
SENATE BILL 6459

State of Washington**61st Legislature****2010 Regular Session****By** Senators Hobbs, Berkey, Marr, and Schoesler

Read first time 01/14/10. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to the inspection of rental properties; amending
2 RCW 59.18.030 and 59.18.150; adding a new section to chapter 59.18 RCW;
3 and prescribing penalties.

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

5 **Sec. 1.** RCW 59.18.030 and 2008 c 278 s 12 are each amended to read
6 as follows:

7 As used in this chapter:

8 (1) "Distressed home" has the same meaning as in RCW 61.34.020.

9 (2) "Distressed home conveyance" has the same meaning as in RCW
10 61.34.020.

11 (3) "Distressed home purchaser" has the same meaning as in RCW
12 61.34.020.

13 (4) "Dwelling unit" is a structure or that part of a structure
14 which is used as a home, residence, or sleeping place by one person or
15 by two or more persons maintaining a common household, including but
16 not limited to single family residences and units of multiplexes,
17 apartment buildings, and mobile homes.

18 (5) "In danger of foreclosure" means any of the following:

1 (a) The homeowner has defaulted on the mortgage and, under the
2 terms of the mortgage, the mortgagee has the right to accelerate full
3 payment of the mortgage and repossess, sell, or cause to be sold the
4 property;

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

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

10 (i) The mortgagee;

11 (ii) A person licensed or required to be licensed under chapter
12 19.134 RCW;

13 (iii) A person licensed or required to be licensed under chapter
14 19.146 RCW;

15 (iv) A person licensed or required to be licensed under chapter
16 18.85 RCW;

17 (v) An attorney-at-law;

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

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

21 (6) "Landlord" means the owner, lessor, or sublessor of the
22 dwelling unit or the property of which it is a part, and in addition
23 means any person designated as representative of the landlord.

24 (7) "Mortgage" is used in the general sense and includes all
25 instruments, including deeds of trust, that are used to secure an
26 obligation by an interest in real property.

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

31 (9) "Owner" means one or more persons, jointly or severally, in
32 whom is vested:

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

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

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

1 (11) "Rental agreement" means all agreements which establish or
2 modify the terms, conditions, rules, regulations, or any other
3 provisions concerning the use and occupancy of a dwelling unit.

4 (12) A "single family residence" is a structure maintained and used
5 as a single dwelling unit. Notwithstanding that a dwelling unit shares
6 one or more walls with another dwelling unit, it shall be deemed a
7 single family residence if it has direct access to a street and shares
8 neither heating facilities nor hot water equipment, nor any other
9 essential facility or service, with any other dwelling unit.

10 (13) A "tenant" is any person who is entitled to occupy a dwelling
11 unit primarily for living or dwelling purposes under a rental
12 agreement.

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

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

25 (16) "Gang-related activity" means any activity that occurs within
26 the gang or advances a gang purpose.

27 (17) "Certificate of inspection" means a document provided by a
28 qualified inspector that states the subject property does not present
29 conditions that substantially endanger or impair the health or safety
30 of a tenant as required in RCW 59.18.115(2)(a).

31 (18) "Qualified inspector" means a United States department of
32 housing and urban development certified inspector; a Washington state
33 licensed home inspector; an American society of home inspectors
34 certified inspector; a private inspector certified by the national
35 association of housing and redevelopment officials, the American
36 association of code enforcement, or other comparable professional
37 association as approved by the local municipality; a municipal code

1 enforcement officer; a Washington licensed structural engineer; or a
2 Washington licensed architect.

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

5 (1) Local municipalities may require that landlords provide a
6 certificate of inspection as a business license condition. A local
7 municipality does not need to have a business license or registration
8 program in order to require that landlords provide a certificate of
9 inspection. A certificate of inspection does not preclude or limit
10 inspections conducted pursuant to the tenant remedy as provided for in
11 RCW 59.18.115, at the request or consent of the tenant, or issued
12 pursuant to a warrant.

13 (2) A qualified inspector may only investigate a rental property
14 for building and housing code violations that substantially endanger or
15 impair the health or safety of tenants and their neighbors. A
16 certificate of inspection must state that the subject property does not
17 present conditions that substantially endanger or impair the health or
18 safety of a tenant as required in RCW 59.18.115(2)(a).

19 (3) The rental property owner shall submit to the local
20 municipality a certificate of inspection based upon the physical
21 inspection of the property conducted not more than ninety days after
22 notification from a local municipality.

23 (4) A local municipality may only require a certificate of
24 inspection on a rental property once every three years.

25 (5) The following rental properties are exempt from inspection
26 under this section:

27 (a) Rental properties that have received a certificate of occupancy
28 within the last four years, provided that no code violations have been
29 reported on the property during that period;

30 (b) Rental properties already inspected by a government agency in
31 order to secure housing for a tenant, but the property owner must
32 provide proof of that inspection; and

33 (c) Rental properties in which the landlord can demonstrate that
34 the unit has recently been inspected by a qualified inspector who
35 certified that the unit was being adequately maintained.

36 (6)(a) If a rental property has twenty or fewer dwelling units, no
37 more than four dwelling units at the rental property may be selected by

1 the local municipality to provide a certificate of inspection as long
2 as the initial inspection reveals that no conditions exist that
3 substantially endanger or impair the health or safety of a tenant.

4 (b) If a rental property has twenty-one or more units, no more than
5 twenty percent of the units, rounded up to the next whole number, on
6 the rental property, and up to a maximum of fifty units at any one
7 property, may be selected by the local municipality to provide a
8 certificate of inspection as long as the initial inspection reveals
9 that no conditions exist that substantially endanger or impair the
10 health or safety of a tenant.

11 (c) If a rental property is asked to provide a certificate of
12 inspection for a sample of units on the property and a selected unit
13 fails the initial inspection, the local municipality may require up to
14 one hundred percent of the units on the rental property to provide a
15 certificate of inspection.

16 (d) If a rental property has had conditions that substantially
17 endanger or impair the health or safety of a tenant reported since the
18 last required inspection, the local municipality may require one
19 hundred percent of the units on the rental property to provide a
20 certificate of inspection.

21 (e) If a rental property owner chooses to hire a qualified
22 inspector other than a municipal housing code enforcement officer, and
23 a selected unit of the rental property fails the initial inspection,
24 both the results of the initial inspection and any certificate of
25 inspection must be provided to the local municipality. However, a
26 rental property owner may choose to inspect one hundred percent of the
27 units on the rental property and provide only the certificate of
28 inspection for all units to the local municipality.

29 (f) A local municipality must ensure that all buildings on the
30 rental property are represented in its selection of units for a
31 certificate of inspection.

32 (7)(a) The landlord shall provide written notification of his or
33 her intent to enter an individual unit for the purposes of providing a
34 local municipality with a certificate of inspection in accordance with
35 RCW 59.18.150(6). The written notice must indicate the date and
36 approximate time of the inspection and the company or person performing
37 the inspection, and that the tenant has the right to see the

1 inspector's identification before the inspector enters the individual
2 unit. A copy of this notice must be provided to the inspector on the
3 day of inspection.

4 (b) A tenant who continues to deny access to his or her unit is
5 subject to RCW 59.18.150(8).

6 (8) If a rental property owner does not agree with the findings of
7 an inspection, the local municipality shall offer an appeals process.

8 (9) Any rental property owner failing to comply and provide a
9 certificate of inspection under this section may be punished by a fine
10 of not more than two hundred fifty dollars per rental property by a
11 local municipality.

12 (10) Any person who knowingly submits or assists in the submission
13 of a falsified certificate of inspection, or knowingly submits
14 falsified information upon which a certificate of inspection is issued,
15 is, in addition to the penalties provided for in subsection (9) of this
16 section, guilty of a gross misdemeanor and must be punished by a fine
17 of not more than five thousand dollars.

18 **Sec. 3.** RCW 59.18.150 and 2002 c 263 s 1 are each amended to read
19 as follows:

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

26 (2) Upon written notice of intent to seek a search warrant, when a
27 tenant or landlord denies a fire official the right to search a
28 dwelling unit, a fire official may immediately seek a search warrant
29 and, upon a showing of probable cause specific to the dwelling unit
30 sought to be searched that criminal fire code violations exist in the
31 dwelling unit, a court of competent jurisdiction shall issue a warrant
32 allowing a search of the dwelling unit.

33 Upon written notice of intent to seek a search warrant, when a
34 landlord denies a fire official the right to search the common areas of
35 the rental building other than the dwelling unit, a fire official may
36 immediately seek a search warrant and, upon a showing of probable cause
37 specific to the common area sought to be searched that a criminal fire

1 code violation exists in those areas, a court of competent jurisdiction
2 shall issue a warrant allowing a search of the common areas in which
3 the violation is alleged.

4 The superior court and courts of limited jurisdiction organized
5 under Titles 3, 35, and 35A RCW have jurisdiction to issue such search
6 warrants. Evidence obtained pursuant to any such search may be used in
7 a civil or administrative enforcement action.

8 (3) As used in this section:

9 (a) "Common areas" means a common area or those areas that contain
10 electrical, plumbing, and mechanical equipment and facilities used for
11 the operation of the rental building.

12 (b) "Fire official" means any fire official authorized to enforce
13 the state or local fire code.

14 (4)(a) A search warrant may be issued by a judge of a superior
15 court or a court of limited jurisdiction under Titles 3, 35, and 35A
16 RCW to a code enforcement official of the state or of any county, city,
17 or other political subdivision that has not implemented a mandatory
18 third party inspection program for the purpose of allowing the
19 inspection of any specified premises to determine the presence of an
20 unsafe building condition or a violation of any building regulation,
21 statute, or ordinance.

22 (b) A search warrant may not be issued under this section except
23 upon the presentation of an affidavit setting forth evidence of
24 probable cause to believe that an unsafe building condition is present
25 in the premises sought to be inspected. In addition, the affidavit
26 must contain a statement that consent to inspect has been sought from
27 the owner and the tenant refused or a statement setting forth facts or
28 circumstances reasonably justifying the failure to seek such consent.

29 (c) In determining probable cause, the judge is not limited to
30 evidence of specific knowledge, but may also consider any of the
31 following:

32 (i) The age and general condition of the premises;
33 (ii) Previous violations or hazards found present in the premises;
34 (iii) The type of premises;
35 (iv) The purposes for which the premises are used; or
36 (v) The presence of hazards or violations in and the general
37 condition of premises near the premises sought to be inspected.

1 (d) Before issuing an inspection warrant, the judge shall (i)
2 examine on oath the applicant and any other witness and shall satisfy
3 himself or herself of the existence of grounds for granting such
4 application, and (ii) provide an opportunity for the owner to appear
5 and defend against the issuance of the warrant.

6 (e) All warrants must include at least the following:

7 (i) The name of the agency and building official requesting the
8 warrant;

9 (ii) The names of the building official or officials authorized to
10 conduct the administrative inspection;

11 (iii) A reasonable description of the premises and items to be
12 inspected; and

13 (iv) A brief description of the purposes of the inspection.

14 (f) An inspection warrant is effective for the time specified in
15 the warrant, but not for a period of more than ten days unless it is
16 extended or renewed by the judge who signed and issued the original
17 warrant upon satisfying himself or herself that the extension or
18 renewal is in the public interest. The inspection warrant must be
19 executed and returned to the judge by whom it was issued within the
20 time specified in the warrant or within the extended or renewed time.
21 After the expiration of the time specified in the warrant, the warrant,
22 unless executed, is void.

23 (g) An inspection pursuant to a warrant may not be made between
24 6:00 p.m. of any day and 8:00 a.m. of the succeeding day; on Saturday,
25 Sunday, or any legal holiday; or in the absence of an owner or occupant
26 over the age of eighteen years of the particular place, dwelling,
27 structure, or premises unless specifically authorized by the judge upon
28 a showing that the judge's authority is reasonably necessary to
29 effectuate the purpose of the rule being enforced. An inspection
30 pursuant to a warrant may not be made by means of forcible entry,
31 except that the judge may expressly authorize a forcible entry when
32 facts are shown that are sufficient to create a reasonable suspicion of
33 a violation of a state or local law or rule relating to municipal or
34 county building, fire, safety, environmental, animal control, land use,
35 plumbing, electrical, health, minimum housing, or zoning standards
36 that, if the violation existed, would be an immediate threat to the
37 health or safety of the tenant or when facts are shown establishing
38 that reasonable attempts to serve a previous warrant have been

1 unsuccessful. When prior consent has been sought and refused, notice
2 that a warrant has been issued must be given to the occupant, if any,
3 and to the owner at least twenty-four hours before the warrant is
4 executed. Immediate execution of a warrant is prohibited, except when
5 necessary to prevent loss of life or property.

6 (h) Any person who willfully refuses to permit inspection,
7 obstructs inspection, or aids in the obstruction of an inspection of
8 property authorized by warrant under this section is guilty of a
9 misdemeanor.

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

12 ((+5))) (6) The landlord shall not abuse the right of access or use
13 it to harass the tenant. Except in the case of emergency or if it is
14 impracticable to do so, the landlord shall give the tenant at least two
15 days' notice of his or her intent to enter and shall enter only at
16 reasonable times. The tenant shall not unreasonably withhold consent
17 to the landlord to enter the dwelling unit at a specified time where
18 the landlord has given at least one day's notice of intent to enter to
19 exhibit the dwelling unit to prospective or actual purchasers or
20 tenants. A landlord shall not unreasonably interfere with a tenant's
21 enjoyment of the rented dwelling unit by excessively exhibiting the
22 dwelling unit.

23 ((+6))) (7) The landlord has no other right of access except by
24 court order, arbitrator or by consent of the tenant.

25 ((+7))) (8) A landlord or tenant who continues to violate the
26 rights of the tenant or landlord with respect to the duties imposed on
27 the other as set forth in this section after being served with one
28 written notification alleging in good faith violations of this section
29 listing the date and time of the violation shall be liable for up to
30 one hundred dollars for each violation after receipt of the notice.
31 The prevailing landlord or tenant may recover costs of the suit or
32 arbitration under this section, and may also recover reasonable
33 attorneys' fees.

34 ((+8))) (9) Nothing in this section is intended to abrogate or
35 modify in any way any common law right or privilege.

36 NEW SECTION. **Sec. 4.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

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