SB 5160- Right To Counsel and New Eviction Procedure

COVID renter protections for nonpayment of rent

• For rent that accrued between March 1, 2020, and six months after the expiration of the eviction moratorium (currently set to expire June 30, 2021, so December 31, 2021):

• A landlord cannot charge or impose any late fees or other charges against a tenant for nonpayment of rent that accrued during this period;

• A landlord cannot report nonpayment of the rent to a prospective landlord or cannot report an eviction for nonpayment of rent to a prospective landlord;

• A prospective landlord cannot take adverse action against a prospective tenant based on nonpayment of rent accrued during this period

• A tenant does not have to prove nonpayment was connected to COVID

COVID renter protections for medical history & penalties

• A landlord or prospective landlord may not deny, discourage application for, or otherwise make unavailable any rental dwelling unit based on a tenant's or prospective tenant's medical history including, but not limited to, the tenant's or prospective tenant's prior or current exposure or infection to the COVID-19 virus.

• Cannot inquire about or require disclosure of a tenant's medical history unless such disclosure is necessary to evaluate a reasonable accommodation or reasonable modification request

• A landlord who violates the rental protections or medical protections can be liable for up to 2.5 times the rental amount, plus attorney fees and costs.

Repayment Plans

• Section restates end date of the moratorium under 20-19.6 but does not necessarily have any legal significance.

• Repayment plans are mandatory for any unpaid rent from March 1, 2020, through 6 months after the end of the eviction moratorium or the end of the Governor's public health emergency. (Whichever is later.)

• Payment schedule must be reasonable and cannot exceed 1/3rd of the monthly rental charges. Repayment plans during the moratorium must be "reasonable" but does not require 1/3 of the current rent.

• Repayment plans must:

• Not require payment until 30 days after the plan is offered to the tenant. • Cover rent only—no late fees, attorney fees, or any other fee or charge.

• Allow payment from any source of income, or from pledges by nonprofits, churches and religious institutions, or governmental entities.

• Repayment plans also cannot require provisions related to or conditioned on: • Tenant compliance with the rental agreement;

• Payment of attorneys' fees, court costs, or other costs related to litigation if tenant defaults on rental agreement;

• Tenant application for governmental benefits, or proof of receipt of governmental benefits; or, • Waiver of the tenant's rights to notice under RCW 59.12.030 before a writ of restitution is issued.

• It is a defense to eviction if the landlord fails to offer a payment plan that conforms to these requirements.

• If the tenant fails to accept the terms of a reasonable repayment plan within 14 days of the offer, then the landlord can proceed with an unlawful detainer action under RCW 59.12.030(3). This is subject to payment requirements of the Eviction Resolution Pilot Program.

• If a tenant defaults on any rent owed under a repayment plan, landlord can apply for reimbursement through the landlord mitigation program or proceed with an unlawful detainer action under RCW 59.12.030(3).

• Unlawful detainer action again subject to requirements of the Eviction Resolution Pilot Program. • Court must consider the tenant's circumstances, including: decreased income or increased expenses due to COVID-19, and the repayment plan terms offered during any unlawful detainer proceeding.

Other "new" tenant protections

• Federal moratorium on evictions were until July 25, 2020; but

• CARES also created additional protections in the form of greater notice requirements for "covered properties"

Covered properties include:

• Public Housing

• Property with a tenant using Section 8 Voucher • Project Based Section 8 housing

• Low-Income Housing Tax Credit (LIHTC) program

• USDA Rural Housing

• Any other property covered by VAWA

• Properties with a federal backed mortgage (e.g., Fannie Mae Freddie

• The lessor of a covered dwelling unit (1) may not require the tenant to vacate a covered dwelling unit before the date that is 30 days after the date on which the lessor provides the tenant with a notice to vacate. 15 USC §9058(c)(1)