lesser of the following:

(a) The entire rent due for the remainder of the term; or

(b) All rent accrued during the period reasonably necessary to rerent the premises at a fair rental, plus the difference between such fair rental and the rent agreed to in the prior agreement, plus actual costs incurred by the landlord in rerenting the premises together with statutory court costs and reasonable attorney's fees.

In the event of such abandonment of tenancy and an accompanying default in the payment of rent by the tenant, the landlord may immediately enter and take possession of any property of the tenant found on the premises and may store the same in any reasonably secure place. A landlord shall make reasonable efforts to provide the tenant with a notice containing the name and address of the landlord and the place where the property is stored (~~((shall be mailed promptly by the landlord to the last known address of the tenant))~~) and informing the tenant that a sale or disposition of the property shall take place pursuant to this section, and the date of the sale or disposal, and further informing the tenant of the right under RCW 59.18.230 to have the property returned prior to its sale or disposal. The landlord's efforts at notice under this subsection shall be satisfied by the mailing by first class mail, postage prepaid, of such notice to the tenant's last known address and to any other address provided in writing by the tenant or actually known to the landlord where the tenant might receive the notice. After (~~((sixty))~~) forty-five days from the date (~~((of default in rent, and after prior))~~) the notice of such sale or disposal is (~~((mailed to the last known address of))~~) mailed or personally delivered to the tenant, the landlord may sell such property, including personal papers, family pictures, and keepsakes (~~((, and))~~). The landlord may apply any income derived therefrom against moneys due the landlord, including actual reasonable costs of drayage and storage of the property. If the property has a cumulative value of fifty dollars or less, the landlord may sell (~~((the property))~~) or dispose of the property in the manner

provided in this section, except for personal papers, family pictures, and keepsakes, after seven days from the date the notice of sale or disposal is ((mailed)) mailed or personally delivered to the tenant ((at the tenant's last known address)); PROVIDED, That the landlord shall make reasonable efforts, as defined in this section, to notify the tenant. Any excess income derived from the sale of such property under this section shall be held by the landlord for the benefit of the tenant for a period of one year from the date of sale, and if no claim is made or action commenced by the tenant for the recovery thereof prior to the expiration of that period of time, the balance shall be the property of the landlord, including any interest paid on the income.

Sec. 11. Section 40, chapter 207, Laws of 1973 1st ex. sess. as amended by section 3, chapter 150, Laws of 1988 and RCW 59.18.390 are each amended to read as follows:

The sheriff shall, upon receiving the writ of restitution, forthwith serve a copy thereof upon the defendant, his agent, or attorney, or a person in possession of the premises, and shall not execute the same for three days thereafter, and the defendant, or person in possession of the premises within three days after the service of the writ of restitution may execute to the plaintiff a bond to be filed with and approved by the clerk of the court in such sum as may be fixed by the judge, with sufficient surety to be approved by the clerk of said court, conditioned that they will pay to the plaintiff such sum as the plaintiff may recover for the use and occupation of the said premises, or any rent found due, together with all damages the plaintiff may sustain by reason of the defendant occupying or keeping possession of said premises, together with all damages which the court theretofore has awarded to the plaintiff as provided in this chapter, and also all the costs of the action. The plaintiff, his agent or attorneys, shall have notice of the time and place where the court or judge thereof shall fix the amount of the defendant's bond, and shall have notice and a reasonable opportunity to examine into the qualification and sufficiency of the sureties upon said bond before said bond shall be approved by the clerk. If the writ of restitution has been based upon a finding by the court that the tenant, subtenant, sublessee, or a person residing at the rental premises has engaged in drug-related activity or has allowed any other person to engage in drug-related activity at those premises with his or her knowledge or approval, neither the tenant, the defendant, nor a person in possession of the premises shall be entitled to post a bond in order to retain possession of the premises. The writ may be served by the sheriff, in the event he shall be unable to find the defendant, an agent or attorney, or a person in possession of the premises, by affixing a copy of said writ in a conspicuous place upon the premises: PROVIDED, That the sheriff shall not require any bond for the service or execution of the writ. The sheriff shall be immune from all civil liability for serving and

enforcing writs of restitution unless the sheriff is grossly negligent in carrying out his or her duty.

Sec. 12. Section 43, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.415 are each amended to read as follows:

The provisions of this chapter shall not apply to any lease of a single family dwelling for a period of a year or more or to any lease of a single family dwelling containing a bona fide option to purchase by the tenant: PROVIDED, That an attorney for the tenant must approve on the face of the agreement any lease exempted from the provisions of this chapter as provided for in this section.

NEW SECTION. Sec. 13. (1) If a governmental agency responsible for the enforcement of a building, housing, or other appropriate code has notified the landlord that a dwelling is condemned or unlawful to occupy due to the existence of conditions that violate applicable codes, statutes, ordinances, or regulations, a landlord shall not enter into a rental agreement for the dwelling unit until the conditions are corrected.

(2) If a landlord knowingly violates subsection (1) of this section, the tenant shall recover either three months' periodic rent or up to treble the actual damages sustained as a result of the violation, whichever is greater, costs of suit, or arbitration and reasonable attorneys' fees. If the tenant elects to terminate the tenancy as a result of the conditions leading to the posting, or if the appropriate governmental agency requires that the tenant vacate the premises, the tenant also shall recover:

- (a) The entire amount of any deposit prepaid by the tenant; and
- (b) All prepaid rent.

NEW SECTION. Sec. 14. When the plaintiff, after the exercise of due diligence, is unable to personally serve the summons on the defendant, the court may authorize the alternative means of service described herein. Upon filing of an affidavit from the person or persons attempting service describing those attempts, and the filing of an affidavit from the plaintiff, plaintiff's agent, or plaintiff's attorney stating the belief that the defendant cannot be found, the court may enter an order authorizing service of the summons as follows:

(1) The summons and complaint shall be posted in a conspicuous place on the premises unlawfully held, not less than nine days from the return date stated in the summons; and

(2) Copies of the summons and complaint shall be deposited in the mail, postage prepaid, by both regular mail and certified mail directed to the defendant's or defendants' last known address not less than nine days from the return date stated in the summons.

When service on the defendant or defendants is accomplished by this alternative procedure, the court's jurisdiction is limited to restoring possession of the premises to the plaintiff and no money judgment may be entered

against the defendant or defendants until such time as jurisdiction over the defendant or defendants is obtained.

**NEW SECTION.** Sec. 15. The summons for unlawful detainer actions for tenancies covered by this chapter shall be substantially in the following form. In unlawful detainer actions based on nonpayment of rent, the summons may contain the provisions authorized by RCW 59.18.375.

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

Plaintiff,	}	NO.
vs.		EVICITION SUMMONS
Defendant.		(Residential)

**THIS IS NOTICE OF A LAWSUIT TO EVICT YOU.  
PLEASE READ IT CAREFULLY.**

**THE DEADLINE FOR YOUR WRITTEN RESPONSE IS:  
5:00 p.m., on .....**

**TO: ..... (Name)  
..... (Address)**

This is notice of a lawsuit to evict you from the property which you are renting. Your landlord is asking the court to terminate your tenancy, direct the sheriff to remove you and your belongings from the property, enter a money judgment against you for unpaid rent and/or damages for your use of the property, and for court costs and attorneys' fees.

If you want to defend yourself in this lawsuit, you must respond to the eviction complaint in writing on or before the deadline stated above. You must respond in writing even if no case number has been assigned by the court yet.

You can respond to the complaint in writing by delivering a copy of a notice of appearance or answer to your landlord's attorney (or your landlord if there is no attorney) to be received no later than the deadline stated above.

The notice of appearance or answer must include the name of this case (plaintiff(s) and defendant(s)), your name, the street address where further legal papers may be sent, your telephone number (if any), and your signature.

If there is a number on the upper right side of the eviction summons and complaint, you must also file your original notice of appearance or answer with the court clerk by the deadline for your written response.

You may demand that the plaintiff file this lawsuit with the court. If you do so, the demand must be in writing and must be served upon the

person signing the summons. Within fourteen days after you serve the demand, the plaintiff must file this lawsuit with the court, or the service on you of this summons and complaint will be void.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

You may also be instructed in a separate order to appear for a court hearing on your eviction. If you receive an order to show cause you must personally appear at the hearing on the date indicated in the order to show cause in addition to delivering and filing your notice of appearance or answer by the deadline stated above.

**IF YOU DO NOT RESPOND TO THE COMPLAINT IN WRITING BY THE DEADLINE STATED ABOVE YOU WILL LOSE BY DEFAULT. YOUR LANDLORD MAY PROCEED WITH THE LAWSUIT, EVEN IF YOU HAVE MOVED OUT OF THE PROPERTY.**

The notice of appearance or answer must be delivered to:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number

**NEW SECTION.** Sec. 16. (1) The legislature finds that some tenants live in residences that are substandard and dangerous to their health and safety and that the repair and deduct remedies of RCW 59.18.100 may not be adequate to remedy substandard and dangerous conditions. Therefore, an extraordinary remedy is necessary if the conditions substantially endanger or impair the health and safety of the tenant.

(2)(a) If a landlord fails to fulfill any substantial obligation imposed by RCW 59.18.060 that substantially endangers or impairs the health or safety of a tenant, including (i) structural members that are of insufficient size or strength to carry imposed loads with safety, (ii) exposure of the occupants to the weather, (iii) plumbing and sanitation defects that directly expose the occupants to the risk of illness or injury, (iv) lack of water, including hot water, (v) heating or ventilation systems that are not functional or are hazardous, (vi) defective, hazardous, or missing electrical wiring or electrical service, (vii) defective or inadequate exits that increase the risk of injury to occupants, and (viii) conditions that increase the risk of fire, the tenant shall give notice in writing to the landlord, specifying the conditions, acts, omissions, or violations. Such notice shall be sent to the landlord or to the person or place where rent is normally paid.

(b) If after receipt of the notice described in (a) of this subsection the landlord fails to remedy the condition or conditions within a reasonable

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

(c) The local government or its designee, after receiving the request from the tenant to conduct an inspection under this section, shall conduct the inspection and make any certification within a reasonable amount of time not more than five days from the date of receipt of the request. The local government or its designee may enter the premises at any reasonable time to do the inspection, provided that he or she first shall display proper credentials and request entry. The local government or its designee shall whenever practicable, taking into consideration the imminence of any threat to the tenant's health or safety, give the landlord at least twenty-four hours notice of the date and time of inspection and provide the landlord with an opportunity to be present at the time of the inspection. The landlord shall have no power or authority to prohibit entry for the inspection.

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

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

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

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

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

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

NOTICE TO LANDLORD OF RENT ESCROW

Name of tenant:

Name of landlord:

Name and address of escrow:

Date of deposit of rent into escrow:

Amount of rent deposited into escrow:

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

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

.....

(Sworn Signature)

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

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

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



written receipt of the local government certification that the repairs to the conditions listed in the notice under subsection (3) of this section have been properly completed.

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

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

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

(b) The tenant shall be named as a party to any action filed by the landlord under this section, and shall have the right to file an answer and counterclaim, although any counterclaim shall be dismissed without prejudice if the court or arbitrator determines that the tenant failed to follow the notice requirements contained in this section. Any counterclaim can only claim diminished rental value related to conditions specified by the tenant in the notice required under subsection (3) of this section. This limitation on the tenant's right to counterclaim shall not affect the tenant's right to bring his or her own separate action. A trial shall be held within sixty days of the date of filing of the landlord's or tenant's complaint.

(c) The tenant shall be entitled to reimbursement for any escrow costs or fees incurred for setting up or maintaining an escrow account pursuant to this section, unless the tenant did not comply with the notice requirements of subsection (2) or (3) of this section. Any escrow fees that are incurred for which the tenant is entitled to reimbursement shall be deducted from the rent deposited in escrow and remitted to the tenant at such time as any rent

is released to the landlord. The prevailing party in any court action or arbitration brought under this section may also be awarded its costs and reasonable attorneys' fees.

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

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

(b) In determining whether to release rent for the payments described in (a) of this subsection, the court shall consider the amount of rent the landlord receives from other rental units in the buildings of which the residential premises are a part, the cost of operating those units, and the costs which may be required to remedy the condition contained in the notice. The court shall also consider whether the expenses are due or have already been paid, whether the landlord has other financial resources, or whether the landlord or tenant will suffer irreparable damage. The court may request the landlord to provide additional security, such as a bond, prior to authorizing release of any of the funds in escrow.

NEW SECTION. Sec. 17. Sections 13 through 16 of this act are each added to chapter 59.18 RCW.

NEW SECTION. Sec. 18. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 19. This act shall take effect on August 1, 1989, and shall apply to landlord-tenant relationships existing on or entered into after the effective date of this act.

Passed the House April 20, 1989.

Passed the Senate April 19, 1989.

Approved by the Governor May 12, 1989.

Filed in Office of Secretary of State May 12, 1989.

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## CHAPTER 343

[Substitute House Bill No. 1630]

### MANUFACTURED HOMES—CLASSIFICATION AS REAL OR PERSONAL PROPERTY

AN ACT Relating to clarifying the property classification of manufactured homes; amending RCW 46.12.290, 61.12.030, 46.70.135, 33.24.007, 46.04.302, and 82.50.010; adding a new chapter to Title 65 RCW; adding a new section to chapter 46.12 RCW; prescribing penalties; and providing an effective date.

Be it enacted by the Legislature of the State of Washington: