

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6060

60th Legislature
2008 Regular Session

Passed by the Senate February 18, 2008
YEAS 48 NAYS 0

President of the Senate

Passed by the House March 6, 2008
YEAS 93 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6060** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6060

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senate Judiciary (originally sponsored by Senator Kline)

READ FIRST TIME 02/07/08.

1 AN ACT Relating to unlawful detainer actions based on nonpayment of
2 rent; and amending RCW 59.18.365 and 59.18.375.

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

4 **Sec. 1.** RCW 59.18.365 and 2006 c 51 s 1 are each amended to read
5 as follows:

6 (1) The summons must contain the names of the parties to the
7 proceeding, the attorney or attorneys if any, the court in which the
8 same is brought, the nature of the action, in concise terms, and the
9 relief sought, and also the return day; and must notify the defendant
10 to appear and answer within the time designated or that the relief
11 sought will be taken against him or her. The summons must contain a
12 street address for service of the notice of appearance or answer and,
13 if available, a facsimile number for the plaintiff or the plaintiff's
14 attorney, if represented. The summons must be served and returned in
15 the same manner as a summons in other actions is served and returned.

16 (2) A defendant may serve a copy of an answer or notice of
17 appearance(~~(, and if required by the summons, the sworn statement~~
18 ~~regarding nonpayment of rent described in RCW 59.18.375,)) by any of
19 the following methods:~~

1 (a) By delivering a copy of the answer or notice of appearance to
2 the person who signed the summons at the street address listed on the
3 summons;

4 (b) By mailing a copy of the answer or notice of appearance
5 addressed to the person who signed the summons to the street address
6 listed on the summons;

7 (c) By facsimile to the facsimile number listed on the summons.
8 Service by facsimile is complete upon successful transmission to the
9 facsimile number listed upon the summons;

10 (d) As otherwise authorized by the superior court civil rules.

11 (3) The summons for unlawful detainer actions for tenancies covered
12 by this chapter shall be substantially in the following form(~~(. In~~
13 ~~unlawful detainer actions based on nonpayment of rent, the summons may~~
14 ~~contain the provisions authorized by RCW 59.18.375.)~~):

15 IN THE SUPERIOR COURT OF THE
16 STATE OF WASHINGTON IN AND FOR COUNTY

17 Plaintiff, } NO.
18 }
19 vs. } EVICTION SUMMONS
20 } (Residential)
21 Defendant.

22 THIS IS NOTICE OF A LAWSUIT TO EVICT YOU.
23 PLEASE READ IT CAREFULLY. THE DEADLINE FOR YOUR WRITTEN
24 RESPONSE IS: 5:00 p.m., on

25 TO: (Name)
26 (Address)

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

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

1 You can respond to the complaint in writing by delivering a copy of
2 a notice of appearance or answer to your landlord's attorney (or your
3 landlord if there is no attorney) by personal delivery, mailing, or
4 facsimile to the address or facsimile number stated below **TO BE**
5 **RECEIVED NO LATER THAN THE DEADLINE STATED ABOVE.** Service by facsimile
6 is complete upon successful transmission to the facsimile number, if
7 any, listed in the summons.

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

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

16 You may demand that the plaintiff file this lawsuit with the court.
17 If you do so, the demand must be in writing and must be served upon the
18 person signing the summons. Within fourteen days after you serve the
19 demand, the plaintiff must file this lawsuit with the court, or the
20 service on you of this summons and complaint will be void.

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

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

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

33 The notice of appearance or answer must be delivered to:

34
35 Name
36

Street Address
.....
Telephone Number
.....
Facsimile Number (Required
if Available)

Sec. 2. RCW 59.18.375 and 2006 c 51 s 2 are each amended to read as follows:

(1) The procedures and remedies provided by this section are optional and in addition to other procedures and remedies provided by this chapter.

(2) In an action of forcible entry, detainer, or unlawful detainer, commenced under this chapter which is based upon nonpayment of rent as provided in RCW 59.12.030(3), the defendant shall pay into the court registry the amount alleged due in the ~~((complaint))~~ notice described in this section and continue to pay into the court registry the monthly rent as it becomes due under the terms of the rental agreement while the action is pending. Such payment is not required if the defendant submits to the court a written statement signed and sworn under penalty of perjury ~~((denying))~~ that sets forth the reasons why the rent alleged due in the notice is not owed. In the written statement, the defendant may provide as a reason that the rent alleged due in the ((complaint)) notice is ((owing)) not owed based upon a legal or equitable defense or set-off arising out of the tenancy~~((, such payment shall not be required))~~.

(3) A defendant must comply with subsection (2) of this section ~~((within seven days after completed service of a filed summons and complaint or, in the case of service of an unfiled summons and complaint, seven days after delivering written notice to the defendant, in the manner provided in RCW 59.12.040, advising the defendant of the date of filing, the cause number for the action, and the date by which the defendant must comply with this section to avoid the immediate issuance of a writ of restitution))~~ on or before the deadline date specified in the notice, which must not precede the deadline for responding to the eviction summons and complaint for unlawful detainer. If the notice is served with the eviction summons and complaint, then the deadline for complying with the notice and the deadline for

1 responding to the eviction summons and complaint must be the same date.

2 (4) Failure of the defendant to comply with this section shall be
3 grounds for the immediate issuance of a writ of restitution without
4 further notice to the defendant and without bond directing the sheriff
5 to deliver possession of the premises to the plaintiff. Issuance of a
6 writ of restitution under this section shall not affect the defendant's
7 right to schedule a hearing ((to contest the amount of rent alleged to
8 be due)) on the merits. If the defendant fails to comply with this
9 section and a writ of restitution is issued, the defendant may seek a
10 hearing on the merits and an immediate stay of the writ of restitution.
11 To obtain a stay of the writ of restitution, the defendant must make an
12 offer of proof to the court that the plaintiff is not entitled to
13 possession of the property based on a legal or equitable defense
14 arising out of the tenancy. The court shall only grant the stay upon
15 such prior notice as the court deems appropriate to the plaintiff's
16 attorney, or to the plaintiff if there is no attorney. The court may
17 grant the stay on such conditions as the court deems appropriate. The
18 court may set a show cause hearing as soon as possible, but no later
19 than seven days from the date the stay is sought or the date the
20 defendant moves the court for a show cause hearing. If the court
21 concludes at the show cause hearing that the writ of restitution should
22 not have been issued because of any legal or equitable defense to the
23 eviction, then the writ of restitution must be quashed and the
24 defendant must be restored to possession.

25 ~~((4))~~ (5) The defendant shall ((send)) deliver written notice
26 that the rent has been paid into the court registry or ((send)) deliver
27 a copy of the sworn statement referred to in subsection (2) of this
28 section to the ((person whose name is signed on the unlawful detainer
29 summons. A defendant may serve the written notice or a copy of the
30 sworn statement)) plaintiff by any of the following methods ((described
31 in RCW 59.18.365)):

32 (a) By delivering a copy of the payment notice or sworn statement
33 to the person who signed the notice to the street address listed on the
34 notice;

35 (b) By mailing a copy of the payment notice or sworn statement
36 addressed to the person who signed the notice to the street address
37 listed on the notice;

1 (c) By facsimile to the facsimile number listed on the notice.
2 Service by facsimile is complete upon successful transmission to the
3 facsimile number listed upon the notice; or

4 (d) As otherwise authorized by the superior court civil rules.

5 ((+5)) (6) Before applying to the court for a writ of restitution
6 under this section, the plaintiff must check with the clerk of the
7 court to determine if the defendant has complied with subsection (2) of
8 this section.

9 ((+6)) (7) If the plaintiff intends to use the procedures in this
10 section, the plaintiff must first file the summons ((must contain)) and
11 complaint with the superior court of the appropriate county and deliver
12 notice to the defendant of the payment requirements or sworn statement
13 requirements of this section ((and be substantially in the following
14 form:

15 NOTICE

16 ~~This unlawful detainer action is based upon nonpayment of rent in an~~
17 ~~amount alleged to be \$. The plaintiff is entitled to an~~
18 ~~order from the court directing the sheriff to evict you without a~~
19 ~~hearing unless you pay into the court registry the amount of delinquent~~
20 ~~rent alleged to be due in the complaint and continue paying into the~~
21 ~~court registry the monthly rent as it becomes due while this lawsuit is~~
22 ~~pending. If you deny that you owe the rent claimed to be due and you~~
23 ~~do not want to be evicted immediately without a hearing, you must file~~
24 ~~with the clerk of the court a written statement signed and sworn under~~
25 ~~penalty of perjury setting forth why you do not owe the amount claimed~~
26 ~~in the complaint to be due. The sworn statement must be filed IN~~
27 ~~ADDITION TO your written answer to the complaint.~~

28 ~~Payment or the sworn statement must be submitted to the clerk of~~
29 ~~the superior court within seven days after you have been served with~~
30 ~~this summons or, if the summons has not yet been filed, within seven~~
31 ~~days after service of written notice that the lawsuit has been filed.~~

32 ~~You must also deliver written notice that the rent has been paid~~
33 ~~into the court registry or send a copy of your sworn statement to the~~
34 ~~person whose signature appears below by personal delivery, mail, or~~
35 ~~facsimile.~~

36 ~~This complaint:~~

37 ~~() is filed with the superior court;~~

1 ~~() is not filed. The plaintiff must notify you in writing when it is~~
2 ~~filed.~~

3 **IMPORTANT**

4 ~~If you intend to contest this action, you must also file a written~~
5 ~~answer as indicated above on this summons)). The notice must:~~

6 (a) State that the defendant is required to comply with this
7 section by a deadline date that is not less than seven days after the
8 notice has been served on the defendant;

9 (b) Be separate from the eviction summons and complaint;

10 (c) Contain the names of the parties to the proceeding, the
11 attorney or attorneys, if any, and the court in which the proceeding is
12 being brought;

13 (d) Be signed and dated by the plaintiff's attorney, or by the
14 plaintiff if there is no attorney;

15 (e) Contain a street address for service of the payment statement
16 or sworn statement and, if available, a facsimile number for the
17 landlord; and

18 (f) Be no less than twelve-point font type, in boldface type or
19 capital letters where indicated below, and be substantially in the
20 following form:

21 IN THE SUPERIOR COURT OF THE STATE
22 OF WASHINGTON IN AND FOR
23 COUNTY

24)

25 Plaintiff,) NO.

26)

27 vs.) RCW 59.18.375

28) PAYMENT OR SWORN

29) STATEMENT REQUIREMENT

30 Defendant,)

31)

32 TO:(Name)

33(Address)

34 **IMPORTANT NOTICE**

35 **READ THESE INSTRUCTIONS CAREFULLY**

1 YOU MUST DO THE FOLLOWING BY THE DEADLINE DATE:

2 THE DEADLINE DATE IS

3 1. PAY RENT INTO THE COURT REGISTRY;

4 OR

5 2. FILE A SWORN STATEMENT THAT YOU DO NOT OWE THE RENT CLAIMED DUE.

6 IF YOU FAIL TO DO ONE OF THE ABOVE ON OR BEFORE THE DEADLINE DATE,
7 THE SHERIFF COULD EVICT YOU WITHOUT A HEARING EVEN IF YOU HAVE ALSO
8 RECEIVED A NOTICE THAT A HEARING HAS BEEN SCHEDULED.

9 YOUR LANDLORD CLAIMS YOU OWE RENT

10 This eviction lawsuit is based upon nonpayment of rent. Your
11 landlord claims you owe the following amount: \$ The
12 landlord is entitled to an order from the court directing the sheriff
13 to evict you without a hearing unless you do the following by the
14 deadline date:

15 YOU MUST DO THE FOLLOWING BY THE DEADLINE DATE:

16 1. Pay into the court registry the amount your landlord claims you
17 owe set forth above and continue paying into the court registry the
18 monthly rent as it becomes due while this lawsuit is pending;

19 OR

20 2. If you deny that you owe the amount set forth above and you do
21 not want to be evicted immediately without a hearing, you must file
22 with the clerk of the court a written statement signed and sworn under
23 penalty of perjury that sets forth why you do not owe that amount.

24 3. You must deliver written notice that the rent has been paid
25 into the court registry OR deliver a copy of your sworn statement to
26 the person named below by personal delivery, mail, or facsimile.

27

28 Name

29

30 Address

31

32 Telephone Number

1

2 Fax Number

3 4. The sworn statement must be filed **IN ADDITION TO** delivering
4 your written response to the complaint and **YOU MUST ALSO** appear for any
5 hearing that has been scheduled.

6 Dated:

7 Signed:

8 (8) The notice authorized in this section may be served pursuant to
9 applicable civil rules either with a filed eviction summons and
10 complaint or at any time after an eviction summons and complaint have
11 been filed with the court. If the defendant has served a response to
12 the eviction summons and complaint, then the notice may be served
13 before or with an order to show cause as described in RCW 59.18.370.

14 (9) This section does not affect the defendant's right to restore
15 the tenancy under RCW 59.18.410.

--- END ---