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5 **IN THE SUPERIOR COURT FOR ISLAND COUNTY, WASHINGTON**

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7 IN THE MATTER OF THE RESPONSE  
8 BY ISLAND COUNTY SUPERIOR  
9 COURT TO THE PUBLIC HEALTH  
10 EMERGENCY IN WASHINGTON  
11 STATE,

NO. 2021-1

STANDING ORDER FOR EVICTION  
RESOLUTION PILOT PROGRAM ("ERPP")

12 **Findings**

- 13 A. Since late February 2020, the COVID-19 public health and economic crisis has caused  
14 great health, social and economic harm to the people of the state of Washington,  
15 rendering many unable to meet basic living expenses, including but not limited to rent  
16 expenses.
- 17 B. Responding to the public health and economic emergency, on March 18, 2020,  
18 Governor Inslee issued Proclamation No. 20-19 imposing a moratorium on most  
19 residential evictions in Washington State ("Eviction Moratorium Proclamation"). The  
20 Eviction Moratorium Proclamation was renewed, and the eviction moratorium was  
21 extended on multiple occasions. The last full extension (Proclamation 20-19.6) expired  
22 June 30, 2021, pursuant to ch.115, Laws of 2021, sec. 4(1).
- 23 C. Anticipating significant numbers of unlawful detainer filings upon the expiration of  
24 the Governor's eviction moratorium, the Superior Court Judges' Association asked its  
25 Unlawful Detainer Work Group to develop a means of diverting nonpayment of rent  
26 cases away from the courts and into a collaborative resolution process that brings  
27 together landlords and their attorneys, tenants, legal aid and housing justice projects,  
28 administrators of state and local rent assistance programs, and trained eviction  
29 resolution specialists employed by community-based dispute resolution centers. The  
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1 SCJA developed the pre-5160 Pilot Eviction Resolution Programs (ERPs) and related  
2 operating protocols. In November of 2020, ERPs were established in King, Snohomish,  
3 Pierce, Thurston, Clark, and Spokane Counties, together with related conciliation and  
4 mediation services.

- 5 D. Surveys from July 5, 2021, cited by the Washington State Administrative Office of the  
6 Court, suggest that approximately 16% of renters – more than 220,000 individual  
7 households – in Washington are currently in rent arrears and face the prospect of  
8 potential eviction after the current moratorium expires.
- 9 E. On April 22, 2021, Governor Inslee signed Engrossed Second Substitute Senate Bill  
10 5160 into law (ch.115, Laws of 2021, sec. 4(1)) which took effect that day. This  
11 legislation substantially changes the law governing landlord-tenant relations, generally  
12 limits eviction for failure to pay unpaid rents accrued during the Governor’s eviction  
13 moratorium, changes unlawful detainer practice and procedure, provides statewide  
14 authorization and support for court-established Eviction Resolution Pilot Programs  
15 (ERPPs) beyond the initial six pilot programs established pre-5160 by the SCJA, and  
16 establishes a right to counsel for indigent tenants in unlawful detainer proceedings.
- 17 F. The final FY 2021-23 operating budget enacted by the Washington State Legislature  
18 provides funding to underwrite ERPP operations, implements the right to counsel  
19 program for indigent tenants, and includes \$658,000,000 for rent assistance payments  
20 to tenants and landlords, offering landlords and tenants significantly expanded  
21 opportunities to resolve rent-related disputes that might otherwise lead to the filing of  
22 an unlawful detainer action following expiration of the eviction moratorium.
- 23 G. Section 7 of Chapter 115, Laws of 2021, authorizes any superior court, in collaboration  
24 with the dispute resolution center located in or serving the same county, to participate  
25 in the ERPP.
- 26 H. On June 29, 2021, Governor Inslee issued Emergency Proclamation 21-09, “Tenancy  
27 Preservation – a Bridge to E2SSB 5160” (“Bridge Proclamation”). The Bridge  
28 Proclamation is not another extension of the Eviction Moratorium Proclamation. With  
29 the important exception of evictions based on non-payment of rent, other evictions  
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1 typically allowed under Washington law resumed as of July 1, 2021. As for many  
2 evictions based on nonpayment of rent, the Bridge Proclamation establishes new  
3 requirements, as described below, from July 1, 2021, until September 30, 2021.

- 4 I. For some time now, Island County has made significant efforts to assist landlords and  
5 tenants during the pandemic, to mitigate the risk of increased homelessness by helping  
6 tenants to remain in their homes. Despite diligent inquiry, this Court has not been able  
7 to determine whether, but for the issuance of the Bridge Proclamation, there would  
8 have been a deluge of unlawful detainer filings in Island County following the  
9 expiration of the eviction moratorium. But it is reasonable to anticipate that many of  
10 the estimated 220,000 households described in paragraph D above are located in Island  
11 County. Accordingly, this Court should adopt appropriate measures that take advantage  
12 of the resources that have been made available through state and federal programs to  
13 assist both struggling tenants and the landlords who provide housing to them.
- 14 J. For evictions based on non-payment of rent that is past due from February 29, 2020,  
15 through July 31, 2021, due to COVID-19, the Bridge Proclamation prohibits landlords,  
16 property owners, and property managers from initiating detainer actions while it is in  
17 effect until a rental assistance program is operational in the county where the rental  
18 property is located. The local rental assistance program for Island County is  
19 administered by the Island County Human Services Division. The Island County  
20 Human Services Division has submitted an attestation to the appropriate entity or  
21 entities affirming that its rental assistance program is operational in Island County.  
22 (See [https://www.islandcountywa.gov/Humanservices/Pages/Housing-Support-  
23 Center.aspx](https://www.islandcountywa.gov/Humanservices/Pages/Housing-Support-Center.aspx)).
- 24 K. For evictions based on non-payment of rent that is past due from February 29, 2020,  
25 through July 31, 2021, due to COVID-19, the Bridge Proclamation also prohibits  
26 landlords, property owners, and property managers from initiating detainer actions  
27 while it is in effect until an ERPP has been implemented and is operational in the county  
28 where the rental property is located. The local dispute resolution center for Island  
29 County is the Dispute Resolution Center of Snohomish and Island Counties. The  
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1 Dispute Resolution Center of Snohomish and Island Counties will submit an attestation  
2 to the appropriate entity or entities affirming that it is operational in Island County on  
3 or about August 23, 2021. (See <https://www.voaww.org/drc>).

4 L. This Court has both the power and the responsibility to determine whether to adopt an  
5 ERPP. This Court has determined it appropriate to issue this standing order to establish  
6 an ERPP, to allow for a meaningful opportunity to resolve disputes between landlord  
7 and tenant where the principal matter at issue is non-payment of rent before cases are  
8 filed with this Court.

9 M. Section 7(2) of ch. 115, laws of 2021, requires that, in counties where an ERPP is  
10 established under the authority of a standing judicial order, landlords must use that  
11 program before filing an unlawful detainer action based on nonpayment of rent. Section  
12 7(3) requires that the landlord provide an ERPP Notice to the tenant of the eviction  
13 resolution program along with the 14-day notice to pay or vacate required prior to filing  
14 an unlawful detainer action. The Court adopts and requires landlords to use the form  
15 ERPP notice developed by AOC in collaboration with the Office of the Attorney  
16 General. See Exhibit A hereto, copies of which are available on this Court's website.  
17 **BUT TAKE NOTE** of the additional requirements regarding the ERPP Notice  
18 described in Paragraph N below while the Bridge Proclamation is in effect.

19 N. Under the Bridge Proclamation, landlords must provide tenants an opportunity to  
20 participate in an operational rental assistance program and an operational ERPP before  
21 serving, or threatening to serve or enforce, a notice to pay or vacate. Exhibit A hereto  
22 also suffices as the ERPP Notice required by the Bridge Proclamation. During the  
23 period that the Bridge Proclamation is in effect, it therefore appears that an ERPP  
24 Notice is properly provided to the tenant 14 days in advance of the 14-day notice  
25 required prior to filing an unlawful detainer action as well as simultaneously, as  
26 described in Paragraph M above. Accordingly, tenants will receive two ERPP notices  
27 and not less than 28 days' notice of the resources and alternative available under the  
28 ERPP before an unlawful detainer action based on nonpayment of rent from February  
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1 29, 2020, through July 31, 2021, due to COVID-19 can be filed while the Bridge  
2 Proclamation is in effect.

3 O. This Court designates Carolyn Cliff, its Presiding Judge, as the procedural point person  
4 to work with relevant stakeholders on the implementation and ongoing administration  
5 of the ERPP and such designation has been provided to the Administrative Office of  
6 the Courts.

7 **Order**

8 A. Landlord/Landlord counsel's Obligations regarding Eviction Resolution. Prior to  
9 serving and/or filing a summons and complaint for nonpayment of rent post-moratoria  
10 the landlord or landlord's counsel shall:

11 (i) *strictly comply with* the notice, service, and certification requirements of  
12 Sec. 7(3), (4), and (5) of Chapter 115, Laws of 2021 (E2SSB 5160);

13 (ii) meet and confer with the local DRC and the tenant and tenant's attorney  
14 to facilitate the resolution of the issue of nonpayment of rent; and

15 (iii) file the ERPP DRC Certification Form, as completed by the DRC, with  
16 the Court Clerk at the time of filing a summons and complaint AND provide copies  
17 of the completed ERPP DRC Certification Form, the summons, and the complaint  
18 to Court Administration.

19 B. Tenant's Obligations regarding ERPP. Under the Bridge Proclamation, tenants must  
20 respond to landlords regarding establishing reasonable repayment plans and participate  
21 in an available ERPP under the timelines established in E2SSB 5160.

22 C. DRC Scheduling and Certification of ERPP.

23 (i) During the effective period of the Bridge Proclamation, the DRC shall  
24 make every effort to schedule the "meet and confer" opportunity for the landlord  
25 and the tenant (and their respective counsel) within 28 days of receipt of the ERPP  
26 Notice;

27 (ii) Once the Bridge Proclamation expires, the local DRC shall make every  
28 effort to schedule the "meet and confer" opportunity for the landlord and the tenant  
29 (and their respective counsel) within 21 days of receipt of the ERPP Notice;  
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1 (iii) During and after the expiration of the Bridge Proclamation, the landlord  
2 and the tenant may agree to extend this timeframe;

3 (iv) During the effective time period of the Bridge Proclamation, if a tenant  
4 does not engage in the ERPP within 28 days (after the landlord has issued/served  
5 the ERPP notice and, 14 days later, a second ERPP Notice and the 14-day notice to  
6 pay or vacate), the DRC shall issue its certification that the landlord has satisfied  
7 the requirements of Section 7 of Chapter 115, Laws of 2021.

8 (v) After the Bridge Proclamation has expired, if a tenant does not engage  
9 in the ERPP within 14 days (after the landlord has issued/served the ERPP Notice  
10 simultaneously with the 14-day notice to pay or vacate), the DRC shall issue its  
11 certification that the landlord has satisfied the requirements of Section 7 of Chapter  
12 115, Laws of 2021.

13 (vi) If a landlord files a non-payment of rent unlawful detainer case without  
14 DRC certification, the Court may nonetheless address whether the landlord  
15 complied with the ERPP and all conditions precedent to suit. If the Court finds that  
16 the landlord was entitled to DRC certification notwithstanding DRC's failure to  
17 certify, the Court may proceed with the show cause hearing or trial.

18 (vii) The DRC may add relevant language to a certificate of ERPP  
19 participation prior to its issuance to a landlord that details any relevant information  
20 to help the Court determine whether the matter is ripe for adjudication, including,  
21 but not limited to, whether rent assistance was available (for example, did the tenant  
22 qualify and was assistance available for Island County at the time of ERPP  
23 participation), the date that DRC received the ERPP notice and the date on the  
24 ERPP notice, whether the tenant participated in ERPP efforts, whether the tenant  
25 had counsel during ERPP, and whether the DRC was able to conduct conciliation  
26 efforts.

27 D. DRC Reporting Obligations. In order to comply with the requirements of Chapter 115,  
28 Laws of 2021, Section 7(7) related to ERPP data collection, DRC (by and through  
29 Resolution Washington ("ResWA"), has agreed to provide and will provide ERPP data  
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1 ad detailed in Section 7(7)(b)-(d) to AOC through an AOC-designated portal. This  
2 Court thus relies on AOC to collect, analyze, and organize the data provided by DRC  
3 and provide an ERPP data report to the legislature, as required by Ch. 115, Laws of  
4 2021, Section 7(8), on the dates identified therein.

5 E. Upon implementation of the right to counsel plan for this court by the Office of Civil  
6 Legal Aid (“OCLA”) pursuant to Secs. 8 and 9 of Chapter 115, Laws of 2021, the  
7 following provision will take effect: At the first hearing, the court will advise the tenant  
8 of their right to appointed counsel if indigent and inquire whether they wish to assert  
9 that right. If so, the court shall refer the tenant to the county-specific entity designated  
10 by OCLA for eligibility screening and/or appointment of counsel (e.g. Eviction  
11 Defense Hotline or legal aid program) by sharing the name and contact number for said  
12 entity, unless counsel has previously been appointed for the tenant prior to filing of the  
13 case with the court. If a tenant is referred for appointment of counsel, the Court will  
14 continue the initial hearing as appropriate to allow the litigant to receive assistance  
15 from assigned counsel within appropriate timeframes as allowed by law and/or court  
16 rule.

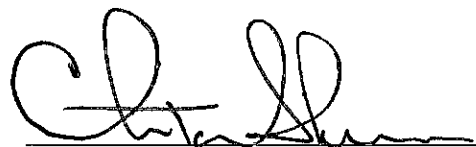
17 F. Determination of Compliance: At the first hearing in an unlawful detainer for non-  
18 payment of rent, the court shall determine: (a) whether the landlord has complied with  
19 the notice, service, participation, and certification filing requirements of Sec. 7 of  
20 Chapter 115, laws of 2021, and (b) whether the landlord and tenant met and conferred  
21 with the local DRC for purposes of resolving the issue of nonpayment of rent. Failure  
22 of any party to comply with notice, service, or certification filing requirements or  
23 failure to participate in pre-filing mediation may result in an award of attorney’s fees  
24 and costs, a continuance, an order directing the parties back to the DRC for attempted  
25 resolution, and/or any other relief as allowed by law and/or court rule.

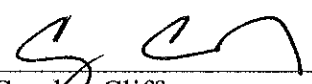
26 G. Additional Agreements. In non-payment of rent cases where a DRC Certification was  
27 issued along with an agreement of the parties, the Court reserves its ability to enforce  
28 such agreements, including agreements that covered matters addressed by the rental  
29 agreement other than payment of rent.  
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- H. Supplemental Effect. This order is supplemental to and does not supersede any statutory provision, any other standing order, or any local court rule regarding unlawful detainer procedure.
- I. Effective Date. This order will take effect on August 23, 2021, and it will remain in effect until further order of the Court.

DATED this 20<sup>th</sup> day of August, 2021.

  
\_\_\_\_\_  
Christon C. Skinner  
Island County Superior Court, Dep't. # 1

  
\_\_\_\_\_  
Carolyn Cliff  
Island County Superior Court, Dep't. # 2



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# Exhibit A

## ERPP Notice & Resource Information

**Important! Landlords:** Fill out page 1 completely and correctly with all the information that you know. Your information and your attorney's information, if you have one, must be included. You must provide a copy of this notice to the tenant and **also** send a copy to the local dispute resolution center serving the area where the property is located (see page 2). You should retain proof of service.



## Behind on rent? Here is a chance to resolve the dispute with your landlord

### Superior Court Eviction Resolution Pilot Program (ERPP)

**Tenants:** To participate see below and respond by (date): \_\_\_\_\_!  
 (14 days after this notice is given to tenant)

**Important! Tenants:** Failure to respond to this notice within 14 days may result in the filing of a summons and complaint for an unlawful detainer action with the court (eviction).

**To:**

Tenant's Name:	
Property Address:	
Tenant's Phone:	Tenant's Email:

**From:**

Landlord's Name:	
Landlord's service address:	
Landlord's Phone:	Landlord's Email:
Landlord's Lawyer (if any) Name:	
Lawyer's Address:	
Lawyer's Phone:	Lawyer's Email:



## Your landlord is asking you to take part in the Eviction Resolution Pilot Program

**⚠ Do not wait! You can get help.**

### What is the Eviction Resolution Pilot Program (ERPP)?

Your county's Superior Court uses this program. ERPP requires landlords to try to reach agreements with tenants about unpaid rent before they can ask for eviction in court. You may be eligible for **rent assistance** and **legal help** through the ERPP.

If you participate in the ERPP, your landlord must work with you and a specialist from your local **Dispute Resolution Center (DRC)**. If that solves the problem, great! If not, the DRC will offer free mediation. Mediation is voluntary – it only happens if both sides agree to do it.

You have a right to negotiated **payment plan** that works for you.





### Why should I participate?

If you get this notice and do **not** respond or try to reach an agreement, your landlord may file for eviction in court. You can get help from a **free lawyer** if you are not sure what to do.

- Rent assistance
- Free mediation
- Free legal help

**What is mediation?** It is when a trained person (a mediator) helps you solve a problem or reach an agreement with someone else. You can ask for mediation at your local **Dispute Resolution Center**. Mediators are impartial and help all participants reach resolution.

**Get help now!** Contact these free resources in your county.

	<p><b>Rent Assistance</b></p>
	<p>On-Line pre-application - <i>Whidbey &amp; Camano Residents</i>  <a href="https://www.cognitoforms.com/IslandCounty1/islandcountyemergencyrentalandutilityassistanceprogram">https://www.cognitoforms.com/IslandCounty1/islandcountyemergencyrentalandutilityassistanceprogram</a>          Phone-In application - <i>Whidbey Residents Only</i>- Call Housing Support Center at 360-678-8284          Phone-In application - <i>Camano Residents Only</i>- Call Community Resource Center-Stanwood Camano at 360-629-5257 X1001</p>
	<p><b>Dispute Resolution Centers</b></p>
	<p>Volunteers of America Dispute Resolution Center of Snohomish and Island Counties:          (425) 339-1335 ext. 3, <a href="mailto:earlyresolution@voaww.org">earlyresolution@voaww.org</a>          (If you do not have access to email, send the notice to P. O. Box 839; Everett, WA 98206-0839)</p>
	<p><b>Lawyers</b></p>
	<p><b>Statewide Eviction Defense Screening Line 1-855-657-8387 (free)</b></p>
	<p><b>Free interpreter services are available at all these programs</b></p>
	<p>The Washington State Office of the Attorney General has this notice in multiple languages on its website: <a href="http://www.atg.wa.gov/landlord-tenant">www.atg.wa.gov/landlord-tenant</a>. You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, you may find additional information to help you at <a href="http://www.washingtonlawhelp.org">www.washingtonlawhelp.org</a> and <a href="http://www.courts.wa.gov">www.courts.wa.gov</a>.</p>

**I want to take part in the Eviction Resolution Pilot Program. What do I do now?**

You can start the process by doing one of these things:

- Contact the Dispute Resolution Center in your county.
- Fill out and return this form to your landlord at the address on page 1. Keep a copy.

You can also get a lawyer, whether or not you participate in the ERPP.

<input checked="" type="checkbox"/> <b>Yes, I want help resolving my unpaid rent. Contact me at:</b>	
Tenant's Name:	
Tenant's Address:	
Tenant's Phone:	Tenant's Email: