

Chapter 59.28 RCW
FEDERALLY ASSISTED HOUSING

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RCW 59.28.010 Legislative findings—Purpose. The legislature finds that:

(1) There is a severe shortage of federally assisted housing within the state of Washington. Over one hundred seventy thousand low and moderate-income households are eligible for federally assisted housing but are unable to locate vacant units.

(2) Within the next twenty years, more than twenty-six thousand existing low-income housing units may be lost as a result of the prepayment of mortgages or loans by the owners, or as a result of the expiration of rental assistance contracts. Over three thousand units of federally assisted housing have already been lost and an additional nine thousand units may be lost within the next two and one-half years.

(3) Recent reductions in federal housing assistance and tax benefits related to low-income housing make it uncertain whether additional units of federally assisted housing will be built or that those lost will be replaced.

(4) The loss of federally assisted housing will adversely affect current tenants and lead to their displacement. It will also drastically reduce the supply of affordable housing in our communities.

It is the purpose of this chapter to preserve federally assisted housing in the state of Washington and to minimize the involuntary displacement of tenants currently residing in such housing. [1989 c 188 § 1.]

RCW 59.28.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

- (1) "Federally assisted housing" means any multifamily housing that is insured, financed, assisted, or held by the secretary of housing and urban development or the secretary of agriculture under:
- (a) Section 8 of the United States housing act of 1937, as amended (42 U.S.C. Sec. 1437f);
 - (b) Section 101 of the housing and urban development act of 1965, as amended (12 U.S.C. Sec. 1701s);
 - (c) The following sections of the national housing act:
 - (i) Section 202 (12 U.S.C. Sec. 1701q);
 - (ii) Section 213 (12 U.S.C. Sec. 1715e);
 - (iii) Section 221(d) (3) and (4) (12 U.S.C. Sec. 17151(d) (3) and (4));
 - (iv) Section 223(f) (12 U.S.C. Sec. 1715n(f));
 - (v) Section 231 (12 U.S.C. Sec. 1715v); or
 - (vi) Section 236 (12 U.S.C. Sec. 1715z-1); and
 - (d) The following sections of the housing act of 1949, as amended:
 - (i) Section 514 (42 U.S.C. Sec. 1484);
 - (ii) Section 515 (42 U.S.C. Sec. 1485);
 - (iii) Section 516 (42 U.S.C. Sec. 1486);
 - (iv) Section 521(a)(1)(B) (42 U.S.C. Sec. 1490a(a)(1)); or
 - (v) Section 521(a)(2) (42 U.S.C. Sec. 1490a(a)(2)).
- (2) "Rental agreement" means any agreement that establishes or modifies the terms, conditions, rules, regulations, or any other provision concerning the use and occupancy of a federally assisted housing unit.
- (3) "Owner" means the current or subsequent owner or owners of federally assisted housing.
- (4) "Low-income use restrictions" means any federal, state, or local statute, rule, regulation, ordinance, or contract which, as a condition of receipt of any federal, state, or local financial assistance, establishes maximum limitations on tenant income as a condition of eligibility for occupancy of the units within a development, imposes any restrictions on the maximum rents that could be charged for any of the units within a development, or requires that rent for any of the units within a development be reviewed by any governmental body or agency before the rents are implemented.
- (5) "Prepayment" means the payment in full or refinancing of the federally insured or federally held mortgage or loan prior to its original maturity date, or the voluntary cancellation of mortgage insurance, if that would have the effect of terminating any low-income use restrictions.
- (6) "Public housing agency" means any state or local agency or nonprofit entity that is authorized to administer tenant-based rental assistance under federal, state, or local law. [2000 c 255 § 1; 1989 c 188 § 2.]

RCW 59.28.030 Contracts—Expiration or termination—Notice—Applicability. (1) This chapter shall not apply to the expiration or termination of a housing assistance contract between a public housing agency and an owner of existing housing participating in either the section 8 certificate or voucher program (42 U.S.C. Sec. 1437f).

(2) An owner of federally assisted housing shall not be required to give notice of a prepayment under this chapter, if the owner has:

- (a) Entered into an agreement with a federal, state, or local agency

continuing existing, or imposing new, low-income use restrictions for at least twenty years that ensure that the tenants residing in the development at the time of prepayment are not involuntarily displaced except for good cause and that the housing will continue to serve very low and low-income families and persons in need of affordable housing; and (b) served notice of the agreement on the clerk of the city, or county if in an unincorporated area, in which the property is located, on any public housing agency that would be responsible for administering tenant-based rental assistance to persons who would otherwise be displaced from this housing, and on the department of commerce by regular and certified mail and posted a copy of the agreement in a conspicuous place at the development where it is likely to be seen by the tenants. The posted agreement shall be maintained intact and in legible form for the life of the agreement.

(3) An owner of federally assisted housing is not required to give notice that a rental assistance contract is expiring if: (a) The owner has entered into an agreement with the United States department of housing and urban development or other federal, state, or local agency to renew the rental assistance contract for a minimum of five years subject to the availability of adequate appropriations; (b) the agreement itself does not expire in less than twelve months; and (c) the owner has served written notice of the agreement on the clerk of the city, or county if in an unincorporated area, in which the property is located, on any public housing agency that would be responsible for administering tenant-based rental assistance to persons who would otherwise be displaced from this housing, and on the department of commerce, by regular and certified mail and posted these notices in a conspicuous place at the development where they are likely to be seen by the tenants. The posted notices shall be maintained intact and in legible form for the life of the agreement to renew the rental assistance contract. [2023 c 470 § 2103; 2000 c 255 § 2; 1989 c 188 § 3.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

RCW 59.28.040 Notice of expiration or prepayment—Owner's duty. Except as provided in RCW 59.28.030, all owners of federally assisted housing shall, at least twelve months before the expiration of the rental assistance contract or prepayment of a mortgage or loan, serve a written notice of the anticipated expiration or prepayment date on each tenant household residing in the housing, on the clerk of the city, or clerk of the county legislative authority if in an unincorporated area, in which the property is located, on any public housing agency that would be responsible for administering tenant-based rental assistance to persons who would otherwise be displaced from this housing, and on the department of commerce, by regular and certified mail. All owners of federally assisted housing shall also serve written notice of the anticipated expiration or prepayment date on each tenant household that moves into the housing after the initial notice has been given, but before the expiration of the rental assistance contract or prepayment of the mortgage or loan. This notice shall be given before a new tenant is asked to execute a rental agreement or required to pay any deposits. [2023 c 470 § 2104; 2002 c 30 § 3; 2000 c 255 § 3; 1995 c 399 § 160; 1989 c 188 § 4.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

RCW 59.28.050 Owner's rights—Public regulatory powers—Applicability. This chapter shall not in any way prohibit an owner of federally assisted housing from terminating a rental assistance contract or prepaying a mortgage or loan. The requirement in this chapter for notice shall not be construed as conferring any new or additional regulatory power upon the city or county clerk or upon the department of commerce. [2023 c 470 § 2105; 1995 c 399 § 161; 1989 c 188 § 5.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

RCW 59.28.060 Notice of expiration or prepayment—Contents—Location—Requests for information. (1) The notice to tenants required by RCW 59.28.040 shall state: (a) Whether the owner (i) intends to prepay the mortgage or loan or allow the rental assistance contract to expire in order to operate the housing without any low-income use restrictions, (ii) plans on renewing the rental assistance contract subject to the availability of adequate appropriations, or (iii) is seeking additional financial incentives or higher rents as a condition of remaining in the federal program; (b) the reason the owner plans on taking this action; (c) the owner's plans for the project, including any timetables or deadlines for actions to be taken by the owner and any specific federal, state, or local agency approvals that the owner is required to obtain; (d) the anticipated date of the prepayment of the mortgage or loan or expiration of the rental assistance contract; (e) the effect, if any, that prepayment of the mortgage or loan or expiration of the rental assistance contract will have upon the tenants' rent and other terms of their rental agreement; and (f) that additional information will be served on the city or county, on the local public housing agency, and on the department of commerce and will be posted at the development. The owner shall also include with the notice written information, prepared by the department of commerce under RCW 59.28.120(1), concerning the legal rights, responsibilities, and options of owners and tenants when an owner intends to prepay a mortgage or loan or terminate a rental assistance contract.

(2) The notice to the city or county clerk and to the department of commerce required by RCW 59.28.040 shall state: (a) The name, location, and project number of the federally assisted housing and the type of assistance received from the federal government; (b) the number and size of units; (c) the age, race, family size, and estimated incomes of the tenants who will be affected by the prepayment of the loan or mortgage or expiration of the federal assistance contract; (d) the current rents and projected rent increases for each affected tenant after the prepayment of the mortgage or loan or expiration of the rental assistance contract without disclosing the identities of the affected tenants; (e) the availability and type, if any, of rental assistance after the prepayment of the mortgage or loan or expiration of the rental assistance contract; and (f) the age, race, family size, and estimated

incomes of any applicants on the project's waiting list without disclosing the identities of the applicants. The owner shall attach to this notice a copy of the notice the owner sends to the tenants under this chapter.

(3) All owners of federally assisted housing shall immediately post a copy of any notices they send the city or county clerk, any public housing agency, and the department of commerce, under RCW 59.28.040, in a conspicuous place at the development where they are likely to be seen by current and prospective tenants. The notices shall be maintained intact and in legible form for twelve months from the date they are posted.

All owners of federally assisted housing shall, upon request of any state or local agency, provide the agency with a copy of any rent comparability study, market analysis, or projected budget that they submit to the United States department of housing and urban development or other federal agency in conjunction with the prepayment of their mortgage or loan or in anticipation of the expiration of their rental assistance contract, together with any physical inspection reports or capital needs assessments completed by the owner or federal agency within the last three years. [2023 c 470 § 2106; 2000 c 255 § 4; 1995 c 399 § 162; 1989 c 188 § 6.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

RCW 59.28.070 Removal of tenants—Notice of expiration or prepayment—Timing. From the date of service of the notice under RCW 59.28.040 until either twelve months have elapsed or expiration or prepayment of the rental assistance contract or mortgage or loan, whichever is later, no owner of federally assisted housing may evict a tenant or demand possession of any federally assisted housing unit, except as authorized by the federal assistance program applicable to the project, prior to expiration or prepayment of the rental assistance contract or mortgage or loan. [1989 c 188 § 7.]

RCW 59.28.080 Rent increase—Notice of expiration or prepayment—Timing. From the date of service of the notice under RCW 59.28.040 until either twelve months have elapsed or expiration or prepayment of the rental assistance contract, mortgage, or loan, whichever is later, no owner of federally assisted housing may increase the rent of a federally assisted housing unit, or the share of the rent paid by the tenant, above the amount authorized by the federal assistance program applicable to the project prior to expiration or prepayment of the rental assistance contract or mortgage or loan. [2000 c 255 § 5; 1989 c 188 § 8.]

RCW 59.28.090 Modification of rental agreement—Notice of expiration or prepayment—Timing. From the date of service of the notice under RCW 59.28.040 until either twelve months have elapsed or expiration or prepayment of the rental assistance contract, mortgage, or loan, whichever is later, no owner of federally assisted housing may change the terms of the rental agreement, except as permitted under the existing rental agreement, prior to expiration or prepayment

of the rental assistance contract or mortgage or loan. [1989 c 188 § 9.]

RCW 59.28.100 Violations—Civil actions—Parties. Any party who is entitled to receive notice under this chapter may bring a civil action to enjoin or recover actual damages for any violation of this chapter, together with the costs of the suit including reasonable attorneys' fees. Any tenant who is entitled to receive notice under this chapter shall also recover statutory damages of fifty dollars. [2000 c 255 § 6; 1989 c 188 § 10.]

RCW 59.28.120 Department of commerce—Develop and provide information and technical assistance. The department of commerce shall within ninety days after March 31, 2000, consult with all interested stakeholders and develop and provide to owners and tenants of federally assisted housing, state and local agencies, and other interested persons all of the following:

(1) Written information concerning the legal rights, responsibilities, and options of owners and tenants when an owner intends to prepay a mortgage or loan or terminate a rental assistance contract. This information shall include the name and telephone number of any qualified legal aid program that provides civil legal services to indigent persons and of any other state, regional, or local organization that can be contacted to request additional information about an owner's responsibilities and the rights and options of an affected tenant;

(2) Written information sufficient to enable an owner of federally assisted housing to comply with the notification requirements of this chapter, including the name and address of any public housing agency that would be responsible for administering tenant-based rental assistance to persons who would otherwise be displaced from federally assisted housing; and

(3) Any other information or technical assistance the department determines will further the purposes of this chapter. [2023 c 470 § 2107; 2000 c 255 § 7.]

Explanatory statement—2023 c 470: See note following RCW 10.99.030.

RCW 59.28.130 Eviction of tenant—Restriction. An owner of federally assisted housing who prepays the mortgage or loan or whose rental assistance contract expires and who continues to operate the property as residential housing within the scope of this chapter shall not evict a tenant residing in the dwelling unit when the mortgage or loan is prepaid or the rental assistance contract expires, except as authorized by the federal assistance program applicable to the project prior to prepayment of the mortgage or loan, or expiration of the rental assistance contract. [2000 c 255 § 8.]

RCW 59.28.902 Effective date—2000 c 255. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public

institutions, and takes effect immediately [March 31, 2000]. [2000 c
255 § 11.]