

NEW RULES REGARDING STORAGE OF TENANT'S PROPERTY
EFFECTIVE JUNE 12, 2008

EFFECTIVE JUNE 12, 2008

The Washington legislature has passed and Governor Gregoire has signed a bill that significantly modifies the onerous storage requirements imposed on landlords by an unfortunate 2007 court decision. Unfortunately, when signing the bill, the governor vetoed that portion of the law that would have made it effective immediately. The legislation will take effect on Thursday, June 12, 2008 and following is a summary of the key points of the bill.

When the court orders a tenant evicted from property, the sheriff delivers the Writ of Restitution to the tenant. The Writ is the order of the court to the sheriff to restore possession of the rental property to the landlord. The new legislation re-quires the sheriff to also deliver a new form to the tenant along with the writ. The new form is a Request for Storage of Per-sonal Property. The tenant is told they have 3 days in which to complete the form and deliver it to the landlord or the landlord's representative. If the form is not received within 3 days, the landlord is not legally obligated to store the tenant's property when the physical eviction is conducted and may put it on the nearest public property.

The legislation does not specify whether the tenant has 3 calendar days or 3 business days to return the form to the landlord. It is our belief that 3 business days should be allowed for delivery of the form. The form provides an address which the tenant is supposed to use for delivery. If the tenant delivers the form to the rental office rather than to the address stated on the form, we also believe the landlord should honor the request and store the property.

The legislation provides that a landlord is required to store the personal property of a disabled tenant if the landlord knows the tenant is disabled and the disability "impairs or prevents the tenant or the tenant's representative from making a writ-ten request for storage." Disability is very broadly defined in Washington law and if the landlord suspects that a tenant is dis-abled we recommend that the landlord be proactive and immediately contact the tenant. The manager should take a witness and go see the tenant. Ask the disabled tenant if he or she wants the landlord to store the property. If the tenant says yes, pre-sent the tenant with the form and have him or her sign the form. If the tenant says no, make a written summary of the meeting and have the manager and the witness sign the written summary.

The new legislation allows the landlord to store the personal property in the rental unit - at least temporarily. The landlord can then arrange to have the property properly packed and make arrangements for transportation to a storage facility. If the property being stored has a value of less that \$100.00, the landlord is only required to store the property for 7 days, ex-cept for personal papers, family pictures and keepsakes. If the value is \$100.00 or more the landlord must store for at least 30 days. However, before disposing of the property regardless of its value, the landlord must send a notice to the tenant telling the tenant that the property is going to be sold or otherwise disposed of. We recommend that all property be held for at least 30 days to avoid any disputes regarding valuation. It is very important that the landlord send the notice to the tenant about sale or disposal as soon as the property has been put in storage. At least 30 days must expire after the notice is sent before the landlord may proceed with any sale or disposal. If the property is worth more than \$100.00, the landlord must attempt to sell it before disposing of it. We believe that a listing on Craig's List or other such internet site will meet the good faith requirements of attempts to sell. We suggest that the listing be run for at least 5 days before the items are disposed of.

If the landlord sells the property, any net proceeds of sale are first applied to the costs of moving and storage - but not to any delinquent rent. In the unlikely event, that there is money left over after the reasonable costs of moving and storage are paid, the balance must be held for the tenant for at least a year from the date of sale. If not claimed by the tenant within one year, the landlord is required to deposit the remaining proceeds with the repayment of revenue as abandoned property.

This memo is intended to provide general advice about a new piece of legislation and is not designed to be specific legal advice regarding all situations that may arise involving physical evictions and storage of property. You are urged to contact your legal advisor regarding any specific situations that you may have.

Puckett & Redford
Seattle, WA 98164
206-386-4800
www.puckettredford.com

reprinted from SCAOA

**Storage of Personal Property
At A Glance
Effective 6/12/08**

ABANDONED UNIT

LESS THAN \$50.00 - STORE FOR AT LEAST 7 DAYS (EXCEPT PERSONAL PAPERS, FAMILY PICTURES AND KEEPSAKES)

\$50 OR MORE - STORE FOR AT LEAST 45 DAYS

NOTICE TO LAST KNOWN ADDRESS OF TENANT AT LEAST 45 DAYS BEFORE SALE OR DISPOSAL. NO RE-QUIREMENT TO TRY TO SELL PROPERTY.

PROCEEDS OF SALE - APPLY FIRST 10 MOVING AND STORAGE COSTS AND THEN TO OUTSTANDING BALANCE

PHYSICAL EVICTION

REQUIRED TO STORE ONLY IF TENANT MAKES WRITTEN REQUEST WITHIN 3 BUSINESS DAYS.

LESS THAN \$100.00 - STORE FOR AT LEAST 7 DAYS (EXCEPT PERSONAL PAPERS, FAMILY PICTURES AND KEEPSAKES)

\$100 OR MORE- STORE FOR AT LEAST 30 DAYS.

NOTICE TO LAST KNOWN ADDRESS OF TENANT AT LEAST 30 DAYS BEFORE SALE OR DISPOSAL. IF PROPERTY WORTH \$100.00 OR MORE MUST TRY TO SELL BEFORE DISPOSAL.

PROCEEDS OF SALE - APPLY FIRST TO MOVING AND STORAGE COSTS AND ANY PROCEEDS THAT REMAIN MUST BE HELD FOR ONE YEAR AND THEN GO TO STATE.