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**SUBSTITUTE SENATE BILL 5221**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senate Financial Institutions & Insurance (originally sponsored by Senators Benton and Roach)

READ FIRST TIME 02/06/15.

1 AN ACT Relating to the disposition of tenant property placed upon  
2 the nearest public property; and amending RCW 59.18.312.

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

4 **Sec. 1.** RCW 59.18.312 and 2011 c 132 s 17 are each amended to  
5 read as follows:

6 (1) A landlord shall, upon the execution of a writ of restitution  
7 by the sheriff, enter and take possession of any property of the  
8 tenant found on the premises. The landlord may store the property in  
9 any reasonably secure place, including the premises, and sell or  
10 dispose of the property as provided under subsection (3) of this  
11 section. The landlord must store the property if the tenant serves a  
12 written request to do so on the landlord or the landlord's  
13 representative by any of the methods described in RCW 59.18.365 no  
14 later than three days after service of the writ. A landlord may elect  
15 to store the property without such a request unless the tenant or the  
16 tenant's representative objects to the storage of the property. If  
17 the tenant or the tenant's representative objects to the storage of  
18 the property or the landlord elects not to store the property because  
19 the tenant has not served a written request on the landlord to do so,  
20 the property shall be deposited upon the nearest public property and  
21 may not be stored by the landlord. Any tenant property placed upon

1 the nearest public property may be disposed of by the landlord after  
2 the property has remained for a period of not less than five days. If  
3 the landlord knows that the tenant is a person with a disability as  
4 defined in RCW 49.60.040 (as amended by chapter 317, Laws of 2007)  
5 and the disability impairs or prevents the tenant or the tenant's  
6 representative from making a written request for storage, it must be  
7 presumed that the tenant has requested the storage of the property as  
8 provided in this section unless the tenant objects in writing.

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

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

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

31 The landlord may apply any income derived from the sale of the  
32 tenant's property against moneys due the landlord for drayage and  
33 storage of the property. The amount of sale proceeds that the  
34 landlord may apply towards such costs may not exceed the actual or  
35 reasonable costs for drayage and storage of the property, whichever  
36 is less. Any excess income derived from the sale of such property  
37 shall be held by the landlord for the benefit of the tenant for a  
38 period of one year from the date of the sale. If no claim is made or  
39 action commenced by the tenant for the recovery of the excess income  
40 prior to the expiration of that period of time, then the balance

1 shall be treated as abandoned property and deposited by the landlord  
2 with the department of revenue pursuant to chapter 63.29 RCW.

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

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

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

31 REQUEST FOR STORAGE OF PERSONAL PROPERTY

32 . . . . .  
33 Name of Plaintiff  
34 . . . . .  
35 Name(s) of Tenant(s)

36 I/we hereby request the landlord to store our personal property.  
37 I/we understand that I/we am/are responsible for the actual or

1 reasonable costs of moving and storing the property, whichever is  
2 less. If I/we fail to pay these costs, the landlord may sell or  
3 dispose of the property pursuant to and within the time frame  
4 permitted under RCW 59.18.312(3).

5 Any notice of sale required under RCW 59.18.312(3) must be sent  
6 to the tenants at the following address:

7 . . . . .  
8 . . . . .  
9 . . . . .

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

12 Dated: . . . . .

13 . . . . .

14 Tenant-Print Name

15 . . . . .

16 Tenant-Print Name

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

19 . . . . .  
20 . . . . .  
21 . . . . .

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

24 . . . . .

25 Facsimile Number

26 IMPORTANT

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

--- END ---