

# Landlord – Tenant Rights & Duties



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# **RCW 59.18.060, Landlord Duties**

The landlord will at all times during the tenancy keep the premises fit for human habitation, and shall in particular:

(1) Maintain the premises to substantially comply with any applicable code, statute, ordinance, or regulation governing their maintenance or operation, which the legislative body enacting the applicable code, statute, ordinance or regulation could enforce as to the premises rented if such condition endangers or impairs the health or safety of the tenant;

(2) Maintain the structural components including, but not limited to, the roofs, floors, walls, chimneys, fireplaces, foundations, and all other structural components, in reasonably good repair so as to be usable;

(3) Keep any shared or common areas reasonably clean, sanitary, and safe from defects increasing the hazards of fire or accident;

(4) Provide a reasonable program for the control of infestation by insects, rodents, and other pests at the initiation of the tenancy and, except in the case of a single-family residence, control infestation during tenancy except where such infestation is caused by the tenant;

(5) Except where the condition is attributable to normal wear and tear, make repairs and arrangements necessary to put and keep the premises in as good condition as it by law or rental agreement should have been, at the commencement of the tenancy;

(6) Provide reasonably adequate locks and furnish keys to the tenant;

(7) Maintain and safeguard with reasonable care any master key or duplicate keys to the dwelling unit;

(8) Maintain all electrical, plumbing, heating, and other facilities and appliances supplied by him or her in reasonably good working order;

(9) Maintain the dwelling unit in reasonably weathertight condition;

(10) Except in the case of a single-family residence, provide and maintain appropriate receptacles in common areas for the removal of ashes, rubbish, and garbage, incidental to the occupancy and arrange for the reasonable and regular removal of such waste;

(11) Provide facilities adequate to supply heat and water and hot water as reasonably required by the tenant;

## **RCW 59.18.060, Landlord Duties Continued**

(12)(a) Provide a written notice to all tenants disclosing fire safety and protection information. The landlord or his or her authorized agent must provide a written notice to the tenant that the dwelling unit is equipped with a smoke detection device as required in RCW [43.44.110](#). The notice shall inform the tenant of the tenant's responsibility to maintain the smoke detection device in proper operating condition and of penalties for failure to comply with the provisions of RCW [43.44.110](#)(3). The notice must be signed by the landlord or the landlord's authorized agent and tenant with copies provided to both parties. Further, except with respect to a single-family residence, the written notice must also disclose the following:

(i) Whether the smoke detection device is hard-wired or battery operated;

(ii) Whether the building has a fire sprinkler system;

(iii) Whether the building has a fire alarm system;

(iv) Whether the building has a smoking policy, and what that policy is;

(v) Whether the building has an emergency notification plan for the occupants and, if so, provide a copy to the occupants;

(vi) Whether the building has an emergency relocation plan for the occupants and, if so, provide a copy to the occupants; and

(vii) Whether the building has an emergency evacuation plan for the occupants and, if so, provide a copy to the occupants.

(b) The information required under this subsection may be provided to a tenant in a multifamily residential building either as a written notice or as a checklist that discloses whether the building has fire safety and protection devices and systems. The checklist shall include a diagram showing the emergency evacuation routes for the occupants.

(c) The written notice or checklist must be provided to new tenants at the time the lease or rental agreement is signed;

(13) Provide tenants with information provided or approved by the department of health about the health hazards associated with exposure to indoor mold. Information may be provided in written format individually to each tenant, or may be posted in a visible, public location at the dwelling unit property. The information must detail how tenants can control mold growth in their dwelling units to minimize the health risks associated with indoor mold. Landlords may obtain the information from the department's web site or, if requested by the landlord, the department must mail the information to the landlord in a printed format. When developing or changing the information, the department of health must include representatives of landlords in the development process. The information must be provided by the landlord to new tenants at the time the lease or rental agreement is signed;

## RCW 59.18.060, Landlord Duties Continued

(14) The landlord and his or her agents and employees are immune from civil liability for failure to comply with subsection (13) of this section except where the landlord and his or her agents and employees knowingly and intentionally do not comply with subsection (13) of this section; and

(15) Designate to the tenant the name and address of the person who is the landlord by a statement on the rental agreement or by a notice conspicuously posted on the premises. The tenant shall be notified immediately of any changes in writing, which must be either (a) delivered personally to the tenant or (b) mailed to the tenant and conspicuously posted on the premises. If the person designated in this section does not reside in the state where the premises are located, there shall also be designated a person who resides in the county who is authorized to act as an agent for the purposes of service of notices and process, and if no designation is made of a person to act as agent, then the person to whom rental payments are to be made shall be considered such agent. Regardless of such designation, any owner who resides outside the state and who violates a provision of this chapter is deemed to have submitted himself or herself to the jurisdiction of the courts of this state and personal service of any process may be made on the owner outside the state with the same force and effect as personal service within the state. Any summons or process served out-of-state must contain the same information and be served in the same manner as personal service of summons or process served within the state, except the summons or process must require the party to appear and answer within sixty days after such personal service out of the state. In an action for a violation of this chapter that is filed under chapter [12.40](#) RCW, service of the notice of claim outside the state must contain the same information and be served in the same manner as required under chapter [12.40](#) RCW, except the date on which the party is required to appear must not be less than sixty days from the date of service of the notice of claim.

No duty shall devolve upon the landlord to repair a defective condition under this section, nor shall any defense or remedy be available to the tenant under this chapter, where the defective condition complained of was caused by the conduct of such tenant, his or her family, invitee, or other person acting under his or her control, or where a tenant unreasonably fails to allow the landlord access to the property for purposes of repair. When the duty imposed by subsection (1) of this section is incompatible with and greater than the duty imposed by any other provisions of this section, the landlord's duty shall be determined pursuant to subsection (1) of this section. [2013 c 35 § 1; 2011 c 132 § 2; 2005 c 465 § 2; 2002 c 259 § 1; 1991 c 154 § 2; 1973 1st ex.s. c 207 § 6.]

**Finding -- 2005 c 465:** "The legislature finds that residents of the state face preventable exposures to mold in their homes, apartments, and schools. Exposure to mold, and the toxins they produce, have been found to have adverse health effects, including loss of memory and impairment of the ability to think coherently and function in a job, and may cause fatigue, nausea, and headaches.

As steps can be taken by landlords and tenants to minimize exposure to indoor mold, and as the reduction of exposure to mold in buildings could reduce the rising number of mold-related claims submitted to insurance companies and increase the availability of coverage, the legislature supports providing tenants and landlords with information designed to minimize the public's exposure to mold." [2005 c 465 § 1.]

## **RCW 59.18.063, Landlord – Written Receipts for payments made by tenant.**

(1) A landlord shall provide a receipt for any payment made by a tenant in the form of cash.

(2) A landlord shall provide, upon the request of a tenant, a written receipt for any payments made by the tenant in a form other than cash.

## **RCW 59.18.065, Landlord – Copy of written rental agreement to tenant.**

When there is a written rental agreement for the premises, the landlord shall provide an executed copy to each tenant who signs the rental agreement. The tenant may request one free replacement copy during the tenancy.

## **RCW 59.18.070, Landlord – Failure to perform duties – Notice from Tenant – Contents – Time limits for landlord’s remedial action.**

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 or her by law, deliver written notice to the person designated in \*RCW [59.18.060](#)(14), 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. The landlord shall commence remedial action after receipt of such notice by the tenant 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, heat, or electricity, or is imminently hazardous to life;

(2) Not more than seventy-two hours, where the 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) Not more than 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 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.

## **RCW 59.18.075, Seizure of illegal drugs – Notification of landlord.**

(1) Any law enforcement agency which seizes a legend drug pursuant to a violation of chapter [69.41](#) RCW, a controlled substance pursuant to a violation of chapter [69.50](#) RCW, or an imitation controlled substance pursuant to a violation of chapter [69.52](#) RCW, shall make a reasonable attempt to discover the identity of the landlord and shall notify the landlord in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency, of the seizure and the location of the seizure of the illegal drugs or substances.

(2) Any law enforcement agency which arrests a tenant for threatening another tenant with a firearm or other deadly weapon, or for some other unlawful use of a firearm or other deadly weapon on the rental premises, or for physically assaulting another person on the rental premises, shall make a reasonable attempt to discover the identity of the landlord and notify the landlord about the arrest in writing, at the last address listed in the property tax records and at any other address known to the law enforcement agency.

## **RCW 59.18.080, Payment of rent condition to exercising remedies - Exceptions.**

The tenant shall be current in the payment of rent including all utilities which the tenant has agreed in the rental agreement to pay before exercising any of the remedies accorded him or her under the provisions of this chapter: PROVIDED, That this section shall not be construed as limiting the tenant's civil remedies for negligent or intentional damages: PROVIDED FURTHER, That this section shall not be construed as limiting the tenant's right in an unlawful detainer proceeding to raise the defense that there is no rent due and owing.

## **RCW 59.18.100**

### **Landlord's failure to carry out duties — Repairs effected by tenant — Procedure — Deduction of cost from rent — Limitations.**

(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 or her designated agent by first-class mail or in person a good faith estimate by the tenant of the cost to perform the repairs necessary to correct the defective condition 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, the cost if the repair is to be done by responsible persons capable of performing such repairs. Such estimate may be submitted to the landlord at the same time as notice is given pursuant to RCW [59.18.070](#). The remedy provided in this section shall not be available for a landlord's failure to carry out the duties in \*RCW [59.18.060](#) (9) and (14). 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 two-month limit as described in subsection (2) of this section.

(2) If the landlord fails to commence remedial action of the defective condition within the applicable time period after receipt of notice and the estimate from the tenant, the tenant may contract with a licensed or registered person, or with a responsible person capable of performing the repair if no license or registration is required, to make the repair. Upon the completion of the repair and an opportunity for inspection by the landlord or his or her 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 two month's rental of the tenant's unit per repair. When the landlord must commence to remedy the defective condition within ten days as provided in RCW [59.18.070](#)(3), the tenant cannot contract for repairs for ten days after notice or two days after the landlord receives the estimate, whichever is later. The total costs of repairs deducted in any twelve-month period under this subsection shall not exceed the sum expressed in dollars representing two month's rental of the tenant's unit.



## **RCW 59.18.100**

# **Landlord's failure to carry out duties — Repairs effected by tenant — Procedure — Deduction of cost from rent — Limitations; Continued**

(3) If the landlord fails to carry out the duties imposed by RCW [59.18.060](#) within the applicable time period, and if the cost of repair does not exceed one 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. Repairs under this subsection are limited to defects within the leased premises. The cost per repair shall not exceed one month's rent of the unit and the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed one month's rent of the unit.

(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 or herself in return for cash payment or a reasonable reduction in rent. Any such agreement does not alter the landlord's obligations under this chapter. [2011 c 132 § 5; 2010 c 8 § 19021; 1989 c 342 § 5; 1987 c 185 § 35; 1973 1st ex.s. c 207 § 10.]

**Reviser's note:** \*(1) RCW [59.18.060](#) was amended by 2013 c 35 § 1, changing subsections (9) and (14) to subsections (10) and (15), respectively.

\*\* (2) RCW [60.04.010](#) and [60.04.040](#) were repealed by 1991 c 281 § 31, effective April 1, 1992.

**Intent -- Severability -- 1987 c 185:** See notes following RCW [51.12.130](#).

# **RCW 59.18.130**

## **Duties of Tenant.**

Each tenant shall pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances, and regulations, and in addition shall:

- (1) Keep that part of the premises which he or she occupies and uses as clean and sanitary as the conditions of the premises permit;
- (2) Properly dispose from his or her dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant;
- (3) Properly use and operate all electrical, gas, heating, plumbing and other fixtures and appliances supplied by the landlord;
- (4) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the structure or dwelling, with the appurtenances thereto, including the facilities, equipment, furniture, furnishings, and appliances, or permit any member of his or her family, invitee, licensee, or any person acting under his or her control to do so. Violations may be prosecuted under chapter [9A.48](#) RCW if the destruction is intentional and malicious;
- (5) Not permit a nuisance or common waste;
- (6) Not engage in drug-related activity at the rental premises, or allow a subtenant, sublessee, resident, or anyone else to engage in drug-related activity at the rental premises with the knowledge or consent of the tenant. "Drug-related activity" means that activity which constitutes a violation of chapter [69.41](#), [69.50](#), or [69.52](#) RCW;
- (7) Maintain the smoke detection device in accordance with the manufacturer's recommendations, including the replacement of batteries where required for the proper operation of the smoke detection device, as required in RCW [43.44.110](#)(3);
- (8) Not engage in any activity at the rental premises that is:
  - (a) Imminently hazardous to the physical safety of other persons on the premises; and
  - (b)(i) Entails physical assaults upon another person which result in an arrest; or
  - (ii) Entails the unlawful use of a firearm or other deadly weapon as defined in RCW [9A.04.110](#) which results in an arrest, including threatening another tenant or the landlord with a firearm or other deadly weapon under RCW [59.18.352](#). Nothing in this subsection (8) shall authorize the termination of tenancy and eviction of the victim of a physical assault or the victim of the use or threatened use of a firearm or other deadly weapon;

## **RCW 59.18.130**

### **Duties of Tenant.; Continued**

(9) Not engage in any gang-related activity at the premises, as defined in RCW [59.18.030](#), or allow another to engage in such activity at the premises, that renders people in at least two or more dwelling units or residences insecure in life or the use of property or that injures or endangers the safety or health of people in at least two or more dwelling units or residences. In determining whether a tenant is engaged in gang-related activity, a court should consider the totality of the circumstances, including factors such as whether there have been a significant number of complaints to the landlord about the tenant's activities at the property, damages done by the tenant to the property, including the property of other tenants or neighbors, harassment or threats made by the tenant to other tenants or neighbors that have been reported to law enforcement agencies, any police incident reports involving the tenant, and the tenant's criminal history; and

(10) Upon termination and vacation, restore the premises to their initial condition except for reasonable wear and tear or conditions caused by failure of the landlord to comply with his or her obligations under this chapter. The tenant shall not be charged for normal cleaning if he or she has paid a nonrefundable cleaning fee.

[2011 c 132 § 8; 1998 c 276 § 2; 1992 c 38 § 2; 1991 c 154 § 3; 1988 c 150 § 2; 1983 c 264 § 3; 1973 1st ex.s. c 207 § 13.]

Notes:

**Intent -- Effective date -- 1992 c 38:** See notes following RCW [59.18.352](#).

**Legislative findings -- 1988 c 150:** "The legislature finds that the illegal use, sale, and manufacture of drugs and other drug-related activities is a statewide problem. Innocent persons, especially children, who come into contact with illegal drug-related activity within their own neighborhoods are seriously and adversely affected. Rental property is damaged and devalued by drug activities. The legislature further finds that a rapid and efficient response is necessary to: (1) Lessen the occurrence of drug-related enterprises; (2) reduce the drug use and trafficking problems within this state; and (3) reduce the damage caused to persons and property by drug activity. The legislature finds that it is beneficial to rental property owners and to the public to permit landlords to quickly and efficiently evict persons who engage in drug-related activities at rented premises." [1988 c 150 § 1.]

**Severability -- 1988 c 150:** "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." [1988 c 150 § 15.]

## **RCW 59.18.150**

# **Landlord's right of entry – Purposes – Searches by fire officials – Searches by code enforcement officials for inspection purposes – Conditions.**

(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, workers, or contractors.

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

Upon written notice of intent to seek a search warrant, when a landlord denies a fire official the right to search the common areas of the rental building other than the dwelling unit, a fire official may immediately seek a search warrant and, upon a showing of probable cause specific to the common area sought to be searched that a criminal fire code violation exists in those areas, a court of competent jurisdiction shall issue a warrant allowing a search of the common areas in which the violation is alleged.

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

(3) As used in this section:

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

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

(4)(a) A search warrant may be issued by a judge of a superior court or a court of limited jurisdiction under Titles [3](#), [35](#), and [35A](#) RCW to a code enforcement official of the state or of any county, city, or other political subdivision for the purpose of allowing the inspection of any specified dwelling unit and premises to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance.

## **RCW 59.18.150**

# **Landlord's right of entry – Purposes – Searches by fire officials – Searches by code enforcement officials for inspection purposes – Conditions. Continued.**

(b) A search warrant must only be issued upon application of a designated officer or employee of a county or city prosecuting or regulatory authority supported by an affidavit or declaration made under oath or upon sworn testimony before the judge, establishing probable cause that a violation of a state or local law, regulation, or ordinance regarding rental housing exists and endangers the health or safety of the tenant or adjoining neighbors. In addition, the affidavit must contain a statement that consent to inspect has been sought from the owner and the tenant but could not be obtained because the owner or the tenant either refused or failed to respond within five days, or a statement setting forth facts or circumstances reasonably justifying the failure to seek such consent. A landlord may not take or threaten to take reprisals or retaliatory action as defined in RCW [59.18.240](#) against a tenant who gives consent to a code enforcement official of the state or of any county, city, or other political subdivision to inspect his or her dwelling unit to determine the presence of an unsafe building condition or a violation of any building regulation, statute, or ordinance.

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

(i) The age and general condition of the premises;

(ii) Previous violations or hazards found present in the premises;

(iii) The type of premises;

(iv) The purposes for which the premises are used; or

(v) The presence of hazards or violations in and the general condition of premises near the premises sought to be inspected.

(d) Before issuing an inspection warrant, the judge shall find that the applicant has: (i) Provided written notice of the date, approximate time, and court in which the applicant will be seeking the warrant to the owner and, if the applicant reasonably believes the dwelling unit or rental property to be inspected is in the lawful possession of a tenant, to the tenant; and (ii) posted a copy of the notice on the exterior of the dwelling unit or rental property to be inspected. The judge shall also allow the owner and any tenant who appears during consideration of the application for the warrant to defend against or in support of the issuance of the warrant.

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

## **RCW 59.18.150**

# **Landlord's right of entry – Purposes – Searches by fire officials – Searches by code enforcement officials for inspection purposes – Conditions. Continued.**

(i) The name of the agency and building official requesting the warrant and authorized to conduct an inspection pursuant to the warrant;

(ii) A reasonable description of the premises and items to be inspected; and

(iii) A brief description of the purposes of the inspection.

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

(g) An inspection pursuant to a warrant must not be made:

(i) Between 7:00 p.m. of any day and 8:00 a.m. of the succeeding day, on Saturday or Sunday, or on any legal holiday, unless the owner or, if occupied, the tenant specifies a preference for inspection during such hours or on such a day;

(ii) Without the presence of an owner or occupant over the age of eighteen years or a person designated by the owner or occupant unless specifically authorized by a judge upon a showing that the authority is reasonably necessary to effectuate the purpose of the search warrant; or

(iii) By means of forcible entry, except that a judge may expressly authorize a forcible entry when:

(A) Facts are shown that are sufficient to create a reasonable suspicion of a violation of a state or local law or rule relating to municipal or county building, fire, safety, environmental, animal control, land use, plumbing, electrical, health, minimum housing, or zoning standards that, if the violation existed, would be an immediate threat to the health or safety of the tenant; or

(B) Facts are shown establishing that reasonable attempts to serve a previous warrant have been unsuccessful.

## **RCW 59.18.150**

# **Landlord's right of entry – Purposes – Searches by fire officials – Searches by code enforcement officials for inspection purposes – Conditions. Continued.**

(h) Immediate execution of a warrant is prohibited, except when necessary to prevent loss of life or property.

(i) Any person who willfully refuses to permit inspection, obstructs inspection, or aids in the obstruction of an inspection of property authorized by warrant issued pursuant to this section is subject to remedial and punitive sanctions for contempt of court under chapter [7.21](#) RCW. Such conduct may also be subject to a civil penalty imposed by local ordinance that takes into consideration the facts and circumstances and the severity of the violation.

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

(6) The landlord shall not abuse the right of access or use it to harass the tenant, and shall provide notice before entry as provided in this subsection. Except in the case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least two days' written notice of his or her intent to enter and shall enter only at reasonable times. The notice must state the exact time and date or dates of entry or specify a period of time during that date or dates in which the entry will occur, in which case the notice must specify the earliest and latest possible times of entry. The notice must also specify the telephone number to which the tenant may communicate any objection or request to reschedule the entry. 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.

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

(8) A landlord or tenant who continues to violate the rights of the tenant or landlord with respect to the duties imposed on the other as set forth in 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 landlord or tenant may recover costs of the suit or arbitration under this section, and may also recover reasonable attorneys' fees.

(9) Nothing in this section is intended to (a) abrogate or modify in any way any common law right or privilege or (b) affect the common law as it relates to a local municipality's right of entry under emergency or exigent circumstances.

[2011 c 132 § 9; 2010 c 148 § 3; 2002 c 263 § 1. Prior: 1989 c 342 § 7; 1989 c 12 § 18; 1973 1st ex.s. c 207 § 15.]

## **RCW 59.18.170**

### **Landlord to give notice if tenant fails to carry out duties.**

If at any time during the tenancy the tenant fails to carry out the duties required by RCW [59.18.130](#) or [59.18.140](#), the landlord may, in addition to pursuit of remedies otherwise provided by law, give written notice to the tenant of said failure, which notice shall specify the nature of the failure.

## **RCW 59.18.180**

### **Tenant's failure to comply with statutory duties — Landlord to give tenant written notice of noncompliance — Landlord's remedies.**

(1) If the tenant fails to comply with any portion of RCW [59.18.130](#) or [59.18.140](#), and such noncompliance can (a) substantially affect the health and safety of the tenant or other tenants, or substantially increase the hazards of fire or accident, and (b) be remedied by repair, replacement of a damaged item, or cleaning, the tenant shall comply within thirty days after written notice by the landlord specifying the noncompliance, or, in the case of emergency as promptly as conditions require. If the tenant fails to remedy the noncompliance within that period the landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by the landlord and tenant, or immediately if the rental agreement has terminated. The tenant shall have a defense to an unlawful detainer action filed solely on this ground if it is determined at the hearing authorized under the provisions of chapter [59.12](#) RCW that the tenant is in substantial compliance with the provisions of this section, or if the tenant remedies the noncomplying condition within the thirty day period provided for above or any shorter period determined at the hearing to have been required because of an emergency: PROVIDED, That if the defective condition is remedied after the commencement of an unlawful detainer action, the tenant may be liable to the landlord for statutory costs and reasonable attorneys' fees.

(2) Any other substantial noncompliance by the tenant of RCW [59.18.130](#) or [59.18.140](#) constitutes a ground for commencing an action in unlawful detainer in accordance with chapter [59.12](#) RCW. A landlord may commence such action at any time after written notice pursuant to chapter [59.12](#) RCW.

(3) If drug-related activity is alleged to be a basis for termination of tenancy under RCW [59.18.130](#)(6), [59.12.030](#)(5), or [59.20.140](#) (5), the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action.



## **RCW 59.18.180**

### **Tenant's failure to comply with statutory duties — Landlord to give tenant written notice of noncompliance — Landlord's remedies; Continued.**

(4) If criminal activity on the premises as described in RCW [59.18.130](#)(8) is alleged to be the basis for termination of the tenancy, and the tenant is arrested as a result of this activity, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action against the tenant who was arrested for this activity.

(5) If gang-related activity, as prohibited under RCW [59.18.130](#)(9), is alleged to be the basis for termination of the tenancy, then the compliance provisions of this section do not apply and the landlord may proceed directly to an unlawful detainer action in accordance with chapter [59.12](#) RCW, and a landlord may commence such an action at any time after written notice under chapter [59.12](#) RCW.

(6) A landlord may not be held liable in any cause of action for bringing an unlawful detainer action against a tenant for drug-related activity, for creating an imminent hazard to the physical safety of others, or for engaging in gang-related activity that renders people in at least two or more dwelling units or residences insecure in life or the use of property or that injures or endangers the safety or health of people in at least two or more dwelling units or residences under this section, if the unlawful detainer action was brought in good faith. Nothing in this section shall affect a landlord's liability under RCW [59.18.380](#) to pay all damages sustained by the tenant should the writ of restitution be wrongfully sued out.

[2011 c 132 § 10; 1998 c 276 § 3; 1992 c 38 § 3; 1988 c 150 § 7; 1973 1st ex.s. c 207 § 18.]

**Intent -- Effective date -- 1992 c 38:** See notes following RCW [59.18.352](#).

**Legislative findings -- Severability -- 1988 c 150:** See notes following RCW [59.18.130](#).

# **RCW 59.18.230 Waiver of chapter provisions prohibited — Provisions prohibited from rental agreement — Distress for rent abolished — Detention of personal property for rent — Remedies.**

(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 forgo 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 attorneys' 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 or her to be prohibited, the tenant may recover actual damages sustained by him or her, statutory damages not to exceed five hundred dollars, costs of suit, and reasonable attorneys' fees.

## **RCW 59.18.230 Waiver of chapter provisions prohibited — Provisions prohibited from rental agreement — Distress for rent abolished — Detention of personal property for rent — Remedies; Continued.**

(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, and who, after written demand by the tenant for the return of his or her 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 five hundred dollars per day but not to exceed five thousand dollars, for each day or part of a day that the tenant is deprived of his or her property. The prevailing party may recover his or her costs of suit and a reasonable attorneys' 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 or her 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. [2011 c 132 § 11; 2010 c 8 § 19024; 1989 c 342 § 8; 1983 c 264 § 4; 1973 1st ex.s. c 207 § 23.]

## **RCW 59.18.240**

### **Reprisals or retaliatory actions by landlord – Prohibited.**

So long as the tenant is in compliance with this chapter, the landlord shall not take or threaten to take reprisals or retaliatory action against the tenant because of any good faith and lawful:

(1) Complaints or reports by the tenant to a governmental authority concerning the failure of the landlord to substantially comply with any code, statute, ordinance, or regulation governing the maintenance or operation of the premises, if such condition may endanger or impair the health or safety of the tenant; or

(2) Assertions or enforcement by the tenant of his or her rights and remedies under this chapter.

"Reprisal or retaliatory action" shall mean and include but not be limited to any of the following actions by the landlord when such actions are intended primarily to retaliate against a tenant because of the tenant's good faith and lawful act:

- (a) Eviction of the tenant;
- (b) Increasing the rent required of the tenant;
- (c) Reduction of services to the tenant; and
- (d) Increasing the obligations of the tenant.

[2010 c 8 § 19025; 1983 c 264 § 9; 1973 1st ex.s. c 207 § 24.]

## **RCW 59.18.250**

### **Reprisals or retaliatory actions by landlord – Presumptions – Rebuttal – Costs.**

Initiation by the landlord of any action listed in RCW [59.18.240](#) within ninety days after a good faith and lawful act by the tenant as enumerated in RCW [59.18.240](#), or within ninety days after any inspection or proceeding of a governmental agency resulting from such act, shall create a rebuttable presumption affecting the burden of proof, that the action is a reprisal or retaliatory action against the tenant: PROVIDED, That if at the time the landlord gives notice of termination of tenancy pursuant to chapter [59.12](#) RCW the tenant is in arrears in rent or in breach of any other lease or rental obligation, there is a rebuttable presumption affecting the burden of proof that the landlord's action is neither a reprisal nor retaliatory action against the tenant: PROVIDED FURTHER, That if the court finds that the tenant made a complaint or report to a governmental authority within ninety days after notice of a proposed increase in rent or other action in good faith by the landlord, there is a rebuttable presumption that the complaint or report was not made in good faith: PROVIDED FURTHER, That no presumption against the landlord shall arise under this section, with respect to an increase in rent, if the landlord, in a notice to the tenant of increase in rent, specifies reasonable grounds for said increase, which grounds may include a substantial increase in market value due to remedial action under this chapter: PROVIDED FURTHER, That the presumption of retaliation, with respect to an eviction, may be rebutted by evidence that it is not practical to make necessary repairs while the tenant remains in occupancy. In any action or eviction proceeding where the tenant prevails upon his or her claim or defense that the landlord has violated this section, the tenant shall be entitled to recover his or her costs of suit or arbitration, including a reasonable attorney's fee, and where the landlord prevails upon his or her claim he or she shall be entitled to recover his or her costs of suit or arbitration, including a reasonable attorney's fee: PROVIDED FURTHER, That neither party may recover attorney's fees to the extent that their legal services are provided at no cost to them.

[2010 c 8 § 19026; 1983 c 264 § 10; 1973 1st ex.s. c 207 § 25.]

## **RCW 59.18.253**

### **Reprisals or retaliatory actions by landlord – Presumptions – Rebuttal – Costs.**

(1) It shall be unlawful for a landlord to require a fee or deposit from a prospective tenant for the privilege of being placed on a waiting list to be considered as a tenant for a dwelling unit.

(2) A landlord who charges a prospective tenant a fee or deposit to hold a dwelling unit or secure that the prospective tenant will move into a dwelling unit, after the dwelling unit has been offered to the prospective tenant, must provide the prospective tenant with a receipt for the fee or deposit, together with a written statement of the conditions, if any, under which the fee or deposit may be retained, immediately upon payment of the fee or deposit.

(3)(a) If the prospective tenant does occupy the dwelling unit, then the landlord must credit the amount of the fee or deposit to the tenant's first month's rent or to the tenant's security deposit. If the prospective tenant does not occupy the dwelling unit, then the landlord may keep up to the full amount of any fee or deposit that was paid by the prospective tenant to secure the tenancy, so long as it is in accordance with the written statement of conditions furnished to the prospective tenant at the time the fee or deposit was charged.

(b) A fee or deposit to hold a dwelling unit or secure that the prospective tenant will move into a dwelling unit under this subsection does not include any cost charged by a landlord to use a tenant screening service or obtain background information on a prospective tenant.

(c) A portion of the fee or deposit may not be withheld if the dwelling unit fails a tenant-based rental assistance program inspection by a qualified inspector as defined in RCW [59.18.030](#). If the inspection does not occur within ten days from the date of collection of the fee or deposit or a longer period of time that the landlord and tenant may agree upon, the landlord may notify the tenant that the dwelling unit will no longer be held. The landlord shall promptly return the fee or deposit to the prospective tenant after the landlord is notified that the dwelling unit failed the inspection or the landlord has notified the tenant that the dwelling unit will no longer be held. The landlord complies with this section by promptly depositing the fee or deposit in the United States mail properly addressed with first-class postage prepaid.

## **RCW 59.18.253**

### **Reprisals or retaliatory actions by landlord – Presumptions – Rebuttal – Costs; Continued.**

(4) In any action brought for a violation of this section, a landlord may be liable for the amount of the fee or deposit charged. In addition, any landlord who violates this section may be liable to the prospective tenant for an amount not to exceed two times the fee or deposit. The prevailing party may also recover court costs and a reasonable attorneys' fee. [2011 c 132 § 12; 1991 c 194 § 2.]

**Findings -- 1991 c 194:** "The legislature finds that tenant application fees often have the effect of excluding low-income people from applying for housing because many low-income people cannot afford these fees in addition to the rent and other deposits which may be required. The legislature further finds that application fees are frequently not returned to unsuccessful applicants for housing, which creates a hardship on low-income people. The legislature therefore finds and declares that it is the policy of the state that certain tenant application fees should be prohibited and guidelines should be established for the imposition of other tenant application fees.

The legislature also finds that it is important to both landlords and tenants that consumer information concerning prospective tenants is accurate. Many tenants are unaware of their rights under federal fair credit reporting laws to dispute information that may be inaccurate. The legislature therefore finds and declares that it is the policy of the state for prospective tenants to be informed of their rights to dispute information they feel is inaccurate in order to help prevent denials of housing based upon incorrect information." [1991 c 194 § 1.]

## **RCW 59.18.257**

### **Screening of prospective tenants – Notice to prospective tenant – Costs – Adverse action notice – Violation – Work group.**

(1)(a) Prior to obtaining any information about a prospective tenant, the prospective landlord shall first notify the prospective tenant in writing, or by posting, of the following:

(i) What types of information will be accessed to conduct the tenant screening;

(ii) What criteria may result in denial of the application; and

(iii) If a consumer report is used, the name and address of the consumer reporting agency and the prospective tenant's rights to obtain a free copy of the consumer report in the event of a denial or other adverse action, and to dispute the accuracy of information appearing in the consumer report.

(b)(i) The landlord may charge a prospective tenant for costs incurred in obtaining a tenant screening report only if the prospective landlord provides the information as required in (a) of this subsection.

(ii) If a prospective landlord conducts his or her own screening of tenants, the prospective landlord may charge his or her actual costs in obtaining the background information only if the prospective landlord provides the information as required in (a) of this subsection. The amount charged may not exceed the customary costs charged by a screening service in the general area. The prospective landlord's actual costs include costs incurred for long distance phone calls and for time spent calling landlords, employers, and financial institutions.

(c) If a prospective landlord takes an adverse action, the prospective landlord shall provide a written notice of the adverse action to the prospective tenant that states the reasons for the adverse action. The adverse action notice must contain the following information in a substantially similar format, including additional information as may be required under chapter [19.182](#) RCW:



# **RCW 59.18.257**

## **Screening of prospective tenants – Notice to prospective tenant – Costs – Adverse action notice – Violation – Work group; Continued.**

"ADVERSE ACTION NOTICE

Name

Address

City/State/Zip Code

This notice is to inform you that your application has been:

- ..... Rejected
- ..... Approved with conditions:
  - ..... Residency requires an increased deposit
  - ..... Residency requires a qualified guarantor
  - ..... Residency requires last month's rent
  - ..... Residency requires an increased monthly rent of \$.....
  - ..... Other:

Adverse action on your application was based on the following:

- ..... Information contained in a consumer report (The prospective landlord must include the name, address, and phone number of the consumer reporting agency that furnished the consumer report that contributed to the adverse action.)
- ..... The consumer credit report did not contain sufficient information
- ..... Information received from previous rental history or reference
- ..... Information received in a criminal record
- ..... Information received in a civil record
- ..... Information received from an employment verification

Dated this ..... day of ....., 20....

Agent/Owner Signature"

## **RCW 59.18.257**

### **Screening of prospective tenants – Notice to prospective tenant – Costs – Adverse action notice – Violation – Work group; Continued.**

(2) Any landlord or prospective landlord who violates this section may be liable to the prospective tenant for an amount not to exceed one hundred dollars. The prevailing party may also recover court costs and reasonable attorneys' fees.

(3) A stakeholder work group comprised of landlords, tenant advocates, and representatives of consumer reporting and tenant screening companies shall convene for the purposes of addressing the issues of tenant screening including, but not limited to: A tenant's cost of obtaining a tenant screening report; the portability of tenant screening reports; criteria used to evaluate a prospective tenant's background, including which court records may or may not be considered; and the regulation of tenant screening services. Specific recommendations on these issues are due to the legislature by December 1, 2012.

(4) This section does not limit a prospective tenant's rights or the duties of a screening service as otherwise provided in chapter [19.182](#) RCW.  
[2012 c 41 § 3; 1991 c 194 § 3.]

**Finding -- 2012 c 41:** "The legislature finds that residential landlords frequently use tenant screening reports in evaluating and selecting tenants for their rental properties. These tenant screening reports purchased from tenant screening companies may contain misleading, incomplete, or inaccurate information, such as information relating to eviction or other court records. It is challenging for tenants to dispute errors until after they apply for housing and are turned down, at which point lodging disputes are seldom worthwhile. The costs of tenant screening reports are paid by applicants. Therefore, applicants who apply for housing with multiple housing providers pay repeated screening fees for successive reports containing essentially the same information." [2012 c 41 § 1.]

**Findings -- 1991 c 194:** See note following RCW [59.18.253](#).

# **RCW 19.182.040**

## **Consumer report – Prohibited information – Exceptions.**

(1) Except as authorized under subsection (2) of this section, no consumer reporting agency may make a consumer report containing any of the following items of information:

(a) Bankruptcies that, from date of adjudication of the most recent bankruptcy, antedate the report by more than ten years;

(b) Suits and judgments that, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period;

(c) Paid tax liens that, from date of payment, antedate the report by more than seven years;

(d) Accounts placed for collection or charged to profit and loss that antedate the report by more than seven years;

(e) Records of arrest, indictment, or conviction of an adult for a crime that, from date of disposition, release, or parole, antedate the report by more than seven years;

(f) Juvenile records, as defined in RCW [13.50.010](#)(1)(c), when the subject of the records is twenty-one years of age or older at the time of the report; and

(g) Any other adverse item of information that antedates the report by more than seven years.

(2) Subsection (1)(a) through (e) and (g) of this section is not applicable in the case of a consumer report to be used in connection with:

(a) A credit transaction involving, or that may reasonably be expected to involve, a principal amount of fifty thousand dollars or more;

(b) The underwriting of life insurance involving, or that may reasonably be expected to involve, a face amount of fifty thousand dollars or more; or

(c) The employment of an individual at an annual salary that equals, or that may reasonably be expected to equal, twenty thousand dollars or more.

[2011 c 333 § 2; 1993 c 476 § 6.]

## **RCW 19.182.040**

### **Consumer report – Prohibited information – Exceptions; Continued.**

**Findings -- Intent -- 2011 c 333:** "The legislature finds that:

(1) One of the goals of the juvenile justice system is to rehabilitate juvenile offenders and promote their successful reintegration into society. Without opportunities to reintegrate, juveniles suffer increased recidivism and decreased economic function.

(2) The public has an interest in accessing information relating to juvenile records for public safety and research purposes.

(3) The public's legitimate interest in accessing personal information must be balanced with the rehabilitative goals of the juvenile justice system. All benefit when former juvenile offenders, after paying their debt to society, reintegrate and contribute to their local communities as productive citizens.

(4) It is the intent of the legislature to balance the rehabilitative and reintegration needs of an effective juvenile justice system with the public's need to access personal information for public safety and research purposes." [2011 c 333 § 1.]



April 4, 2016

**Office of General Counsel Guidance on  
Application of Fair Housing Act Standards to the Use of Criminal Records by  
Providers of Housing and Real Estate-Related Transactions**

**I. Introduction**

The Fair Housing Act (or Act) prohibits discrimination in the sale, rental, or financing of dwellings and in other housing-related activities on the basis of race, color, religion, sex, disability, familial status or national origin.<sup>1</sup> HUD's Office of General Counsel issues this guidance concerning how the Fair Housing Act applies to the use of criminal history by providers or operators of housing and real-estate related transactions. Specifically, this guidance addresses how the discriminatory effects and disparate treatment methods of proof apply in Fair Housing Act cases in which a housing provider justifies an adverse housing action – such as a refusal to rent or renew a lease – based on an individual's criminal history.

**II. Background**

As many as 100 million U.S. adults – or nearly one-third of the population – have a criminal record of some sort.<sup>2</sup> The United States prison population of 2.2 million adults is by far the largest in the world.<sup>3</sup> As of 2012, the United States accounted for only about five percent of the world's population, yet almost one quarter of the world's prisoners were held in American prisons.<sup>4</sup> Since 2004, an average of over 650,000 individuals have been released annually from federal and state prisons,<sup>5</sup> and over 95 percent of current inmates will be released at some point.<sup>6</sup> When individuals are released from prisons and jails, their ability to access safe, secure and affordable housing is critical to their successful reentry to society.<sup>7</sup> Yet many formerly incarcerated individuals, as well as individuals who were convicted but not incarcerated, encounter significant barriers to securing housing, including public and other federally-subsidized housing,

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<sup>1</sup> 42 U.S.C. § 3601 *et seq.*

<sup>2</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *Survey of State Criminal History Information Systems, 2012*, 3 (Jan. 2014), available at <https://www.ncjrs.gov/pdffiles1/bjs/grants/244563.pdf>.

<sup>3</sup> Nat'l Acad. Sci., Nat'l Res. Couns., *The Growth of Incarceration in the United States: Exploring Causes and Consequences 2* (Jeremy Travis, et al. eds., 2014), available at: <http://www.nap.edu/catalog/18613/the-growth-of-incarceration-in-the-united-states-exploring-causes>.

<sup>4</sup> *Id.*

<sup>5</sup> E. Ann Carson, Bureau of Justice Statistics, U.S. Dep't of Justice, *Prisoners in 2014* (Sept. 2015) at 29, appendix tbls. 1 and 2, available at <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5387>.

<sup>6</sup> Bureau of Justice Statistics, U.S. Dep't of Justice, *Reentry Trends in the United States*, available at <http://www.bjs.gov/content/pub/pdf/reentry.pdf>.

<sup>7</sup> See, e.g., S. Metraux, et al. "Incarceration and Homelessness," in *Toward Understanding Homelessness: The 2007 National Symposium on Homelessness Research*, #9 (D. Dennis, et al. eds., 2007), available at: <https://www.huduser.gov/portal/publications/pdf/p9.pdf> (explaining "how the increasing numbers of people leaving carceral institutions face an increased risk for homelessness and, conversely, how persons experiencing homelessness are vulnerable to incarceration.").

because of their criminal history. In some cases, even individuals who were arrested but not convicted face difficulty in securing housing based on their prior arrest.

Across the United States, African Americans and Hispanics are arrested, convicted and incarcerated at rates disproportionate to their share of the general population.<sup>8</sup> Consequently, criminal records-based barriers to housing are likely to have a disproportionate impact on minority home seekers. While having a criminal record is not a protected characteristic under the Fair Housing Act, criminal history-based restrictions on housing opportunities violate the Act if, without justification, their burden falls more often on renters or other housing market participants of one race or national origin over another (i.e., discriminatory effects liability).<sup>9</sup> Additionally, intentional discrimination in violation of the Act occurs if a housing provider treats individuals with comparable criminal history differently because of their race, national origin or other protected characteristic (i.e., disparate treatment liability).

### **III. Discriminatory Effects Liability and Use of Criminal History to Make Housing Decisions**

A housing provider violates the Fair Housing Act when the provider's policy or practice has an unjustified discriminatory effect, even when the provider had no intent to discriminate.<sup>10</sup> Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. Thus, where a policy or practice that restricts access to housing on the basis of criminal history has a disparate impact on individuals of a particular race, national origin, or other protected class, such policy or practice is unlawful under the Fair Housing Act if it is not necessary to serve a substantial, legitimate, nondiscriminatory interest of the housing provider, or if such interest could be served by another practice that has a less discriminatory effect.<sup>11</sup> Discriminatory effects liability is assessed under a three-step burden-shifting standard requiring a fact-specific analysis.<sup>12</sup>

The following sections discuss the three steps used to analyze claims that a housing provider's use of criminal history to deny housing opportunities results in a discriminatory effect in violation of the Act. As explained in Section IV, below, a different analytical framework is used to evaluate claims of intentional discrimination.

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<sup>8</sup> See *infra* nn. 16-20 and accompanying text.

<sup>9</sup> The Fair Housing Act prohibits discrimination based on race, color, religion, sex, disability, familial status, and national origin. This memorandum focuses on race and national origin discrimination, although criminal history policies may result in discrimination against other protected classes.

<sup>10</sup> 24 C.F.R. § 100.500; accord *Texas Dep't of Hous. & Cmty. Affairs v. Inclusive Cmty. Project, Inc.*, \_\_\_ U.S. \_\_\_, 135 S. Ct. 2507 (2015).

<sup>11</sup> 24 C.F.R. § 100.500; see also *Inclusive Cmty. Project*, 135 S. Ct. at 2514-15 (summarizing HUD's Discriminatory Effects Standard in 24 C.F.R. § 100.500); *id.* at 2523 (explaining that housing providers may maintain a policy that causes a disparate impact "if they can prove [the policy] is necessary to achieve a valid interest.").

<sup>12</sup> See 24 C.F.R. § 100.500.

## A. Evaluating Whether the Criminal History Policy or Practice Has a Discriminatory Effect

In the first step of the analysis, a plaintiff (or HUD in an administrative adjudication) must prove that the criminal history policy has a discriminatory effect, that is, that the policy results in a disparate impact on a group of persons because of their race or national origin.<sup>13</sup> This burden is satisfied by presenting evidence proving that the challenged practice actually or predictably results in a disparate impact.

Whether national or local statistical evidence should be used to evaluate a discriminatory effects claim at the first step of the analysis depends on the nature of the claim alleged and the facts of that case. While state or local statistics should be presented where available and appropriate based on a housing provider's market area or other facts particular to a given case, national statistics on racial and ethnic disparities in the criminal justice system may be used where, for example, state or local statistics are not readily available and there is no reason to believe they would differ markedly from the national statistics.<sup>14</sup>

National statistics provide grounds for HUD to investigate complaints challenging criminal history policies.<sup>15</sup> Nationally, racial and ethnic minorities face disproportionately high rates of arrest and incarceration. For example, in 2013, African Americans were arrested at a rate more than double their proportion of the general population.<sup>16</sup> Moreover, in 2014, African Americans comprised approximately 36 percent of the total prison population in the United States, but only about 12 percent of the country's total population.<sup>17</sup> In other words, African Americans were incarcerated at a rate nearly three times their proportion of the general population. Hispanics were similarly incarcerated at a rate disproportionate to their share of the

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<sup>13</sup> 24 C.F.R. § 100.500(c)(1); *accord Inclusive Cmty's. Project*, 135 S. Ct. at 2522-23. A discriminatory effect can also be proven with evidence that the policy or practice creates, increases, reinforces, or perpetuates segregated housing patterns. See 24 C.F.R. § 100.500(a). This guidance addresses only the method for analyzing disparate impact claims, which in HUD's experience are more commonly asserted in this context.

<sup>14</sup> *Compare Dothard v. Rawlinson*, 433 U.S. 321, 330 (1977) ("[R]eliance on general population demographic data was not misplaced where there was no reason to suppose that physical height and weight characteristics of Alabama men and women differ markedly from those of the national population.") with *Mountain Side Mobile Estates P'ship v. Sec'y of Hous. & Urban Dev.*, 56 F.3d 1243, 1253 (10th Cir. 1995) ("In some cases national statistics may be the appropriate comparable population. However, those cases are the rare exception and this case is not such an exception.") (citation omitted).

<sup>15</sup> *Cf. El v. SEPTA*, 418 F. Supp. 2d 659, 668-69 (E.D. Pa. 2005) (finding that plaintiff proved prima facie case of disparate impact under Title VII based on national data from the U.S. Bureau of Justice Statistics and the Statistical Abstract of the U.S., which showed that non-Whites were substantially more likely than Whites to have a conviction), *aff'd on other grounds*, 479 F.2d 232 (3d Cir. 2007).

<sup>16</sup> See FBI Criminal Justice Information Services Division, *Crime in the United States, 2013*, tbl.43A, available at <https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-43> (Fall 2014) (reporting that African Americans comprised 28.3% of all arrestees in 2013); U.S. Census Bureau, *Monthly Postcensal Resident Population by Single Year of Age, Sex, Race and Hispanic Origin: July 1, 2013 to December 1, 2013*, available at <http://www.census.gov/popest/data/national/asrh/2014/2014-nat-res.html> (reporting data showing that individuals identifying as African American or Black alone made up only 12.4% of the total U.S. population at 2013 year-end).

<sup>17</sup> See E. Ann Carson, Bureau of Justice Statistics, U.S. Dep't of Justice, *Prisoners in 2014* (Sept. 2015) at tbl. 10, available at <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5387>; and U.S. Census Bureau, *Monthly Postcensal Resident Population by Single Year of Age, Sex, Race and Hispanic Origin: July 1, 2014 to December 1, 2014*, available at <http://www.census.gov/popest/data/national/asrh/2014/2014-nat-res.html>.

general population, with Hispanic individuals comprising approximately 22 percent of the prison population, but only about 17 percent of the total U.S. population.<sup>18</sup> In contrast, non-Hispanic Whites comprised approximately 62 percent of the total U.S. population but only about 34 percent of the prison population in 2014.<sup>19</sup> Across all age groups, the imprisonment rates for African American males is almost six times greater than for White males, and for Hispanic males, it is over twice that for non-Hispanic White males.<sup>20</sup>

Additional evidence, such as applicant data, tenant files, census demographic data and localized criminal justice data, may be relevant in determining whether local statistics are consistent with national statistics and whether there is reasonable cause to believe that the challenged policy or practice causes a disparate impact. Whether in the context of an investigation or administrative enforcement action by HUD or private litigation, a housing provider may offer evidence to refute the claim that its policy or practice causes a disparate impact on one or more protected classes.

Regardless of the data used, determining whether a policy or practice results in a disparate impact is ultimately a fact-specific and case-specific inquiry.

**B. Evaluating Whether the Challenged Policy or Practice is Necessary to Achieve a Substantial, Legitimate, Nondiscriminatory Interest**

In the second step of the discriminatory effects analysis, the burden shifts to the housing provider to prove that the challenged policy or practice is justified – that is, that it is necessary to achieve a substantial, legitimate, nondiscriminatory interest of the provider.<sup>21</sup> The interest proffered by the housing provider may not be hypothetical or speculative, meaning the housing provider must be able to provide evidence proving both that the housing provider has a substantial, legitimate, nondiscriminatory interest supporting the challenged policy and that the challenged policy actually achieves that interest.<sup>22</sup>

Although the specific interest(s) that underlie a criminal history policy or practice will no doubt vary from case to case, some landlords and property managers have asserted the protection of other residents and their property as the reason for such policies or practices.<sup>23</sup> Ensuring

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<sup>18</sup> See *id.*

<sup>19</sup> See *id.*

<sup>20</sup> E. Ann Carson, Bureau of Justice Statistics, U.S. Dep't of Justice, *Prisoners in 2014* (Sept. 2015) at table 10, available at <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=5387>.

<sup>21</sup> 24 C.F.R. § 100.500(c)(2); see also *Inclusive Cmty. Project*, 135 S. Ct. at 2523.

<sup>22</sup> See 24 C.F.R. § 100.500(b)(2); see also 78 Fed. Reg. 11460, 11471 (Feb. 15, 2013).

<sup>23</sup> See, e.g., Answer to Amended Complaint at 58, *The Fortune Society, Inc. v. Sandcastle Towers Hsg. Dev. Fund Corp.*, No. 1:14-CV-6410 (E.D.N.Y. May 21, 2015), ECF No. 37 (“The use of criminal records searches as part of the overall tenant screening process used at Sand Castle serves valid business and security functions of protecting tenants and the property from former convicted criminals.”); *Evans v. UDR, Inc.*, 644 F.Supp.2d 675, 683 (E.D.N.C. 2009) (noting, based on affidavit of property owner, that “[t]he policy [against renting to individuals with criminal histories is] based primarily on the concern that individuals with criminal histories are more likely than others to commit crimes on the property than those without such backgrounds ... [and] is thus based [on] concerns for the safety of other residents of the apartment complex and their property.”); see also J. Helfgott, *Ex-Offender Needs Versus Community Opportunity in Seattle*, Washington, 61 Fed. Probation 12, 20 (1997) (finding in a survey of 196



resident safety and protecting property are often considered to be among the fundamental responsibilities of a housing provider, and courts may consider such interests to be both substantial and legitimate, assuming they are the actual reasons for the policy or practice.<sup>24</sup> A housing provider must, however, be able to prove through reliable evidence that its policy or practice of making housing decisions based on criminal history actually assists in protecting resident safety and/or property. Bald assertions based on generalizations or stereotypes that any individual with an arrest or conviction record poses a greater risk than any individual without such a record are not sufficient to satisfy this burden.

### 1. Exclusions Because of Prior Arrest

A housing provider with a policy or practice of excluding individuals because of one or more prior arrests (without any conviction) cannot satisfy its burden of showing that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest.<sup>25</sup> As the Supreme Court has recognized, “[t]he mere fact that a man has been arrested has very little, if any, probative value in showing that he has engaged in any misconduct. An arrest shows nothing more than that someone probably suspected the person apprehended of an offense.”<sup>26</sup> Because arrest records do not constitute proof of past unlawful conduct and are often incomplete (e.g., by failing to indicate whether the individual was prosecuted, convicted, or acquitted),<sup>27</sup> the fact of an arrest is not a reliable basis upon which to assess the potential risk to resident safety or property posed by a particular individual. For that reason, a housing provider who denies housing to persons on the basis of arrests not resulting in conviction cannot prove that the exclusion actually assists in protecting resident safety and/or property.

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landlords in Seattle that of the 43% of landlords that said they were inclined to reject applicants with a criminal history, the primary reason for their inclination was protection and safety of community).

<sup>24</sup> As explained in HUD’s 2013 Discriminatory Effects Final Rule, a “substantial” interest is a core interest of the organization that has a direct relationship to the function of that organization. The requirement that an interest be “legitimate” means that a housing provider’s justification must be genuine and not false or fabricated. See 78 Fed. Reg. at 11470; see also *Charleston Hous. Auth. v. U.S. Dep’t of Agric.*, 419 F.3d 729, 742 (8th Cir. 2005) (recognizing that, “in the abstract, a reduction in the concentration of low income housing is a legitimate goal,” but concluding “that the Housing Authority had not shown a need for deconcentration in this instance, and in fact, had falsely represented the density [of low income housing] at the location in question in an attempt to do so”).

<sup>25</sup> HUD recently clarified that arrest records may not be the basis for denying admission, terminating assistance, or evicting tenants from public and other federally-assisted housing. See Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, HUD PIH Notice 2015-19, (November 2, 2015), available at: <http://portal.hud.gov/hudportal/documents/huddoc?id=PIH2015-19.pdf>.

<sup>26</sup> *Schwartz v. Bd of Bar Examiners*, 353 U.S. 232, 241 (1957); see also *United States v. Berry*, 553 F.3d 273, 282 (3d Cir. 2009) (“[A] bare arrest record – without more – does not justify an assumption that a defendant has committed other crimes and it therefore cannot support increasing his/her sentence in the absence of adequate proof of criminal activity.”); *United States v. Zapete-Garcia*, 447 F.3d 57, 60 (1st Cir. 2006) (“[A] mere arrest, especially a lone arrest, is not evidence that the person arrested actually committed any criminal conduct.”).

<sup>27</sup> See, e.g., U.S. Dep’t of Justice, *The Attorney General’s Report on Criminal History Background Checks* at 3, 17 (June 2006), available at [http://www.bjs.gov/content/pub/pdf/ag\\_bgchecks\\_report.pdf](http://www.bjs.gov/content/pub/pdf/ag_bgchecks_report.pdf) (reporting that the FBI’s Interstate Identification Index system, which is the national system designed to provide automated criminal history record information and “the most comprehensive single source of criminal history information in the United States,” is “still missing final disposition information for approximately 50 percent of its records”).

Analogously, in the employment context, the Equal Employment Opportunity Commission has explained that barring applicants from employment on the basis of arrests not resulting in conviction is not consistent with business necessity under Title VII because the fact of an arrest does not establish that criminal conduct occurred.<sup>28</sup>

## 2. Exclusions Because of Prior Conviction

In most instances, a record of conviction (as opposed to an arrest) will serve as sufficient evidence to prove that an individual engaged in criminal conduct.<sup>29</sup> But housing providers that apply a policy or practice that excludes persons with prior convictions must still be able to prove that such policy or practice is necessary to achieve a substantial, legitimate, nondiscriminatory interest. A housing provider that imposes a blanket prohibition on any person with any conviction record – no matter when the conviction occurred, what the underlying conduct entailed, or what the convicted person has done since then – will be unable to meet this burden. One federal court of appeals held that such a blanket ban violated Title VII, stating that it “could not conceive of any business necessity that would automatically place every individual convicted of any offense, except a minor traffic offense, in the permanent ranks of the unemployed.”<sup>30</sup> Although the defendant-employer in that case had proffered a number of theft and safety-related justifications for the policy, the court rejected such justifications as “not empirically validated.”<sup>31</sup>

A housing provider with a more tailored policy or practice that excludes individuals with only certain types of convictions must still prove that its policy is necessary to serve a “substantial, legitimate, nondiscriminatory interest.” To do this, a housing provider must show that its policy accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not.<sup>32</sup>

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<sup>28</sup> See U.S. Equal Emp’t Opportunity Comm’n, *EEOC Enforcement Guidance, Number 915.002*, 12 (Apr. 25, 2012), available at [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm); see also *Gregory v. Litton Systems, Inc.*, 316 F. Supp. 401, 403 (C.D. Cal. 1970) (holding that defendant employer’s policy of excluding from employment persons with arrests without convictions unlawfully discriminated against African American applicants in violation of Title VII because there “was no evidence to support a claim that persons who have suffered no criminal convictions but have been arrested on a number of occasions can be expected, when employed, to perform less efficiently or less honestly than other employees,” such that “information concerning a . . . record of arrests without conviction, is irrelevant to [an applicant’s] suitability or qualification for employment”), *aff’d*, 472 F.2d 631 (9th Cir. 1972).

<sup>29</sup> There may, however, be evidence of an error in the record, an outdated record, or another reason for not relying on the evidence of a conviction. For example, a database may continue to report a conviction that was later expunged, or may continue to report as a felony an offense that was subsequently downgraded to a misdemeanor. See generally SEARCH, *Report of the National Task Force on the Commercial Sale of Criminal Justice Record Information* (2005), available at <http://www.search.org/files/pdf/RNTFCSCJRI.pdf>.

<sup>30</sup> *Green v. Missouri Pacific R.R.*, 523 F.2d 1290, 1298 (8th Cir. 1975).

<sup>31</sup> *Id.*

<sup>32</sup> *Cf. El*, 479 F.3d at 245-46 (stating that “Title VII . . . require[s] that the [criminal conviction] policy under review accurately distinguish[es] between applicants that pose an unacceptable level or risk and those that do not”).

A policy or practice that fails to take into account the nature and severity of an individual's conviction is unlikely to satisfy this standard.<sup>33</sup> Similarly, a policy or practice that does not consider the amount of time that has passed since the criminal conduct occurred is unlikely to satisfy this standard, especially in light of criminological research showing that, over time, the likelihood that a person with a prior criminal record will engage in additional criminal conduct decreases until it approximates the likelihood that a person with no criminal history will commit an offense.<sup>34</sup>

Accordingly, a policy or practice that fails to consider the nature, severity, and recency of criminal conduct is unlikely to be proven necessary to serve a "substantial, legitimate, nondiscriminatory interest" of the provider. The determination of whether any particular criminal history-based restriction on housing satisfies step two of the discriminatory effects standard must be made on a case-by-case basis.<sup>35</sup>

### C. Evaluating Whether There Is a Less Discriminatory Alternative

The third step of the discriminatory effects analysis is applicable only if a housing provider successfully proves that its criminal history policy or practice is necessary to achieve its substantial, legitimate, nondiscriminatory interest. In the third step, the burden shifts back to the plaintiff or HUD to prove that such interest could be served by another practice that has a less discriminatory effect.<sup>36</sup>

Although the identification of a less discriminatory alternative will depend on the particulars of the criminal history policy or practice under challenge, individualized assessment of relevant mitigating information beyond that contained in an individual's criminal record is likely to have a less discriminatory effect than categorical exclusions that do not take such additional information into account. Relevant individualized evidence might include: the facts or circumstances surrounding the criminal conduct; the age of the individual at the time of the conduct; evidence that the individual has maintained a good tenant history before and/or after the conviction or conduct; and evidence of rehabilitation efforts. By delaying consideration of criminal history until after an individual's financial and other qualifications are verified, a housing provider may be able to minimize any additional costs that such individualized assessment might add to the applicant screening process.

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<sup>33</sup> Cf. *Green*, 523 F.2d at 1298 (holding that racially disproportionate denial of employment opportunities based on criminal conduct that "does not significantly bear upon the particular job requirements is an unnecessarily harsh and unjust burden" and violated Title VII).

<sup>34</sup> Cf. *El*, 479 F.3d at 247 (noting that plaintiff's Title VII disparate impact claim might have survived summary judgment had plaintiff presented evidence that "there is a time at which a former criminal is no longer any more likely to recidivate than the average person...."); see also *Green*, 523 F.2d at 1298 (permanent exclusion from employment based on any and all offenses violated Title VII); see Megan C. Kurlychek et al., *Scarlet Letters and Recidivism: Does an Old Criminal Record Predict Future Offending?*, 5 *Criminology and Pub. Pol'y* 483 (2006) (reporting that after six or seven years without reoffending, the risk of new offenses by persons with a prior criminal history begins to approximate the risk of new offenses among persons with no criminal record).

<sup>35</sup> The liability standards and principles discussed throughout this guidance would apply to HUD-assisted housing providers just as they would to any other housing provider covered by the Fair Housing Act. See HUD PIH Notice 2015-19 *supra* n. 25. Section 6 of that Notice addresses civil rights requirements.

<sup>36</sup> 24 C.F.R. § 100.500(c)(3); accord *Inclusive Cmty's. Project*, 135 S. Ct. 2507.

#### D. Statutory Exemption from Fair Housing Act Liability for Exclusion Because of Illegal Manufacture or Distribution of a Controlled Substance

Section 807(b)(4) of the Fair Housing Act provides that the Act does not prohibit “conduct against a person because such person has been convicted ... of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).”<sup>37</sup> Accordingly, a housing provider will not be liable under the Act for excluding individuals because they have been convicted of one or more of the specified drug crimes, regardless of any discriminatory effect that may result from such a policy.

*Limitation.* Section 807(b)(4) only applies to disparate impact claims based on the denial of housing due to the person’s *conviction* for drug manufacturing or distribution; it does not provide a defense to disparate impact claims alleging that a policy or practice denies housing because of the person’s *arrest* for such offenses. Similarly, the exemption is limited to disparate impact claims based on drug *manufacturing or distribution* convictions, and does not provide a defense to disparate impact claims based on other drug-related convictions, such as the denial of housing due to a person’s conviction for drug *possession*.

#### IV. **Intentional Discrimination and Use of Criminal History**

A housing provider may also violate the Fair Housing Act if the housing provider intentionally discriminates in using criminal history information. This occurs when the provider treats an applicant or renter differently because of race, national origin or another protected characteristic. In these cases, the housing provider’s use of criminal records or other criminal history information as a pretext for unequal treatment of individuals because of race, national origin or other protected characteristics is no different from the discriminatory application of any other rental or purchase criteria.

For example, intentional discrimination in violation of the Act may be proven based on evidence that a housing provider rejected an Hispanic applicant based on his criminal record, but admitted a non-Hispanic White applicant with a comparable criminal record. Similarly, if a housing provider has a policy of not renting to persons with certain convictions, but makes exceptions to it for Whites but not African Americans, intentional discrimination exists.<sup>38</sup> A disparate treatment violation may also be proven based on evidence that a leasing agent assisted a White applicant seeking to secure approval of his rental application despite his potentially disqualifying criminal record under the housing provider’s screening policy, but did not provide such assistance to an African American applicant.<sup>39</sup>

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<sup>37</sup> 42 U.S.C. § 3607(b)(4).

<sup>38</sup> Cf. *Sherman Ave. Tenants’ Assn. v. District of Columbia*, 444 F.3d 673, 683-84 (D.C. Cir. 2006) (upholding plaintiff’s disparate treatment claim based on evidence that defendant had not enforced its housing code as aggressively against comparable non-Hispanic neighborhoods as it did in plaintiff’s disproportionately Hispanic neighborhood).

<sup>39</sup> See, e.g., *Muriello*, 217 F. 3d at 522 (holding that Plaintiff’s allegations that his application for federal housing assistance and the alleged existence of a potentially disqualifying prior criminal record was handled differently than those of two similarly situated white applicants presented a prima facie case that he was discriminated against because of race, in violation of the Fair Housing Act).

Discrimination may also occur before an individual applies for housing. For example, intentional discrimination may be proven based on evidence that, when responding to inquiries from prospective applicants, a property manager told an African American individual that her criminal record would disqualify her from renting an apartment, but did not similarly discourage a White individual with a comparable criminal record from applying.

If overt, direct evidence of discrimination does not exist, the traditional burden-shifting method of establishing intentional discrimination applies to complaints alleging discriminatory intent in the use of criminal history information.<sup>40</sup> First, the evidence must establish a prima facie case of disparate treatment. This may be shown in a refusal to rent case, for example, by evidence that: (1) the plaintiff (or complainant in an administrative enforcement action) is a member of a protected class; (2) the plaintiff or complainant applied for a dwelling from the housing provider; (3) the housing provider rejected the plaintiff or complainant because of his or her criminal history; and (4) the housing provider offered housing to a similarly-situated applicant not of the plaintiff or complainant's protected class, but with a comparable criminal record. It is then the housing provider's burden to offer "evidence of a legitimate, nondiscriminatory reason for the adverse housing decision."<sup>41</sup> A housing provider's nondiscriminatory reason for the challenged decision must be clear, reasonably specific, and supported by admissible evidence.<sup>42</sup> Purely subjective or arbitrary reasons will not be sufficient to demonstrate a legitimate, nondiscriminatory basis for differential treatment.<sup>43</sup>

While a criminal record can constitute a legitimate, nondiscriminatory reason for a refusal to rent or other adverse action by a housing provider, a plaintiff or HUD may still prevail by showing that the criminal record was not the true reason for the adverse housing decision, and was instead a mere pretext for unlawful discrimination. For example, the fact that a housing provider acted upon comparable criminal history information differently for one or more individuals of a different protected class than the plaintiff or complainant is strong evidence that a housing provider was not considering criminal history information uniformly or did not in fact have a criminal history policy. Or pretext may be shown where a housing provider did not actually know of an applicant's criminal record at the time of the alleged discrimination. Additionally, shifting or inconsistent explanations offered by a housing provider for the denial of an application may also provide evidence of pretext. Ultimately, the evidence that may be offered to show that the plaintiff or complainant's criminal history was merely a pretextual

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<sup>40</sup> See, generally, *McDonnell Douglas Corp. v. Green*, 411 U.S. 792 (1973) (articulating the concept of a "prima facie case" of intentional discrimination under Title VII); see, e.g., *Allen v. Muriello*, 217 F.3d 517, 520-22 (7th Cir. 2000) (applying prima facie case analysis to claim under the Fair Housing Act alleging disparate treatment because of race in housing provider's use of criminal records to deny housing).

<sup>41</sup> *Lindsay v. Yates*, 578 F.3d 407, 415 (6th Cir. 2009) (quotations and citations omitted).

<sup>42</sup> See, e.g., *Robinson v. 12 Lofts Realty, Inc.*, 610 F.2d 1032, 1039-40 (2d Cir. 1979) ("A prima facie case having been established, a Fair Housing Act claim cannot be defeated by a defendant which relies on merely hypothetical reasons for the plaintiff's rejection.")

<sup>43</sup> See, e.g., *Muriello*, 217 F.3d at 522 (noting that housing provider's "rather dubious explanation for the differing treatment" of African American and White applicants' criminal records "puts the issue of pretext in the lap of a trier of fact"); *Soules v. U.S. Dep't of Hous. and Urban Dev.*, 967 F.2d 817, 822 (2d Cir. 1992) ("In examining the defendant's reason, we view skeptically subjective rationales concerning why he denied housing to members or protected groups [because] 'clever men may easily conceal their [discriminatory] motivations.'" (quoting *United States v. City of Black Jack, Missouri*, 508 F.2d 1179, 1185 (8th Cir. 1974)).

justification for intentional discrimination by the housing provider will depend on the facts of a particular case.

The section 807(b)(4) exemption discussed in Section III.D., above, does not apply to claims of intentional discrimination because by definition, the challenged conduct in intentional discrimination cases is taken because of race, national origin, or another protected characteristic, and not because of the drug conviction. For example, the section 807(b)(4) exemption would not provide a defense to a claim of intentional discrimination where the evidence shows that a housing provider rejects only African American applicants with convictions for distribution of a controlled substance, while admitting White applicants with such convictions.

## **V. Conclusion**

The Fair Housing Act prohibits both intentional housing discrimination and housing practices that have an unjustified discriminatory effect because of race, national origin or other protected characteristics. Because of widespread racial and ethnic disparities in the U.S. criminal justice system, criminal history-based restrictions on access to housing are likely disproportionately to burden African Americans and Hispanics. While the Act does not prohibit housing providers from appropriately considering criminal history information when making housing decisions, arbitrary and overbroad criminal history-related bans are likely to lack a legally sufficient justification. Thus, a discriminatory effect resulting from a policy or practice that denies housing to anyone with a prior arrest or any kind of criminal conviction cannot be justified, and therefore such a practice would violate the Fair Housing Act.

Policies that exclude persons based on criminal history must be tailored to serve the housing provider's substantial, legitimate, nondiscriminatory interest and take into consideration such factors as the type of the crime and the length of the time since conviction. Where a policy or practice excludes individuals with only certain types of convictions, a housing provider will still bear the burden of proving that any discriminatory effect caused by such policy or practice is justified. Such a determination must be made on a case-by-case basis.

Selective use of criminal history as a pretext for unequal treatment of individuals based on race, national origin, or other protected characteristics violates the Act.

Helen R. Kanovsky, General Counsel

## **RCW 59.18.260**

### **Moneys paid as deposit or security for performance by tenant – Written rental agreement to specify terms and conditions for retention by landlord – Written checklist required.**

If any moneys are paid to the landlord by the tenant as a deposit or as security for performance of the tenant's obligations in a lease or rental agreement, the lease or rental agreement shall be in writing and shall include the terms and conditions under which the deposit or portion thereof may be withheld by the landlord upon termination of the lease or rental agreement. If all or part of the deposit may be withheld to indemnify the landlord for damages to the premises for which the tenant is responsible, the rental agreement shall be in writing and shall so specify. No deposit may be collected by a landlord unless the rental agreement is in writing and a written checklist or statement specifically describing the condition and cleanliness of or existing damages to the premises and furnishings, including, but not limited to, walls, floors, countertops, carpets, drapes, furniture, and appliances, is provided by the landlord to the tenant at the commencement of the tenancy. The checklist or statement shall be signed and dated by the landlord and the tenant, and the tenant shall be provided with a copy of the signed checklist or statement. No such deposit shall be withheld on account of normal wear and tear resulting from ordinary use of the premises. The tenant has the right to request one free replacement copy of the written checklist. If the landlord collects a deposit without providing a written checklist at the commencement of the tenancy, the landlord is liable to the tenant for the amount of the deposit, and the prevailing party may recover court costs and reasonable attorneys' fees. This section does not limit the tenant's right to recover moneys paid as damages or security under RCW [59.18.280](#).

[2011 c 132 § 13; 1983 c 264 § 6; 1973 1st ex.s. c 207 § 26.]

## **RCW 59.18.280**

# **Moneys paid as deposit or security for performance by tenant — Statement and notice of basis for retention — Remedies for landlord's failure to make refund.**

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 or her 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 or she 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.

[2010 c 8 § 19027; 1989 c 342 § 9; 1983 c 264 § 7; 1973 1st ex.s. c 207 § 28.]



## **RCW 59.18.285**

### **Nonrefundable fees not to be designated as deposit – Written rental agreement required - Remedies.**

No moneys paid to the landlord which are nonrefundable may be designated as a deposit or as part of any deposit. If any moneys are paid to the landlord as a nonrefundable fee, the rental agreement shall be in writing and shall clearly specify that the fee is nonrefundable. If the landlord fails to provide a written rental agreement, the landlord is liable to the tenant for the amount of any fees collected as nonrefundable fees. If the written rental agreement fails to specify that the fee is nonrefundable, the fee must be treated as a refundable deposit under RCW [59.18.260](#), [59.18.270](#), and [59.18.280](#).

[2011 c 132 § 15; 1983 c 264 § 5.]

## **RCW 59.18.310**

### **Default in rent – Abandonment – Liability of tenant – Landlord's remedies – Sale of tenant's property by landlord.**

If the tenant defaults in the payment of rent and reasonably indicates by words or actions the intention not to resume tenancy, 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 attorneys' fees.

## **RCW 59.18.310**

### **Default in rent – Abandonment – Liability of tenant – Landlord’s remedies – Sale of tenant’s property by landlord; Continued**

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 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. The landlord shall return the property to the tenant after the tenant has paid the actual or reasonable drayage and storage costs whichever is less if the tenant makes a written request for the return of the property before the landlord has sold or disposed of the property. After forty-five days from the date the notice of such sale or disposal is mailed or personally delivered to the tenant, the landlord may sell or dispose of such property, including personal papers, family pictures, and keepsakes. The landlord may apply any income derived therefrom against moneys due the landlord, including actual or reasonable costs whichever is less of drayage and storage of the property. If the property has a cumulative value of two hundred fifty dollars or less, the landlord may sell 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 or personally delivered to the tenant: 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. [2011 c 132 § 16; 1991 c 220 § 1; 1989 c 342 § 10; 1983 c 264 § 8; 1973 1st ex.s. c 207 § 31.]

## **RCW 59.18.312**

### **Writ of Restitution – Storage and sale of tenant’s property – Use of proceeds from sale – Service by sheriff, form.**

(1) A landlord shall, upon the execution of a writ of restitution by the sheriff, enter and take possession of any property of the tenant found on the premises. The landlord may store the property in any reasonably secure place, including the premises, and sell or dispose of the property as provided under subsection (3) of this section. The landlord must store the property if the tenant serves a written request to do so on the landlord or the landlord's representative by any of the methods described in RCW [59.18.365](#) no later than three days after service of the writ. A landlord may elect to store the property without such a request unless the tenant or the tenant's representative objects to the storage of the property. If the tenant or the tenant's representative objects to the storage of the property or the landlord elects not to store the property because the tenant has not served a written request on the landlord to do so, the property shall be deposited upon the nearest public property and may not be stored by the landlord. If the landlord knows that the tenant is a person with a disability as defined in RCW [49.60.040](#) (as amended by chapter 317, Laws of 2007) and the disability impairs or prevents the tenant or the tenant's representative from making a written request for storage, it must be presumed that the tenant has requested the storage of the property as provided in this section unless the tenant objects in writing.

(2) Property stored under this section shall be returned to the tenant after the tenant has paid the actual or reasonable drayage and storage costs, whichever is less, or until it is sold or disposed of by the landlord in accordance with subsection (3) of this section.

(3) Prior to the sale of property stored pursuant to this section with a cumulative value of over two hundred fifty dollars, the landlord shall notify the tenant of the pending sale. After thirty days from the date the notice of the sale is mailed or personally delivered to the tenant's last known address, the landlord may sell the property, including personal papers, family pictures, and keepsakes, and dispose of any property not sold.

If the property that is being stored has a cumulative value of two hundred fifty dollars or less, then the landlord may sell or dispose of the property in the manner provided in this section, except for personal papers, family pictures, and keepsakes. Prior to the sale or disposal of property stored pursuant to this section with a cumulative value of two hundred fifty dollars or less, the landlord shall notify the tenant of the pending sale or disposal. The notice shall either be mailed to the tenant's last known address or personally delivered to the tenant. After seven days from the date the notice is mailed or delivered to the tenant, the landlord may sell or dispose of the property.

## **RCW 59.18.312**

### **Writ of Restitution – Storage and sale of tenant's property – Use of proceeds from sale – Service by sheriff, form; Continued.**

The landlord may apply any income derived from the sale of the tenant's property against moneys due the landlord for drayage and storage of the property. The amount of sale proceeds that the landlord may apply towards such costs may not exceed the actual or reasonable costs for drayage and storage of the property, whichever is less. Any excess income derived from the sale of such property shall be held by the landlord for the benefit of the tenant for a period of one year from the date of the sale. If no claim is made or action commenced by the tenant for the recovery of the excess income prior to the expiration of that period of time, then the balance shall be treated as abandoned property and deposited by the landlord with the department of revenue pursuant to chapter [63.29](#) RCW.

(4) Nothing in this section shall be construed as creating a right of distress for rent.

(5) When serving a tenant with a writ of restitution pursuant to RCW [59.12.100](#) and [59.18.410](#), the sheriff shall provide written notice to the tenant that: (a) Upon execution of the writ, the landlord must store the tenant's property only if the tenant serves a written request on the landlord to do so no later than three days after service of the writ; (b) the notice to the landlord requesting storage may be served by personally delivering or mailing a copy of the request to the landlord at the address identified in, or by facsimile to the facsimile number listed on, the form described under subsection (6) of this section; (c) if the tenant has not made such a written request to the landlord, the landlord may elect to either store the tenant's property or place the tenant's property on the nearest public property unless the tenant objects; (d) if the property is stored, it may not be returned to the tenant unless the tenant pays the actual or reasonable costs of drayage and storage, whichever is less, within thirty days; (e) if the tenant or the tenant's representative objects to storage of the property, it will not be stored but will be placed on the nearest public property; and (f) the landlord may sell or otherwise dispose of the property as provided in subsection (3) of this section if the landlord provides written notice to the tenant first.

(6) When serving a tenant with a writ of restitution under subsection (5) of this section, the sheriff shall also serve the tenant with a form provided by the landlord that can be used to request the landlord to store the tenant's property, which must be substantially in the following form:

# RCW 59.18.312

## Writ of Restitution – Storage and sale of tenant’s property – Use of proceeds from sale – Service by sheriff, form; Continued.

### REQUEST FOR STORAGE OF PERSONAL PROPERTY

.....  
Name of Plaintiff

.....  
Name(s) of Tenant(s)

I/we hereby request the landlord to store our personal property. I/we understand that I/we am/are responsible for the actual or reasonable costs of moving and storing the property, whichever is less. If I/we fail to pay these costs, the landlord may sell or dispose of the property pursuant to and within the time frame permitted under RCW [59.18.312\(3\)](#).

Any notice of sale required under RCW [59.18.312\(3\)](#) must be sent to the tenants at the following address:

.....

IF NO ADDRESS IS PROVIDED, NOTICE OF SALE WILL BE SENT TO THE LAST KNOWN ADDRESS OF THE TENANT(S)

Dated: .....

.....  
Tenant-Print Name

.....  
Tenant-Print Name

This notice may be delivered or mailed to the landlord or the landlord's representative at the following address:

.....

This notice may also be served by facsimile to the landlord or the landlord's representative at:

.....

Facsimile Number

### IMPORTANT

IF YOU WANT YOUR LANDLORD TO STORE YOUR PROPERTY, THIS WRITTEN REQUEST MUST BE RECEIVED BY THE LANDLORD NO LATER THAN THREE (3) DAYS AFTER THE SHERIFF SERVES THE WRIT OF RESTITUTION. YOU SHOULD RETAIN PROOF OF SERVICE.

[2011 c 132 § 17; 2008 c 43 § 1; 1992 c 38 § 8.]

# **RCW 59.18.575**

## **Victim protection—Notice to landlord— Termination of rental agreement—Procedures.**

(1)(a) If a tenant notifies the landlord in writing that he or she or a household member was a victim of an act that constitutes a crime of domestic violence, sexual assault, unlawful harassment, or stalking, and either (a)(i) or (ii) of this subsection applies, then subsection (2) of this section applies:

(i) The tenant or the household member has a valid order for protection under one or more of the following: Chapter [7.90](#), 26.50, or [26.26](#) RCW or RCW [9A.46.040](#), [9A.46.050](#), [10.14.080](#), [10.99.040](#) (2) or (3), or [26.09.050](#); or

(ii) The tenant or the household member has reported the domestic violence, sexual assault, unlawful harassment, or stalking to a qualified third party acting in his or her official capacity and the qualified third party has provided the tenant or the household member a written record of the report signed by the qualified third party.

(b) When a copy of a valid order for protection or a written record of a report signed by a qualified third party, as required under (a) of this subsection, is made available to the landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement or under chapter [59.18](#) RCW. However, the request to terminate the rental agreement must occur within ninety days of the reported act, event, or circumstance that gave rise to the protective order or report to a qualified third party. A record of the report to a qualified third party that is provided to the tenant or household member shall consist of a document signed and dated by the qualified third party stating: (i) That the tenant or the household member notified him or her that he or she was a victim of an act or acts that constitute a crime of domestic violence, sexual assault, unlawful harassment, or stalking; (ii) the time and date the act or acts occurred; (iii) the location where the act or acts occurred; (iv) a brief description of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking; and (v) that the tenant or household member informed him or her of the name of the alleged perpetrator of the act or acts. The record of the report provided to the tenant or household member shall not include the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking. The qualified third party shall keep a copy of the record of the report and shall note on the retained copy the name of the alleged perpetrator of the act or acts of domestic violence, sexual assault, unlawful harassment, or stalking. The record of the report to a qualified third party may be accomplished by completion of a form provided by the qualified third party, in substantially the following form:

# RCW 59.18.575

## Victim protection—Notice to landlord— Termination of rental agreement—Procedures; Continued.

...

[Name of organization, agency, clinic, professional service provider]

I and/or my . . . . . (household member) am/is a victim of

. . . domestic violence as defined by RCW 26.50.010.

. . . sexual assault as defined by RCW 70.125.030.

. . . stalking as defined by RCW 9A.46.110.

. . . unlawful harassment as defined by RCW 59.18.570.

Briefly describe the incident of domestic violence, sexual assault, unlawful harassment, or stalking: . . .

....

The incident(s) that I rely on in support of this declaration occurred on the following date(s) and time(s) and at the following location(s): . . . . .

The incident(s) that I rely on in support of this declaration were committed by the following person(s): . . . . .

....

I state under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct. Dated at . . . . . (city) . . , Washington, this . . . day of . . . . , 20. ..

....

Signature of Tenant or Household Member

I verify that I have provided to the person whose signature appears above the statutes cited in RCW 59.18.575 and that the individual was a victim of an act that constitutes a crime of domestic violence, sexual assault, unlawful harassment, or stalking, and that the individual informed me of the name of the alleged perpetrator of the act.

Dated this . . . day of . . . . , 20. ..

....

Signature of authorized officer/employee of (Organization, agency, clinic, professional service provider)



## **RCW 59.18.575**

# **Victim protection—Notice to landlord— Termination of rental agreement—Procedures; Continued.**

(2) A tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the last day of the month of the quitting date. The tenant shall remain liable for the rent for the month in which he or she terminated the rental agreement unless the termination is in accordance with RCW [59.18.200](#)(1). Notwithstanding lease provisions that allow for forfeiture of a deposit for early termination, a tenant who terminates under this section is entitled to the return of the full deposit, subject to RCW [59.18.020](#) and [59.18.280](#). Other tenants who are parties to the rental agreement, except household members who are the victims of sexual assault, stalking, unlawful harassment, or domestic violence, are not released from their obligations under the rental agreement or other obligations under this chapter.

(3)(a) Notwithstanding any other provision under this section, if a tenant or a household member is a victim of sexual assault, stalking, or unlawful harassment by a landlord, the tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement or under this chapter prior to making a copy of a valid order for protection or a written record of a report signed by a qualified third party available to the landlord, provided that:

(i) The tenant must deliver a copy of a valid order for protection or written record of a report signed by a qualified third party to the landlord by mail, fax, or personal delivery by a third party within seven days of quitting the tenant's dwelling unit; and

(ii) A written record of a report signed by the qualified third party must be substantially in the form specified under subsection (1)(b) of this section. The record of the report provided to the landlord must not include the name of the alleged perpetrator of the act. On written request by the landlord, the qualified third party shall, within seven days, provide the name of the alleged perpetrator of the act to the landlord only if the alleged perpetrator was a person meeting the definition of the term "landlord" under RCW [59.18.570](#).

(b) A tenant who terminates his or her rental agreement under this subsection is discharged from the payment of rent for any period following the latter of: (i) The date the tenant vacates the unit; or (ii) the date the record of the report of the qualified third party and the written notice that the tenant has vacated are delivered to the landlord by mail, fax, or personal delivery by a third party. The tenant is entitled to a pro rata refund of any prepaid rent and must receive a full and specific statement of the basis for retaining any of the deposit together with any refund due in accordance with RCW [59.18.280](#).

(4) If a tenant or a household member is a victim of sexual assault, stalking, or unlawful harassment by a landlord, the tenant may change or add locks to the tenant's dwelling unit at the tenant's expense. If a tenant exercises his or her rights to change or add locks, the following rules apply:

## **RCW 59.18.575**

# **Victim protection—Notice to landlord— Termination of rental agreement—Procedures; Continued.**

(a) Within seven days of changing or adding locks, the tenant must deliver to the landlord by mail, fax, or personal delivery by a third party: (i) Written notice that the tenant has changed or added locks; and (ii) a copy of a valid order for protection or a written record of a report signed by a qualified third party. A written record of a report signed by a qualified third party must be substantially in the form specified under subsection (1)(b) of this section. The record of the report provided to the landlord must not include the name of the alleged perpetrator of the act. On written request by the landlord, the qualified third party shall, within seven days, provide the name of the alleged perpetrator to the landlord only if the alleged perpetrator was a person meeting the definition of the term "landlord" under RCW [59.18.570](#).

(b) After the tenant provides notice to the landlord that the tenant has changed or added locks, the tenant's rental agreement shall terminate on the ninetieth day after providing such notice, unless:

(i) Within sixty days of providing notice that the tenant has changed or added locks, the tenant notifies the landlord in writing that the tenant does not wish to terminate his or her rental agreement. If the perpetrator has been identified by the qualified third party and is no longer an employee or agent of the landlord or owner and does not reside at the property, the tenant shall provide the owner or owner's designated agent with a copy of the key to the new locks at the same time as providing notice that the tenant does not wish to terminate his or her rental agreement. A tenant who has a valid protection, antiharassment, or other protective order against the owner of the premises or against an employee or agent of the landlord or owner is not required to provide a key to the new locks until the protective order expires or the tenant vacates; or

(ii) The tenant exercises his or her rights to terminate the rental agreement under subsection (3) of this section within sixty days of providing notice that the tenant has changed or added locks.

(c) After a landlord receives notice that a tenant has changed or added locks to his or her dwelling unit under (a) of this subsection, the landlord may not enter the tenant's dwelling unit except as follows:

(i) In the case of an emergency, the landlord may enter the unit if accompanied by a law enforcement or fire official acting in his or her official capacity. If the landlord reasonably concludes that the circumstances require immediate entry into the unit, the landlord may, after notifying emergency services, use such force as necessary to enter the unit if the tenant is not present; or

(ii) The landlord complies with the requirements of RCW [59.18.150](#) and clearly specifies in writing the time and date that the landlord intends to enter the unit and the purpose for entering the unit. The tenant must make arrangements to permit access by the landlord.

## **RCW 59.18.575**

# **Victim protection—Notice to landlord— Termination of rental agreement—Procedures; Continued.**

(d) The exercise of rights to change or add locks under this subsection does not discharge the tenant from the payment of rent until the rental agreement is terminated and the tenant vacates the unit.

(e) The tenant may not change any locks to common areas and must make keys for new locks available to other household members.

(f) Upon vacating the dwelling unit, the tenant must deliver the key and all copies of the key to the landlord by mail or personal delivery by a third party.

(5) A tenant's remedies under this section do not preempt any other legal remedy available to the tenant.

(6) The provision of verification of a report under subsection (1)(b) of this section does not waive the confidential or privileged nature of the communication between a victim of domestic violence, sexual assault, or stalking with a qualified third party pursuant to RCW [5.60.060](#), [70.123.075](#), or [70.125.065](#). No record or evidence obtained from such disclosure may be used in any civil, administrative, or criminal proceeding against the victim unless a written waiver of applicable evidentiary privilege is obtained, except that the verification itself, and no other privileged information, under subsection (1)(b) of this section may be used in civil proceedings brought under this section.

## **RCW 59.18.580**

# **Victim protection—Limitation on tenant screening service provider disclosures and landlord's rental decisions.**

(1) A tenant screening service provider may not (a) disclose a tenant's, applicant's, or household member's status as a victim of domestic violence, sexual assault, or stalking, or (b) knowingly disclose that a tenant, applicant, or household member has previously terminated a rental agreement under RCW [59.18.575](#).

(2) A landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement based on the tenant's or applicant's or a household member's status as a victim of domestic violence, sexual assault, or stalking, or based on the tenant or applicant having terminated a rental agreement under RCW [59.18.575](#).

(3) A landlord who refuses to enter into a rental agreement in violation of subsection (2) of this section may be liable to the tenant or applicant in a civil action for damages sustained by the tenant or applicant. The prevailing party may also recover court costs and reasonable attorneys' fees.

(4) It is a defense to an unlawful detainer action under chapter [59.12](#) RCW that the action to remove the tenant and recover possession of the premises is in violation of subsection (2) of this section.

(5) This section does not prohibit adverse housing decisions based upon other lawful factors within the landlord's knowledge or prohibit volunteer disclosure by an applicant of any victim circumstances.

## **RCW 59.18.585**

### **Victim protection—Possession of dwelling unit— Exclusion of others—New lock or key.**

(1) A tenant who has obtained a court order from a court of competent jurisdiction granting him or her possession of a dwelling unit to the exclusion of one or more cotenants may request that a lock be replaced or configured for a new key at the tenant's expense. The landlord shall, if provided a copy of the order, comply with the request and shall not provide copies of the new keys to the tenant restrained or excluded by the court's order. This section does not release a cotenant, other than a household member who is the victim of domestic violence, sexual assault, or stalking, from liability or obligations under the rental agreement.

(2) A landlord who replaces a lock or configures for a new key of a residential housing unit in accordance with subsection (1) of this section shall be held harmless from liability for any damages that result directly from the lock change.

## **RCW 59.12.030, Unlawful detainer defined.**

A tenant of real property for a term less than life is guilty of unlawful detainer either:

(1) When he or she holds over or continues in possession, in person or by subtenant, of the property or any part thereof after the expiration of the term for which it is let to him or her. When real property is leased for a specified term or period by express or implied contract, whether written or oral, the tenancy shall be terminated without notice at the expiration of the specified term or period;

(2) When he or she, having leased property for an indefinite time with monthly or other periodic rent reserved, continues in possession thereof, in person or by subtenant, after the end of any such month or period, when the landlord, more than twenty days prior to the end of such month or period, has served notice (in manner in RCW [59.12.040](#) provided) requiring him or her to quit the premises at the expiration of such month or period;

(3) When he or she continues in possession in person or by subtenant after a default in the payment of rent, and after notice in writing requiring in the alternative the payment of the rent or the surrender of the detained premises, served (in manner in RCW [59.12.040](#) provided) in behalf of the person entitled to the rent upon the person owing it, has remained uncomplished with for the period of three days after service thereof. The notice may be served at any time after the rent becomes due;

(4) When he or she continues in possession in person or by subtenant after a neglect or failure to keep or perform any other condition or covenant of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than one for the payment of rent, and after notice in writing requiring in the alternative the performance of such condition or covenant or the surrender of the property, served (in manner in RCW [59.12.040](#) provided) upon him or her, and if there is a subtenant in actual possession of the premises, also upon such subtenant, shall remain uncomplished with for ten days after service thereof. Within ten days after the service of such notice the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance, may perform such condition or covenant and thereby save the lease from such forfeiture;

(5) When he or she commits or permits waste upon the demised premises, or when he or she sets up or carries on thereon any unlawful business, or when he or she erects, suffers, permits, or maintains on or about the premises any nuisance, and remains in possession after the service (in manner in RCW [59.12.040](#) provided) upon him or her of three days' notice to quit;

(6) A person who, without the permission of the owner and without having color of title thereto, enters upon land of another and who fails or refuses to remove therefrom after three days' notice, in writing and served upon him or her in the manner provided in RCW [59.12.040](#). Such person may also be subject to the criminal provisions of chapter [9A.52](#) RCW; or

(7) When he or she commits or permits any gang-related activity at the premises as prohibited by RCW [59.18.130](#).

[1998 c 276 § 6; 1983 c 264 § 1; 1953 c 106 § 1. Prior: 1905 c 86 § 1; 1891 c 96 § 3; 1890 p 73 § 3; RRS § 812.]

Notes:

## **RCW 59.12.040**

### **Service of Notice – Proof of Service**

Any notice provided for in this chapter shall be served either (1) by delivering a copy personally to the person entitled thereto; or (2) if he or she be absent from the premises unlawfully held, by leaving there a copy, with some person of suitable age and discretion, and sending a copy through the mail addressed to the person entitled thereto at his or her place of residence; or (3) if the person to be notified be a tenant, or an unlawful holder of premises, and his or her place of residence is not known, or if a person of suitable age and discretion there cannot be found then by affixing a copy of the notice in a conspicuous place on the premises unlawfully held, and also delivering a copy to a person there residing, if such a person can be found, and also sending a copy through the mail addressed to the tenant, or unlawful occupant, at the place where the premises unlawfully held are situated. Service upon a subtenant may be made in the same manner: PROVIDED, That in cases where the tenant or unlawful occupant, shall be conducting a hotel, inn, lodging house, boarding house, or shall be renting rooms while still retaining control of the premises as a whole, that the guests, lodgers, boarders, or persons renting such rooms shall not be considered as subtenants within the meaning of this chapter, but all such persons may be served by affixing a copy of the notice to be served in two conspicuous places upon the premises unlawfully held; and such persons shall not be necessary parties defendant in an action to recover possession of said premises. Service of any notice provided for in this chapter may be had upon a corporation by delivering a copy thereof to any officer, agent, or person having charge of the business of such corporation, at the premises unlawfully held, and in case no such officer, agent, or person can be found upon such premises, then service may be had by affixing a copy of such notice in a conspicuous place upon said premises and by sending a copy through the mail addressed to such corporation at the place where said premises are situated. Proof of any service under this section may be made by the affidavit of the person making the same in like manner and with like effect as the proof of service of summons in civil actions. When a copy of notice is sent through the mail, as provided in this section, service shall be deemed complete when such copy is deposited in the United States mail in the county in which the property is situated properly addressed with postage prepaid: PROVIDED, HOWEVER, That when service is made by mail one additional day shall be allowed before the commencement of an action based upon such notice. RCW [59.18.375](#) may also apply to notice given under this chapter.

WASHINGTON  
THREE (3) DAY NOTICE TO PAY RENT OR VACATE

\_\_\_\_\_  
TENANT(s) Name; and  
Any and All Other Subtenants/Occupants

\_\_\_\_\_  
Leasehold Address

Dear \_\_\_\_\_:

The undersigned on behalf of your LANDLORD, \_\_\_\_\_, hereby gives you notice and requires you to quit and deliver up possession of those certain premises which you now occupy commonly known as \_\_\_\_\_, situated in the City of Spokane, County of Spokane, State of Washington on or before and not later than \_\_\_\_\_, 20\_\_\_\_ (three (3) days henceforth);

**or**  
within three (3) days subsequent to the service of this notice upon you, pay the full rent due and owing to said owner/agent of \_\_\_\_\_ and \_\_/100 (\$\_\_\_\_\_) dollars for rental arrears (representing rent owed for \_\_\_\_\_) payable by cash, money order, or cashiers check only. Failure to either surrender the premise and place them in the lawful possession of the owner/agent or pay the full amount due and owing may cause commencement of an Unlawful Detainer action against you.

The consent of the LANDLORD in any instance to any variation of the terms of this lease, or the receipt of rent with knowledge of any breach, shall not be deemed to be a waiver as to any breach of any covenant or condition herein contained, nor shall any waiver be claimed as to any provision of your lease unless the same be in writing, signed by the LANDLORD or the LANDLORD's authorized agent. Your LANDLORD's acceptance of rent is not a waiver of any preceding or existing breach other than failure of TENANT(s) to pay the particular rental so accepted. Partial payment will not prevent legal action against you. If your lease term has not expired, vacation of your tenancy will not relieve you of your remaining lease obligations including your obligation to pay future unaccrued rent. Your LANDLORD intends to enforce your lease agreement to the fullest extent allowed by law. **Intentional and/or malicious damage to a leasehold premises is punishable as a crime under RCW 9.A.**

The purpose of this correspondence is an attempt to collect a debt. Any information obtained will be used for debt collection purposes. This notice is issued pursuant to RCW 59.12.030(3).

**DATED** this \_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
LANDLORD/Agent



**TEN (10) DAY NOTICE TO COMPLY OR VACATE**

\_\_\_\_\_  
TENANT(s) Name; and  
Any and All Other Subtenants/Occupants

\_\_\_\_\_  
Leasehold Address

Dear \_\_\_\_\_:

The undersigned on behalf of your LANDLORD, \_\_\_\_\_, hereby gives you notice that you are in breach of your residential lease agreement dated \_\_\_\_\_ for the real property commonly known as \_\_\_\_\_, City of \_\_\_\_\_, County of \_\_\_\_\_, State of Washington. You are allegedly

\_\_\_\_\_  
\_\_\_\_\_

This must stop. This notice is issued pursuant to RCW 59.12.030 and RCW 59.18 et seq.

Your Lease Agreement provides: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your Lease Agreement provides: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your Lease Agreement provides: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your House Rules provide: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your House Rules provide: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RCW 59.18\_\_\_\_ provides: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RCW 59.18\_\_\_\_ provides: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**YOU HAVE TEN (10) DAYS TO COMPLY WITH THE TERMS OF YOUR TENANT(S) OBLIGATIONS AND THIS NOTICE OR VACATE THE PREMISES WHICH YOU NOW OCCUPY. THIS NOTICE APPLIES TO YOU AND ANY OTHER PERSONS YOU MAY HAVE ALLOWED ON OR ABOUT THE PREMISES.**

The consent of the LANDLORD in any instance to any variation of the terms of this lease, or the receipt of rent with knowledge of any breach, shall not be deemed to be a waiver as to any breach of any covenant or condition herein contained, nor shall any waiver be claimed as to any provision of your lease unless the same be in writing, signed by the LANDLORD or the LANDLORD's authorized agent. Your LANDLORD's acceptance of rent is not a waiver of any preceding or existing breach other than failure of TENANT(s) to pay the particular rental so accepted. If your lease term has not expired, vacation of your tenancy will not relieve you of your remaining lease obligations including your obligation to pay future unaccrued rent. Your LANDLORD intends to enforce your lease agreement to the fullest extent allowed by law.

**Intentional and/or malicious damage to a leasehold premises is punishable as a crime under RCW 9.A.** This notice is issued pursuant to RCW 59.12.030(4).

DATED this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
LANDLORD/Agent

**TEN (10) DAY NOTICE TO PAY LEASE OBLIGATIONS OR VACATE**

\_\_\_\_\_  
TENANT(s) Name; and  
Any and All Other Subtenants/Occupants

\_\_\_\_\_  
Leasehold Address

Dear \_\_\_\_\_:

The undersigned on behalf of your LANDLORD, \_\_\_\_\_, hereby gives you notice and requires you to quit and deliver up possession of those certain premises you now occupy commonly known as \_\_\_\_\_, situated in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Washington on or before, and not later than midnight \_\_\_\_\_, 20\_\_ (ten days henceforth);

**or**  
within ten (10) days subsequent to the service of this notice upon you, pay the full lease obligation due and owing to said owner/agent of \_\_\_\_\_ and \_\_\_/100 dollars (\$\_\_\_\_\_) for unpaid lease obligations (representing \_\_\_\_\_) payable by cash, money order, or cashiers check only. Failure to either surrender the premises and place them in the lawful possession of the owner/agent or pay the full amount due and owing may cause the commencement of an Unlawful Detainer action against you.

The consent of the LANDLORD in any instance to any variation of the terms of this lease, or the receipt of rent with knowledge of any breach, shall not be deemed to be a waiver as to any breach of any covenant or condition herein contained, nor shall any waiver be claimed as to any provision of your lease unless the same be in writing, signed by the LANDLORD or the LANDLORD's authorized agent. Your LANDLORD's acceptance of rent is not a waiver of any preceding or existing breach other than failure of TENANT(s) to pay the particular rental so accepted. If your lease term has not expired, vacation of your tenancy will not relieve you of your remaining lease obligations including your obligation to pay future unaccrued rent. Your LANDLORD intends to enforce your lease agreement to the fullest extent allowed by law.

**Intentional and/or malicious damage to a leasehold premises is punishable as a crime under RCW 9.A.** The purpose of this correspondence is an attempt to collect a debt. Any information obtained will be used for debt collection purposes. This notice is issued pursuant to RCW 59.12.030(4).

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
LANDLORD/Agent

**TWENTY (20) DAY NOTICE OF TERMINATION OF TENANCY**

\_\_\_\_\_  
TENANT(s) Name; and  
Any and All Other Subtenants/Occupants

\_\_\_\_\_  
Leasehold Address

Dear \_\_\_\_\_:

The undersigned on behalf of your LANDLORD, \_\_\_\_\_, hereby gives you notice of the termination of your tenancy and requires you to quit and deliver up possession of those certain premises which you now occupy, commonly known as \_\_\_\_\_, situated in the City of \_\_\_\_\_, County of \_\_\_\_\_, State of Washington, on or before, and not later than midnight \_\_\_\_\_, 20\_\_\_\_.

Your failure to vacate the premises at the expiration of your lease term as stated herein will cause the commencement of an Unlawful Detainer action against you.

Your LANDLORD's acceptance of rent is not a waiver of any preceding or existing breach other than failure of TENANT(s) to pay the particular rental so accepted. If your lease term has not expired, vacation of your tenancy will not relieve you of your remaining lease obligations. Your LANDLORD intends to enforce your lease agreement to the fullest extent allowed by law. It is necessary for you to perform pursuant to the terms of your lease agreement, RCW 59.18.200, and 59.12.030(2). **Intentional and/or malicious damage to a leasehold premises is punishable as a crime under RCW 9.A.** This notice is issued pursuant to RCW 59.12.030(2) and RCW 59.18.200.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
LANDLORD/Agent

**THREE (3) DAY NOTICE TO QUIT AND VACATE DUE TO NUISANCE, WASTE, AND/OR UNLAWFUL ACTIVITY**

\_\_\_\_\_  
TENANT(s) Name; and  
Any and All Other Subtenants/Occupants

\_\_\_\_\_  
Leasehold Address

Dear \_\_\_\_\_:

The undersigned on behalf of your LANDLORD, \_\_\_\_\_, hereby gives you notice to quit and deliver up possession of the leasehold premises you now occupy, commonly known as \_\_\_\_\_, \_\_\_\_\_, Washington on or before, but not later than, midnight \_\_\_\_\_, 20\_\_\_\_. This notice is issued pursuant to your lease and RCW 59.12.030(5) due to \_\_\_\_\_

\_\_\_\_\_. This conduct constitutes a nuisance, waste, and/or unlawful activity in derogation of your TENANT obligations.

It is alleged you are in violation of \_\_\_\_\_ which provides: \_\_\_\_\_

\_\_\_\_\_.  
In case of your failure to terminate the leasehold property at the time and date set forth above, you shall be deemed in Unlawful Detainer of the premises. Failure to vacate the premises at the date and time set forth above will cause the commencement of legal action against you. The consent of the LANDLORD in any instance to any variation of the terms of this lease, or the receipt of rent with knowledge of any breach, shall not be deemed to be a waiver as to any breach of any covenant or condition herein contained, nor shall any waiver be claimed as to any provision of your lease unless the same be in writing, signed by the LANDLORD or the LANDLORD's authorized agent. Your LANDLORD's acceptance of rent is not a waiver of any preceding or existing breach other than failure of TENANT(s) to pay the particular rental so accepted. If your lease term has not expired, vacation of your tenancy will not relieve you of your remaining lease obligations including your obligation to pay future unaccrued rent and monetary obligations. Your LANDLORD intends to enforce your lease agreement to the fullest extent allowed by law. **Intentional and/or malicious damage to a leasehold premises is punishable as a crime under RCW 9.A.** This notice is issued pursuant to RCW 59.12.030(5).

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
LANDLORD/Agent

THIRTY (30) DAY NOTICE TO CURE LEASE NON-COMPLIANCE

\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

It has come to your landlord's attention that you have failed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

This failure is in violation of your lease and state law. Your noncompliance with your lease and/or statute can substantially affect the health and safety of you and your guests and can substantially increase the hazards of fire or accident. Within thirty (30) days after receipt of this Notice your landlord requires you to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

If you fail to cure the lease noncompliance within thirty (30) days, your Landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by you and your landlord.

Your lease agreement at section \_\_\_\_\_ provides:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

RCW 59.18.130, Duties of Tenant, provides in part:

Each tenant shall pay the rental amount at such times and in such amounts as provided for in the rental agreement or as otherwise provided by law and comply with all obligations imposed upon tenants by applicable provisions of all municipal, county, and state codes, statutes, ordinances, and regulations, and in addition shall:

- (1) Keep that part of the premises, which he or she occupies and uses, as clean and sanitary as the conditions of the premises permit;

(2) Properly dispose from his or her dwelling unit all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant;

(4) Not intentionally or negligently destroy, deface, damage, impair, or remove any part of the structure or dwelling, with the appurtenances thereto, including the facilities, equipment, furniture, furnishings, and appliances, or permit any member of his or her family, invitee, licensee, or any person acting under his or her control to do so. Violations may be prosecuted under chapter 9A.48 RCW if the destruction is intentional and malicious;

(5) Not permit a nuisance or common waste;

RCW 59.18.180, Tenant's failure to comply with statutory duties - Landlord to give tenant written notice of noncompliance - Landlord's remedies, provides in part:

“(1) If the tenant fails to comply with any portion of RCW 59.18.130 or 59.18.140, and such noncompliance can substantially affect the health and safety of the tenant or other tenants, or substantially increase the hazards of fire or accident that can be remedied by repair, replacement of a damaged item, or cleaning, the tenant shall comply within thirty days after written notice by the landlord specifying the noncompliance, or, in the case of emergency as promptly as conditions require. If the tenant fails to remedy the noncompliance within that period the landlord may enter the dwelling unit and cause the work to be done and submit an itemized bill of the actual and reasonable cost of repair, to be payable on the next date when periodic rent is due, or on terms mutually agreed to by the landlord and tenant, or immediately if the rental agreement has terminated.”

**YOU HAVE THIRTY (30) DAYS TO COMPLY WITH THE TERMS OF YOUR LEASE AGREEMENT AND/OR STATUTORY OBLIGATIONS AND CURE THE DEFAULTS DESCRIBED IN THIS NOTICE. ANY SUBSTANTIAL NONCOMPLIANCE WITH RCW 59.18.130 OR 59.18.140 SHALL CONSTITUTE GROUNDS FOR COMMENCING AN ACTION FOR UNLAWFUL DETAINER.**

The consent of the lessor in any instance to any variation of the terms of this lease, or the receipt of rent with knowledge of any breach, shall not be deemed to be a waiver as to any breach of any covenant or condition herein contained, nor shall any waiver be claimed as to any provision of the lease unless the same be in writing, signed by the lessor or the lessor's authorized agent. Lessor's acceptance of rent is not a waiver of any preceding or existing breach other than failure of tenant to pay the particular rental so accepted. If your lease term has not expired, vacation of the tenancy will not relieve you of remaining lease obligations including an obligation to pay future unaccrued rent. Lessor intends to enforce your lease agreement to the fullest extent allowed by law. **Intentional and/or malicious damage to the leasehold premises is punishable as a crime under RCW 9.A.**

This notice applies to you and any other persons you may have allowed on or about the premises. This notice supersedes any previous notice issued to you relating to your tenancy. This notice is issued pursuant to RCW 59.18.180.

The purpose of this communication is an attempt to collect a debt. Any information obtained through this communication will be used for debt collection purposes.

Dated this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

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Landlord/Agent



**48 HOUR NOTICE OF INTENT TO ENTER AND INSPECT**

\_\_\_\_\_  
TENANT(s) Name; and  
Any and All Other Subtenants/Occupants

\_\_\_\_\_  
Leasehold Address

The undersigned on behalf of your LANDLORD, \_\_\_\_\_,  
hereby gives you notice of intent to enter your leasehold premises you now occupy, commonly  
known as \_\_\_\_\_, situated in the City of \_\_\_\_\_, County of \_\_\_\_\_,  
State of Washington for the purpose of inspecting the premises, making necessary repairs, and/or  
exhibiting the dwelling unit to prospective or actual purchasers or TENANT(s). Entry will occur  
on \_\_\_\_\_, 20\_\_\_\_, between the hours of \_\_\_\_\_ am/pm  
and \_\_\_\_\_ am/pm.

If you unreasonably refuse to allow your LANDLORD entry into your leasehold  
premises at the above referenced time and date, you will be in violation of RCW 59.18.150 and  
potentially subject to a fine of up to \$100.00 for each violation. In addition, your failure to allow  
your LANDLORD entry into your leasehold premises at the above-referenced time and date  
after notice, may subject you to an award of attorney's fees and costs for violation of the  
aforementioned statute.

**DATED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Landlord/Agent

\_\_\_\_\_  
Landlord's Phone No.

PROOF OF SERVICE

\_\_\_\_\_  
Tenant Name

\_\_\_\_\_  
Title of Notice Served

\_\_\_\_\_  
Leasehold Address

I, the undersigned, being at least eighteen (18) years of age, declare under penalty of perjury pursuant to the laws of the State of Washington that I served a copy of the attached notice, of which this is a true copy, on the above-named tenant(s) in the manner indicated below on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
(date of service)

\_\_\_\_\_ I **personally delivered** a true copy of the Notice to \_\_\_\_\_ the person(s) entitled thereto at his/her above addressed leasehold premises (*service on tenant named in lease*)

\_\_\_\_\_ I **personally delivered** a true copy of the Notice to a person of suitable age and discretion **and mailed** a copy of said notice by first class mail postage prepaid to the person entitled thereto at his/her above addressed leasehold premises. (*served on adult other than tenant named on lease and mailed*)

\_\_\_\_\_ I personally **posted** a true copy of this Notice in a conspicuous place of the above addressed residence/business **and mailed** a copy of said notice by first class mail postage prepaid, to the leasehold premises after **attempting to deliver** a copy to a person therein residing because the tenant or person of suitable age and discretion could not be found at the leasehold premises. (*posted and mailed, no one present at leasehold premises*)

\_\_\_\_\_ I personally **posted** a true copy of this Notice in a conspicuous place of the above addressed residence/business, **and delivered a copy to a person therein** residing, **and mailed** a copy of the notice by first class mail postage prepaid to the leasehold premises because the tenant or person of suitable age and discretion could not be found at the leasehold premises. (*posted, served on minor/or person lacking suitable discretion, and mailed*)

\_\_\_\_\_ I personally **posted** a true copy of this Notice in a conspicuous place of the above addressed residence/business, and **delivered a copy to a person of suitable age and discretion** because the **tenant could not be found** at the leasehold premises. (*posted and served on adult other than tenant*)

\_\_\_\_\_ I personally **mailed** a true copy of the Notice to tenant or person(s) entitled to the notice at the leasehold premises by **certified mail, return receipt requested**, postage prepaid. (*certified mail*)

\_\_\_\_\_ I personally **mailed** a true copy of this Notice to tenant or person(s) entitled to the notice at the leasehold premises by **first-class mail**, postage prepaid. (*first class mail*)

Executed on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at Spokane Washington.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name