

Legislation Text

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Clerk 03/10/2021

AN ORDINANCE relating to tenant protections; amending Ordinance 383, Section 5, as amended, and K.C.C. 2.60.050, adding a new chapter to K.C.C. Title 12 and repealing Ordinance 16223, Section 3, and K.C.C. 12.47.010, Ordinance 16223, Section 4, and K.C.C. 12.47.020, Ordinance 16223, Section 5, and K.C.C. 12.47.030 and Ordinance 16223, Section 6, and K.C.C. 12.47.040.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings:

A. The King County council finds that establishing this ordinance, a just cause and tenant protections ordinance, is necessary to protect the public health, safety and welfare.

B. Under a provision of the Washington state Residential Landlord-Tenant Act of 1973, RCW 59.18.290, owners may not evict residential tenants without a court order, which under RCW 59.18.380 can be issued by a court only after the tenant has an opportunity to contest the eviction.

C. King County established the regional affordable housing task force in 2017 through Motion 14873. The task force's charge was to develop a recommended countywide affordable housing strategy.

D. The regional affordable housing task force released its Final Report and Recommendations in December 2018, and the King County council declared through Motion 15372 that recommendations contained therein represent the policy of the council.

E. The regional affordable housing task force's report included Census data that showed that more than one hundred twenty-four thousand low-income households in King County are severely cost burdened. Of

those, eighty-eight percent, or one hundred nine thousand seven hundred households, earn fifty percent or less of area median income, meaning the county's poorest residents struggle most with housing costs. The report found that communities of color and renters are disproportionately likely to be severely cost burdened, paying more than half of their income toward housing costs. The report also included a recommended strategy of adopting ordinances to expand tenant protection and provide implementation support.

NEW SECTION. SECTION 2. Sections 3 through 16 of this ordinance should constitute a new chapter of K.C.C. Title 12.

NEW SECTION. SECTION 3. There is hereby added to the new K.C.C. chapter established in section 2 of this ordinance a new section to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. The definitions in RCW 59.18.030 also apply to this chapter unless otherwise defined in this section.

A. "Dwelling" or "dwelling unit" mean any building, structure or portion of a building or structure that is occupied as, or designed or intended for occupancy as, a residence by one or more families or individuals, and any vacant land that is offered for sale or lease for the construction or location thereon of any such a building, structure or portion of a building or structure.

B. "Landlord" means the owner, lessor or sublessor of the dwelling unit or the property of which it is a part, and also means any person designated as representative of the owner, lessor or sublessor, including, but not limited to, an agent, a resident manager or a designated property manager.

C. "Occupancy" means the formal designation of the primary purpose of the building structure or portion thereof.

D. "Owner" means one or more persons, jointly or severally, in whom is vested:

1. All or any part of the legal title to property; or
2. All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

E. "Tenant" has the same meaning as "tenant" in RCW 59.18.030 or 59.20.030, depending on the context.

NEW SECTION. SECTION 4. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

A. Except as otherwise specifically required or allowed by K.C.C. Title 12 or by the Washington state Residential Landlord-Tenant Act of 1973, chapter 59.18 RCW, it is unlawful for any owner to:

1. Remove or exclude a tenant from the premises except in accordance with a legal process; or
2. Evict, reduce services, increase the obligations of a tenant or otherwise impose, threaten or attempt any punitive measure against a tenant for the reason that the tenant has in good faith asserted, exercised or attempted to exercise any legal rights granted tenants by law and arising out of the tenant's occupancy of the dwelling unit.

NEW SECTION. SECTION 5. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

A. A landlord shall not evict a tenant, refuse to continue a tenancy or terminate the tenancy except for the just causes enumerated under this section:

1. The tenant fails to comply with:
 - a. a fourteen-day notice to pay rent or vacate in accordance with RCW 59.12.030(3);
 - b. a ten-day notice to comply or vacate in accordance with RCW 59.12.030(4); or
 - c. a three-day notice to vacate for waste, nuisance, including a drug-related activity nuisance in accordance with chapter 7.43 RCW, or maintenance of an unlawful business or conduct in accordance with RCW 59.12.030(5);
2. The tenant fails to comply with a ten-day notice to comply or vacate that requires compliance with a material term of the rental agreement or that requires compliance with a material obligation under chapter 59.18 RCW;

3. The owner seeks possession so that the owner or a member of the owner's immediate family may occupy the unit as that person's principal residence and no substantially equivalent unit is vacant and available in the same building, and the owner has given the tenant at least ninety days' advance written notice of the date the tenant's possession is to end. For the purposes of this subsection A.3., "immediate family" includes the owner's domestic partner registered under to chapter 26.60 RCW or the owner's spouse, parents, grandparents, children, brothers and sisters of the owner, of the owner's spouse or of the owner's domestic partner. There is a rebuttable presumption of a violation of this subsection A.3. if the owner or a member of the owner's immediate family fails to occupy the unit as that person's principal residence for at least sixty consecutive days during the ninety days immediately after the tenant vacated the unit in accordance with a notice of termination or eviction using this subparagraph as the cause for eviction;

4. The owner elects to sell a single-family dwelling unit and gives the tenant at least ninety days' written notice before the date set for vacating, which date shall coincide with the end of the term of a rental agreement, or if the agreement is month-to-month, with the last day of a monthly period. For the purposes of this subsection A.4., an owner "elects to sell" when the owner, at a minimum, lists the dwelling for sale at fair market value, such as with a realty agency or advertising in a newspaper of general circulation. There shall be a rebuttable presumption that the owner did not intend to sell the unit if:

a. within sixty days after the tenant has vacated, the owner does not list the single-family dwelling for sale at fair market value, or

b. within one-hundred and twenty days after the date the tenant vacated or the date the property was listed for sale, whichever is later, the owner withdraws the rental unit from the sales market, rents the unit to someone other than the former tenant or otherwise indicates that the owner does not intend to sell the unit;

5. The tenant's occupancy is conditioned upon employment on the property and the employment relationship is terminated;

6. The owner seeks to do substantial rehabilitation in the building, but only if the owner submitted a

complete application for at least one permit required under K.C.C. Title 16 for the rehabilitation. Substantial rehabilitation means extensive structural repair or extensive remodeling of premises that requires a permit such as a building, electrical, plumbing, or mechanical permit, and that results in the displacement of an existing tenant;

7. The owner:

a. elects to demolish the building, convert it to a cooperative or convert it to a nonresidential use, though the owner must obtain a permit necessary to demolish before terminating any tenancy; or

b. converts the building to a condominium, as evidenced by an inspection report in accordance with K.C.C. 16.04.890 and a warranty of repairs and escrow account in accordance with 16.04.900;

8. The owner seeks to discontinue use of a dwelling unit after receipt of a notice of violation from the department of local services. The landlord shall be required to demonstrate medical or financial hardship to the tenant to show that the landlord could not correct the emergency measures identified in the order. However, the tenant may elect to repair and stay in the dwelling unit as set forth in RCW 59.18.100;

9.a. The owner seeks to reduce the number of occupants who reside in one dwelling unit to comply with the legal limit after receipt of a notice of violation of the K.C.C. Title 16 or 21A restriction on the number of individuals allowed to reside in a dwelling unit, and:

(1) the owner has served the tenants with a thirty-day notice, informing the tenants that the number of occupants exceeds the legal limit and must be reduced to the legal limit; however, a thirty-day notice is not required if the number of occupants was increased above the legal limit without the knowledge or consent of the owner;

(2) after expiration of the thirty-day notice required by subsection A.9.a.(1) of this section, or any time after receipt of the notice of violation if a thirty-day notice is not required in accordance with subsection A.19.a.(1) of this section, the owner has served the tenants and the tenants have failed to comply with a ten-day notice to comply with the maximum legal limit on the number of occupants or vacate; and

(3) if there is more than one rental agreement for the unit,, the owner may choose which agreements to terminate; however, the owner may terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants.

b. For any violation of the maximum legal limit on the number of individuals allowed to reside in a dwelling unit that occurred with the knowledge or consent of the owner, upon creation of a relocation assistance program, the owner is required to pay relocation assistance to the tenant or tenants of each such a unit as the program dictates;

10. The owner seeks to discontinue residential use of an accessory dwelling unit;

11. Emergency measures requiring that the dwelling unit be vacated and closed has been issued under K.C.C. Title 16 or 23 and the emergency measures identified in the order have not been corrected. The landlord shall be required to make a showing of medical or financial hardship to the tenant to show that the landlord could not correct the emergency measures identified in the order. However, the tenant may elect to repair and stay in the dwelling unit as set forth in RCW 59.18.100;

12.a. The owner intends to discontinue leasing to a tenant of the owner's own dwelling unit in which the owner resides;

b. The owner intends to evict a tenant, to refuse to continue a tenancy, or to terminate the tenancy of an accessory dwelling unit accessory to the dwelling unit in which the owner resides; or

c. The owner seeks to evict a tenant, refuse to continue a tenancy, or terminate the tenancy in a single-family dwelling unit and the owner resides in an accessory dwelling unit on the same lot; or

13.a. A tenant, or with the consent of the tenant, the tenant's subtenant, sublessee, resident or guest, has engaged in criminal activity on the premises, or on the property or public right-of-way abutting the premises. For purposes of this subsection A.13., a person has "engaged in criminal activity" if the person:

(1) engages in a drug-related activity that would constitute a violation of chapters 69.41, 69.50 or 69.52 RCW;

(2) engages in activity that is a crime under the laws of this state, but only if the activity substantially affects the health or safety of other tenants or the owner. An activity substantially affects the health or safety of other tenants or the owner if:

- (a) the activity is imminently hazardous to the physical safety of other persons on the premises;
- (b) the activity entails physical assaults upon another person that result in an arrest; or
- (c) the activity entails the unlawful use of a firearm or other deadly weapon, as defined in RCW 9A.04.110, that results in an arrest, including threatening another tenant or the landlord with a firearm or other deadly weapon under RCW 59.18.352; or

(3) The activity 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.

b. In determining whether a tenant's activity substantially effects the health or safety of other tenants or the owner, a court may 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, damage 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.

c. Nothing in this subsection A.13. 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.

B. Any rental agreement provision that waives or purports to waive any right, benefit or entitlement created by this chapter shall be deemed void and of no lawful force or effect.

C. With any termination notices required by law, owners refusing to continue a tenancy, or seeking to terminate a tenancy protected by this chapter shall advise the tenant or tenants in writing of the reasons for the termination and the facts in support of those reasons.

D. All evictions must comply with this chapter. Failure to comply with the provisions of this chapter shall be an affirmative defense to eviction.

E. It shall be a violation of this chapter for any owner to evict or attempt to evict any tenant, refuse to continue a tenancy, or terminate the tenancy of any tenant using a notice that references subsection A.3., 4., 6., 9., 10. or 11. of this section as grounds for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such a tenancy within sixty days after the tenant has vacated.

F. Nothing in this chapter is intended to affect or limit a landlord's rights to pursue an action for unlawful detainer as defined by RCW 59.12.030, except as specifically set forth in this chapter.

NEW SECTION. SECTION 6. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

Sections 6 through 15 of this ordinance apply to tenancies governed by chapter 59.20 RCW and are in addition to the provisions provided to those tenancies in RCW 59.20.080.

NEW SECTION. SECTION 7. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

A. All move in fees and security deposits charged by a landlord before a tenant takes possession of a dwelling unit shall not exceed one month's rent.

B. Tenants entering rental agreements with terms lasting six or more months may elect to pay their move in fees and security deposits in six equal monthly installments over the first six months occupying the unit.

C. Tenants entering rental agreements with terms lasting fewer than six months or month-to-month rental agreements, may choose to pay move in fees and security deposits in two equal monthly installments over the first two months occupying the unit.

NEW SECTION. SECTION 8. There is hereby added to the chapter established in section 2 of this

ordinance a new section to read as follows:

A. Late fees or costs due to nonpayment of rent charged to a tenant shall not exceed one percent of the tenant's monthly rent.

NEW SECTION. SECTION 9. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

Any rental agreement or renewal of a rental agreement shall include, or shall be deemed to include, a provision requiring between one hundred eighty days' and one hundred twenty days' notice for rent increases greater than three percent.

NEW SECTION. SECTION 10. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

A. Landlords are prohibited from unfair or abusive acts or practices or deceptive acts or practices as defined in this section.

B. For the purposes of this section:

1. "Deceptive acts or practices" means representations, omissions, acts or practices that mislead or are likely to mislead a tenant; the tenant's interpretation of the representation, omission, act or practice is reasonable under the circumstances; and the representation, omission, act or practice is material. "Deceptive acts or practices" includes threatening to evict a tenant for nonpayment of charges except as authorized by section 5 of this ordinance.

2. "Unfair or abusive acts or practices" means those representations, omissions, acts or practices that:

a. Materially interfere with the ability of any tenant to understand a term or condition of the rental agreement or the tenancy; or

b. Take unreasonable advantage of a lack of understanding on the part of the tenant regarding the conditions of the tenancy or rights under the law or the inability of the tenant to protect the tenant's interests.

NEW SECTION. SECTION 11. There is hereby added to the chapter established in section 2 of this

ordinance a new section to read as follows:

Acceptance of rent by a landlord shall waive any right to declare forfeiture or seek eviction solely for any prior breaches of the rental agreement.

NEW SECTION. SECTION 12. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

A landlord shall not increase the rent to be charged to a tenant by any amount if the dwelling unit has defective conditions making the dwelling unit unlivable or is in violation of RCW 59.18.060. If the tenant believes the dwelling unit has defective conditions making the unit unlivable or is in violation of RCW 59.18.060, the tenant shall notify the landlord in writing in accordance with RCW 59.18.070 specifying the premises involved, the name of the owner, if known, and the nature of the defective condition before the effective date listed in the notice of housing costs increase the tenant received from the landlord.

NEW SECTION. SECTION 13. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

Rental agreements shall include a provision allowing tenants to adjust the due date of rent payments if the tenant has a fixed income source that the tenant receives on a date of the month that is incongruent with paying rent on the date otherwise specified in the rental agreement. A landlord shall not refuse to enter into a rental agreement with a prospective tenant because the prospective tenant requests such accommodations.

NEW SECTION. SECTION 14. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

A landlord found in violation of any of the provisions in this chapter, unless otherwise provided in this chapter, shall be liable to such a tenant in a private right of action for damages up to double the tenant's actual damages or four and one-half times the monthly rent, whichever is greater, costs of suit or arbitration and reasonable attorneys' fees.

NEW SECTION. SECTION 15. There is hereby added to the chapter established in section 2 of this

ordinance a new section to read as follows:

A landlord serving a notice to the tenant to pay rent or vacate under RCW 59.12.030(3) must include on the notice substantially in the form of the following statement in sixteen-point, bolded font: "You have fourteen days to pay the rent required by this notice. After fourteen days, the landlord may allow you to pay the rent in lieu of initiating eviction proceedings, but you may be subject to a late fee, if a late fee is required in the rental agreement, totaling no more than one-percent of your monthly rent for each month of rent owed and any court costs incurred at the time of payment."

NEW SECTION. SECTION 16. There is hereby added to the chapter established in section 2 of this ordinance a new section to read as follows:

A. A landlord shall not request a social security number for the purposes of screening a prospective tenant through a background check, credit screening or other report. A landlord may screen prospective tenants in accordance with RCW 59.18.257 without requesting or acquiring a social security number.

B. A landlord found in violation of subsection A. of this section shall be liable to such a tenant in a private right of action for damages up to double the tenant's actual damages or one month of rent, whichever is greater, costs of suit or arbitration and reasonable attorneys' fees.

SECTION 17. Ordinance 383, Section 5, as amended, and K.C.C. 2.60.050 are hereby amended to read as follows:

A. Legal defense services through the department shall be made available to all eligible persons for whom counsel is constitutionally required. In addition, legal defense services through department shall be made available when funds are available: to any eligible person in legal proceedings arising in King County that may result in person's loss of liberty by an act of King County or any of its agencies, including, but not limited to, criminal proceedings alleging a violation of any law of the state of Washington or ordinance of King County, juvenile matters, mental illness and similar commitment proceedings, revocations and habeas corpus proceedings when they arise in King County; ~~((and))~~ to eligible parents and children in dependency

proceedings arising in King County; and to tenants whose rental agreements have been terminated or tenants who are subject to unlawful detainer actions by a landlord whom the tenant alleges terminated a tenancy or initiated an unlawful detainer action in violation of any King County ordinance.

B. Legal defense services through the department may be made available to a person charged in King County with a felony of public notoriety, at the person's expense, when the court finds that the defendant is unable to employ adequate private counsel as a result of the public notoriety. The county public defender shall establish a reasonable fee for the legal defense services, subject to the approval of the court.

SECTION 18. The following are hereby repealed:

- A. Ordinance 16223, Section 3, and K.C.C. 12.47.010;
- B. Ordinance 16223, Section 4, and K.C.C. 12.47.020;
- C. Ordinance 16223, Section 5, and K.C.C. 12.47.030; and
- D. Ordinance 16223, Section 6, and K.C.C. 12.47.040.

SECTION 19.

A. The executive shall develop a phone number advertised on the website of the department of human and community services for tenants who believe their rental agreement has been unlawfully terminated or who believe a landlord failed to renew a rental agreement unlawfully. The phone number should be staffed by the department of human services or a designee to provide information on protections afforded to tenants in state law and King County Code.

B.1. The executive shall transmit a tenant protections access plan with accompanying legislation to the council by August 30, 2021, with the goal of expanding knowledge of and access to tenant protections in King County Code. The plan shall include at least the following components:

- a. recommendations on providing information about tenant protections in King County and access to those protections to residents with limited English proficiency;
- b. recommendations on providing tenant protections to undocumented residents who may have a fear

of accessing tenant protections through the court system;

c. a "know your rights" campaign with the objective of spreading awareness of the new provisions in this ordinance. The plan shall utilize partnerships with community organizations and the King County immigrant and refugee commission; and

d. recommendations on ways to provide free legal representation, advice and other legal assistance to tenants facing eviction, harassment, disrepair and other housing-related issues, including an analysis of the right-to-counsel law available through the New York City office of civil justice's legal representation program.

2. The executive shall transmit a landlord outreach plan by August 30, 2021, with the goal of expanding knowledge of tenant protections in the King County Code to landlords.

3. The tenant protections access plan and the landlord outreach plan shall be electronically transmitted to the clerk of the council with motions that should acknowledge receipt of the plans and a proposed ordinance making recommended code changes from the tenant protections access plan. The clerk of the council shall provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the community, health and housing services committee, or its successor.

SECTION 20. This ordinance takes effect ninety days after the enactment of this ordinance.