Revised 11/12/15

**NEW LAW REGARDING DISPOSAL OF DECEASED TENANT’S PROPERTY**

A new Washington law that took effect July 24, 2015 is designed to provide certainty for both landlords and tenants if a tenant who is the only occupant of the unit dies. The following is a summary of the main points of the law but is not intended to provide thorough legal advice that is best obtained from a competent landlord – tenant attorney.

1. DESIGNATED PERSON. The portion of the law allowing a sole occupant tenant to designate a person to act for that tenant on the tenant’s death is optional not mandatory. A landlord may request but not demand that a resident sign a form that designates a person that the landlord may deal with if the resident dies during the tenancy (**designated person**). The resident may also sign such a form and give it to the landlord even though the landlord has not made a request.

 The designation form cannot be part of the rental agreement and must contain specified information. The form gives the **designated person** access to the rental unit; the right to remove the deceased tenant’s property; receive any refunds due the deceased tenant; and dispose of the property consistent with any last will and the laws of **intestate succession** (these laws provide for the disposition of a person’s property if there is no will.) If the landlord or the **designated person** knows of a **personal representative** appointed under a will or a person claiming to be a **successor** under the small estate statute, the designation automatically terminates and the landlord should not allow access to the **designated person**. A form for use by a tenant to designate a person is attached.

2. ACTIONS BY LANDLORD. The new law sets forth specific actions a landlord either **may or must** take in the event of the death of a resident who is the sole occupant of the unit.

a. The landlord **may** enter the unit, immediately dispose of any perishable food, hazardous materials and garbage found in the unit or on the premises. The landlord may also turn over any animals to a tenant representative, animal control officer, humane society or other individual or organization willing to care for the animals.

b. The landlord **must** promptly mail or personally deliver a written notice that states: 1) the name of the deceased tenant and address of the dwelling unit; 2) the rental amount and the date through which the rent is paid; 3) a statement regarding termination of the tenancy unless a tenant representative takes action; 4) a statement that failure to remove the deceased tenant’s property before the termination of the tenancy will allow the landlord to enter the unit, take possession of the property, store it in a reasonably secure place, charge the actual or reasonable costs for moving and storing the property, and after another notice sell or dispose of the property. A form to advise that a tenant has died is attached.

c. The notice **must** be sent to the deceased tenant at the address of the dwelling unit, to any emergency contact person listed on the rental application and to the following, all of whom are referred to in the law as “**tenant representatives**”: 1) any **personal representative** (this is a person designated in a last will and appointed by a court); 2) any known **designated person**; 3) any person **known** to the landlord and who the landlord reasonably believes to be a surviving spouse or surviving domestic partner of the deceased and any persons **known** to the landlord and who the landlord reasonably believes to be the children, parents, siblings, grandparents or children of the grandparents of the deceased (**successors)**. The law specifically states that the landlord has no obligation to identify all of the deceased tenant’s **successors** and, therefore, the landlord has no obligation to search for **successors**. It must be pointed out that an emergency contact person may or may not be a **tenant representative** as defined in the new law. Although the law says that the notice can be delivered either in person or by mail, it is recommended that a copy always be mailed even if it has also been personally delivered. If the landlord knows of any an address used for electronic communications (email), a copy must also be sent to that address. The landlord should complete a “declaration of service” form after delivering the notice just as is done when serving notices to pay rent.

3. RESPONSE. Who might respond to the landlord? It is difficult to predict who might respond to the first or second notice sent out by the landlord. Therefore, it is recommended that the landlord contact an attorney before taking any action if someone has contacted the landlord about the deceased and the deceased’s property. If the landlord is contacted by a **tenant representative** after the first notice but before the second notice and given a written request for the deceased’s property, the law requires the landlord to deliver the property to the person making the request. The law does not allow the landlord to collect any funds from the **tenant representative** in this circumstance. After the second notice, the landlord may, at its discretion, deliver the property to a tenant representative either with or without payment of storage and moving costs. If a person listed as emergency contact responds to the landlord, it will be necessary to determine whether that person meets the definition of **tenant representative.**

4. PAYMENT OF ADDITIONAL RENT. A **tenant representative** may pay additional rent for the premises for up to 60 days after the resident’s death in order to arrange for orderly removal of the resident’s property. Any such payment should be made within the 15-day period provided for in the law and set forth in the first notice sent by the landlord. If an additional rent payment is made the landlord must send out a **second notice** to the deceased tenant, any emergency contact person and to **tenant representatives** advising that the payment has been made, the amount of the payment and date through which rent is paid, the name and contact information of the person who made the payment, and a statement that the landlord may sell or dispose of the property if not removed from the unit by a certain date. A form to advise that additional rent has been paid is attached.

5. STORAGE. If no **tenant representative** contacts the landlord within 15 days of the first notice, the landlord may remove the property from the unit and store it in a reasonably secure place. If no **additional rent** payment is made, the landlord may also remove the property from the unit and put it in storage. The landlord could also choose to leave the property in the unit until the allotted time expires for sale or disposal. The property could be in storage for up to 60 days. After putting the property in storage or deciding to leave it in the unit, the landlord must send a **second notice** to the deceased tenant, any emergency contact person, and all **tenant representatives**. If the landlord chooses to leave the property in the unit, the landlord will not be able to charge **tenant representatives** the regular monthly rent for the unit if they seek to claim it. The landlord can charge the rent that would be charged at a commercial storage facility plus the costs that would have been incurred for packing and moving the property into storage. A form to advise that the property is being stored is attached.

6. VALUE OF TENANT’S PROPERTY. What is the value of the resident’s property? It is up to the landlord to determine the value of the deceased tenant’s property. The measure of value is what a willing buyer would pay for the property in its current condition. The value is not determined by replacement cost. If you have any doubts about value it would be advisable to bring in an independent third party to assist in appraising the property.

7. TENANT PROPERTY. The landlord may give the property to any **tenant representative** with the following exceptions and provisos. If the landlord learns that a **personal representative** has been appointed, that person alone is entitled to take possession of the property. If a **tenant representative** contacts the landlord within 15 days after the first notice is sent, the landlord must allow that person to claim and remove the property. If the property has been stored, the landlord may require the **tenant representative** to pay the actual or reasonable costs, whichever is less, of removing and storing the property (see comment in 6 regarding costs if the property is left in the unit.) If the tenant died more than 40 days earlier, it is possible that someone may present the landlord with a declaration provided for by state law for disposition of a “small estate.” In this event, the landlord should contact a lawyer and follow the lawyer’s advice. Anyone who claims and removes the property is required to give the landlord an inventory and sign an acknowledgment that he or she has only been given possession and not ownership of the property.

8. What monies can you collect before turning over the property? See 3 and 7 above.

9. SECURITY DEPOSIT AND UNEARNED RENT. The new law states that the landlord is to provide an accounting and a refund of any monies due the tenant within 14 days after the property is removed either from the unit or from storage by a **tenant** **representative**. This implies that the landlord is required to hold the security deposit and any unearned rent until the last possible day for a **tenant representative** to remove the property and appears to supplant the regular requirement to provide such information within 14 days after the termination of the tenancy and vacation of the unit by the tenant. Once the property has been removed from the unit, the landlord should perform the normal move out inspection, complete the move out inspection form and an accounting for the security deposit. If no one claims the property and it is disposed of or sold, depending on the value, any monies due the tenant can be used to help pay for the costs of moving and storage and added to the proceeds of sale.

10. NO ONE CLAIMS THE PROPERTY. If the property has been put in storage and all appropriate notices have been sent, the landlord may sell or dispose of the property depending on the value except for “personal papers and personal photographs.” If the reasonable estimate of the fair market value of the property is more than $1000.00 the landlord must arrange to sell the property in a “commercially reasonable manner and may dispose of any property that remains unsold in a reasonable manner.” Any proceeds from the sale may be applied to the costs of the sale and any monies due the landlord. Any excess income from the sale must be held by the landlord for one year and if no claim is made for the excess it must be treated as abandoned property and deposited with the state department of revenue. If the value of the property is less than $1000.00 “the landlord may dispose of the property in a reasonable manner.” Any personal papers and personal photographs must be held for at least 90 days after the sale or disposition of the other property and if not claimed by a **tenant** **representative** within that time, they may be destroyed. The law also specifically provides that no landlord, employee of a landlord, or his or her family members may directly or indirectly acquire any of the property that is disposed of or sold. Once again we encourage a landlord to seek competent legal advice before any sale or disposition of property.

**11/12/15**

**TENANT DESIGNATION**

**PURSUANT TO**

**RCW 59.18.590**

The undersigned, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a resident at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_(City), WA, hereby designates \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(designee), as the person to act on my behalf pursuant to RCW 59.18.590 in the event that I am the sole occupant of the premises on the date of my death.

My designee’s mailing address and phone number are: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_; and the address for electronic communications, if any is: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

My designee is allowed to have access to the premises, remove my personal property, receive funds due me from my landlord, and dispose of my property consistent with my last will and testament and any applicable intestate succession law.

**I understand that this designation will remain in effect until revoked by me or replaced with a new designation. I also understand that I may change my designee or revoke this designation in writing at any time prior to my death.**

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, resident

**Revised 11/12/15**

**NOTICE OF RESIDENT’S DEATH**

**RCW 59.18.595**

Each of you is hereby notified that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (resident) who was the sole occupant of the premises located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, died on approximately \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Pursuant to RCW 59.18.595, you are advised that the monthly rent of $\_\_\_\_\_\_\_\_\_for the premises is paid through\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Pursuant to state law, the tenancy for the premises will end on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(1) unless a tenant representative as defined in RCW 59.18.030(25) makes arrangements with the undersigned prior to that date and pay additional rent in advance for no more than 60 days from the date of resident’s death to allow for orderly removal of the resident’s property. If a tenant representative fails to remove the resident’s property from the unit by either \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(1), or the date through which additional rent is paid, the tenancy ends, the landlord will take possession of the property and store it in a reasonably secure place. If the property is stored, reasonable moving and storage costs must be paid prior to retrieving the property and, after sending a second notice; the property may be disposed of or sold.

Dated:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This notice is being sent to the following:

A copy of the designation signed by the resident, if any, is attached.

 Insert date that is the latter of date through which rent is paid or at least 15 days after this notice is mailed.

**11/12/15**

**NOTICE OF RENT PAYMENT**

**RCW 59.18.595**

This is to notify you that a tenant representative for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ who died on approximately \_\_\_\_\_\_\_\_\_\_\_\_\_\_has made arrangements to pay rent for the premises at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

in the amount of $\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. This amount pays the rent through \_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Pursuant to RCW 59.18.595, the undersigned landlord may sell or dispose of the property on or after \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(1)[[1]](#footnote-1), if a tenant representative as defined in RCW 59.18.030(25) does not claim and remove the property from the premises on or before this date and pay the reasonable costs of moving and storing the property.

The person who paid the rent is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, whose mailing address, phone number and any other contact information are as follows:

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This notice is being sent to the following:

**11/12/15**

**NOTICE OF STORAGE OF PROPERTY**

**RCW 59.18.595**

This is to notify you that the undersigned landlord has taken possession of the personal property of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ who died on approximately \_\_\_\_\_\_\_\_\_. The deceased was a resident at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The property is being stored in a reasonably secure place.

Pursuant to RCW 59.18.595, the undersigned landlord may sell or dispose of the property on or after \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_[[2]](#footnote-2)1, if a tenant representative as defined in RCW 59.18.030(25) does not claim and remove the property from storage on or before this date and pay the reasonable costs of moving and storing the property.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Address:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

This notice sent to the following:

1. Insert date that is the later of 45 days after this notice is mailed or the date through which the additional rent has been paid. [↑](#footnote-ref-1)
2. 1 Insert a date that is at least 45 days after this notice is mailed. [↑](#footnote-ref-2)