

# Landlord Mitigation Program Report



A REVIEW AND EVALUATION OF THE LANDLORD MITIGATION PROGRAM PER RCW 43.31.605(13)

**LANDLORD MITIGATION PROGRAM**

December 2020

REPORT TO THE LEGISLATURE

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# Acknowledgments

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# Introduction

## Overview

The 2018 Washington State Legislature passed [Chapter 66, Laws of 2018 \(ESSB 2578\)](#), codified under [RCW 43.31.605](#), and commonly referred to as the Landlord Mitigation Program. The program encourages landlords to rent to tenants receiving rent subsidies, reimburses landlords for unit damage and other costs, and reducing the property debt carried by the tenants that assisted by the program.

Real-time metrics are available for the Landlord Mitigation Program on the Commerce webpage: <https://www.commerce.wa.gov/serving-communities/homelessness/landlord-fund-programs/landlord-mitigation-program/>. Appendix A provides a snapshot of those metrics.

## Authorizing Legislation

RCW 43.31.605 requires Commerce to report on the Landlord Mitigation Program:

*(13)(a) A report to the appropriate committees of the legislature on the effectiveness of the program and recommended modifications shall be submitted to the governor and the appropriate committees of the legislature by January 1, 2021. In preparing the report, the department shall convene and solicit input from a group of stakeholders to include representatives of large multifamily housing property owners or managers, small rental housing owners in both rural and urban markets, a representative of tenant advocates, and a representative of the housing authorities.*

*(b) The report shall include discussion of the effectiveness of the program as well as the department's recommendations to improve the program, and shall include the following:*

*(i) The number of total claims and total amount reimbursed to landlords by the fund;*

*(ii) Any indices of fraud identified by the department;*

*(iii) Any reports by the department regarding inspections authorized by and conducted on behalf of the department;*

*(iv) An outline of the process to obtain reimbursement for improvements and for damages from the fund;*

*(v) An outline of the process to obtain reimbursement for lost rent due to the rental inspection and tenant screening process, together with the total amount reimbursed for such damages;*

*(vi) An evaluation of the feasibility for expanding the use of the mitigation fund to provide up to ninety-day no interest loans to landlords who have not received timely rental payments from a housing authority that is administering section 8 rental assistance;*

*(vii) Any other modifications and recommendations made by stakeholders to improve the effectiveness and applicability of the program.*

## History of the Landlord Mitigation and Tenancy Preservation Program

The Landlord Mitigation Program soft-launched on Aug. 15, 2018 and received its first claim on Oct. 7, 2018. The program benefits tenants by reducing property debt, which can result in denying tenancy in application screening. Through a series of aggressive marketing and outreach campaigns, the program has grown well beyond expectations with nearly 2,000 claims submitted by Dec. 31, 2020.

In 2019, [Chapter 356, Laws of 2019 \(ESSB 5600\)](#) extended the Landlord Mitigation program and created the Tenancy Preservation Program (TPP). The TPP is designed to prevent evictions by providing tenants zero-

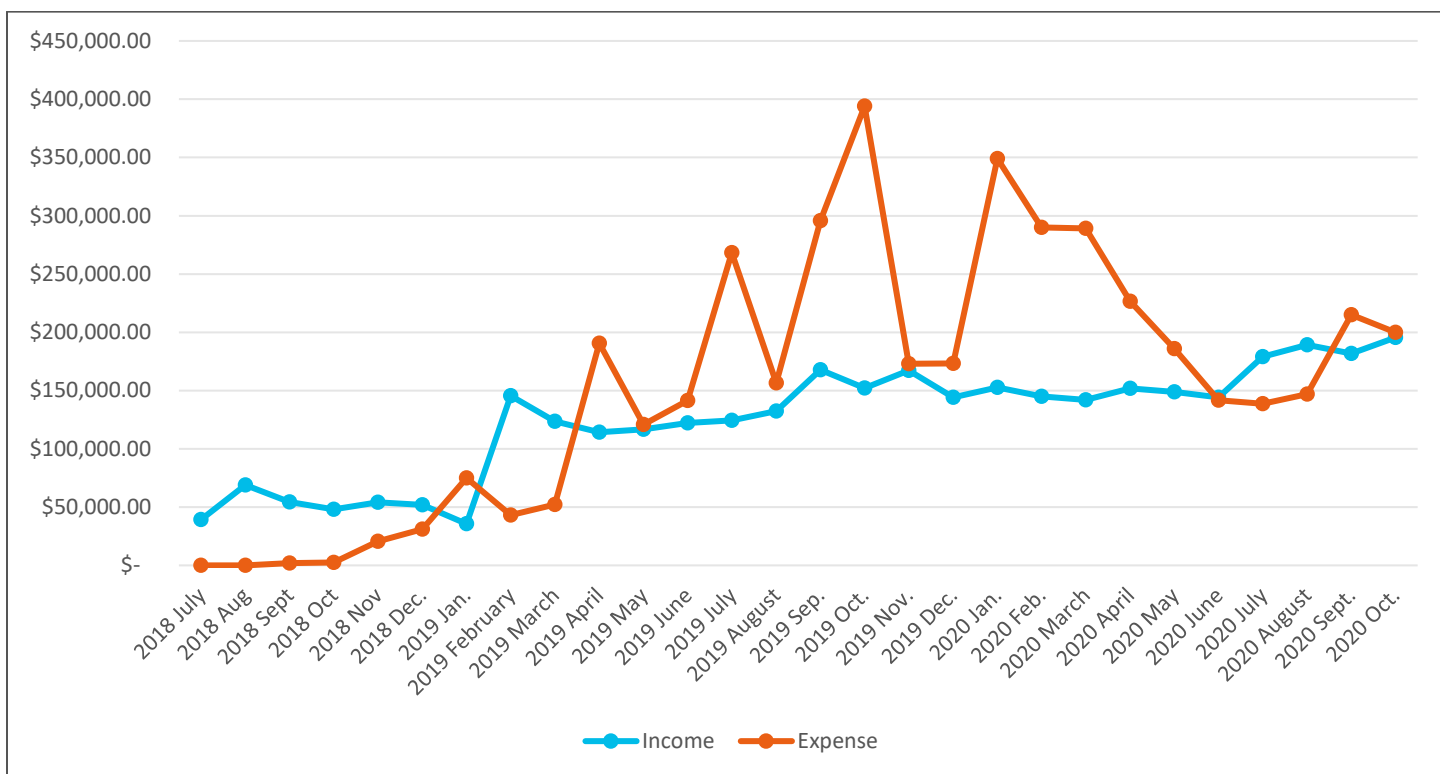
interest loans to pay judgment amounts for non-payment of rent and failed court-approved repayment plans. The Tenancy Preservation Program received only 63 claims before the eviction moratorium took effect during the COVID-19 pandemic. The eviction moratorium prevents landlords and tenants from proceeding in a non-payment of rent hearing, a requirement for the Tenancy Preservation Program.

## Program Funding

Document recording fees fund the Landlord Mitigation and Tenancy Preservation Programs. These fees average \$145,000 per month in program revenue. With the continued growth in the state's housing market even during the COVID-19 pandemic, funding has remained steady but insufficient to maintain the programs alone. In both 2019 and 2020, the Legislature appropriated \$1 million in additional funding to stabilize the program and allow continued claim payment with little or no delay. These appropriations are nearly exhausted and additional funding will be required to keep these programs operational.

Average claims have remained consistent during the COVID-19 pandemic as more landlords seek relief options during the economic crisis in Washington. Many claims are historical claims that landlords are finding as eligible for the program. Before the eviction moratorium, the average monthly expenses totaled \$225,000. Currently, the average monthly expense is \$165,000, with a steady increase in recent months. November claims have matched the previous averages.

**Figure 1: LMP and TPP Income and Expense Reports - July 2018 to Oct. 2020**



# Program Effectiveness

The Landlord Mitigation Program has become a highly effective tool in reducing the stigma associated with renting private rental units to subsidized tenants and reducing monies owed to a landlord by the tenants. The program benefits tenants by reducing property debt that is often considered a reason for denying tenancy during application screening. The benefit of removing property debt from low-income households reduces strain on the homelessness crisis Washington is experiencing. Over 1,500 claims have been awarded and a similar number of low-income renters are not burdened with property debt from the landlord claimants.

## Landlord Mitigation Program

**Since the initial claim has come into the Landlord Mitigation Program:**

- Landlords have recovered over \$4 million in reimbursement for repairs
- Over 1,400 tenants can seek new housing without property debt creating barriers in the screening process

## Tenancy Preservation Program

While the Tenancy Preservation Program has only received claims for a short period due to the limitation brought by the eviction moratorium, landlords have received over \$300,000 to maintain tenancy for over 50 households.

## Claims Reimbursed

Post-move in claims have outpaced pre-move in claims at a prodigious rate. Ninety-six percent of all claims submitted are related to damages caused during tenancies. Overall performance is:

- **Pre-Move In Claim Awards:** \$117,916 over 1,650 claims
- **Post-Move In Claim Awards:** \$3,903,144 over 94 claims

The Tenancy Preservation Program ramped up slowly due to the complex process of qualifying for this relief. A court must find the tenant eligible during a non-payment of rent eviction. In most cases, landlords request a judgment (Writ of Restitution) to protect their interest during the claim review period. This writ requires an action staying the motion while the filing proceeds. Commerce has made the filing process as efficient as possible. When all documents are in order, claims are often processed and paid within two weeks.

In the eight months preceding the initial eviction moratorium, Commerce approved 54 of 63 claims received. The average payment to tenants is \$4,832.

## Fraud

Out of the over 1,600 claims submitted, only five have been flagged as potentially fraudulent. Each of the claims had what appear to be signature manipulation on the move-in condition reports, which are often missing in claims. The tenancy is not in question, and in each instance, the on-site or property manager admitted to having manipulated the document as they did not have an executed copy on hand. Each landlord was prohibited from using the program for a period of six-months as they cooperated once questioned. There have been no other overt or obvious attempts of fraud noted.

## Inspections

The Landlord Mitigation Program reimburses landlords for repairs made to rental units. Coupled with the low amount of detectable fraud, Commerce has found no cases requiring unit inspections.

## Claim Process

The Landlord Mitigation Program offers two distinct claim types for reimbursement to landlords:

- **Pre-Move In Claims:** Landlords can claim up to \$1,000 for modifications or repairs made to pass a subsidy provider's inspection before tenant occupancy. This claim can include up to 14 days of unpaid rent in addition to the repair costs.
- **Post-Move In Claims:** Landlords can claim up to \$5,000 toward reimbursement for repairs to damages caused by a subsidized tenant. Unpaid rent and other lease charges can be claimed following termination of tenancy.

Filing a claim for either the Landlord Mitigation or Tenancy Preservation Programs can be done easily on the Commerce website through a web portal. Documents required for each program are minimal to evidence the qualifications required for each claim. Claims are typically reviewed within three business days. When a claim does not meet the claim requirements, communication between Commerce and the landlord begins to help the landlord understand the claim process and provide the landlord the ability to provide any missing documents or information to approve their claim. Once the claim is approved, a warrant for payment is issued, and most approved claims receive a payment within four to five weeks from the claim approval date.

## Feasibility of Expanding the Landlord Mitigation Program

To date, no claims have been submitted for a zero-interest loan for untimely HUD payments. Due to funding limitations, no expansion is recommended for the Landlord Mitigation Program for this purpose. Additional funding of the base programs will be required before any program expansion.

## Stakeholder Recommendations

A stakeholder review panel met on Oct. 6, 2020, to review and discuss the policies and procedures for the Landlord Mitigation and Tenancy Preservation Programs. The panel consisted of representatives from the Rental Housing Association of Washington, Northwest Justice League, and landlords familiar with the claim filing process. This panel discussed experiences with the programs and key concerns that include a limit of no more than three months' unpaid rent as reimbursable, the requirement for a move-in condition report on all Landlord Mitigation claims, and access to Tenancy Preservation funds during the Eviction Moratorium.

To benefit landlords by providing access to more relief and tenants by reducing the debt and stigma associated with low-income households, the group agreed that the following recommendations would improve the program.

### Remove the Three-Month Limit on Unpaid Rents

The \$5,000 cap already limits the value of claims and unpaid rent limitations are unnecessary. The removal of the three-month limit on unpaid rents will be done internally at Commerce as this is a policy and no rule change is required.

## Clarify the Move-In Condition Report requirement

Language in RCW 43.31.605(2)(a)) suggests any landlord attempting to claim a reimbursement in situations when a security deposit was not charged or collected would not be required to provide a move-in condition report.

## Commerce Recommendations

Before the COVID-19, the greatest risk to the Landlord Mitigation Program's continuation and success was the need for additional funding. Projections showed that a minimum increase of \$3 million per biennium would be required to maintain the then current rate of growth of claims.

COVID-19 and the Eviction Moratorium directly affect the performance of the Landlord Mitigation and the Tenancy Preservation Programs. Commerce anticipates an exceptionally high volume of claims for the Tenancy Preservation Program upon expiration of the State and Federal Eviction Moratoriums. Projections suggest that if the Tenancy Preservation Program does not establish a separate fund or set limitations on the monthly fund availability or individual claim amounts, both Landlord Mitigation Programs will be extremely limited. Tenancy Preservation claims will likely average \$20,000 per tenant. Five or six claims through the Tenancy Preservation Program will exhaust available funds for both programs each month. Any COVID relief package for this program must also consider that one FTE will be required for every 200 claims processed each month in both programs to ensure expedient payment to landlords.

Commerce recommends that the legislature amend RCW 43.31.605(2)(a) to remove the clause "as required in RCW 59.18.260" in RCW 43.31.605. The clause creates confusion on the requirement for move-in condition reports when the landlord does not collect security deposits.

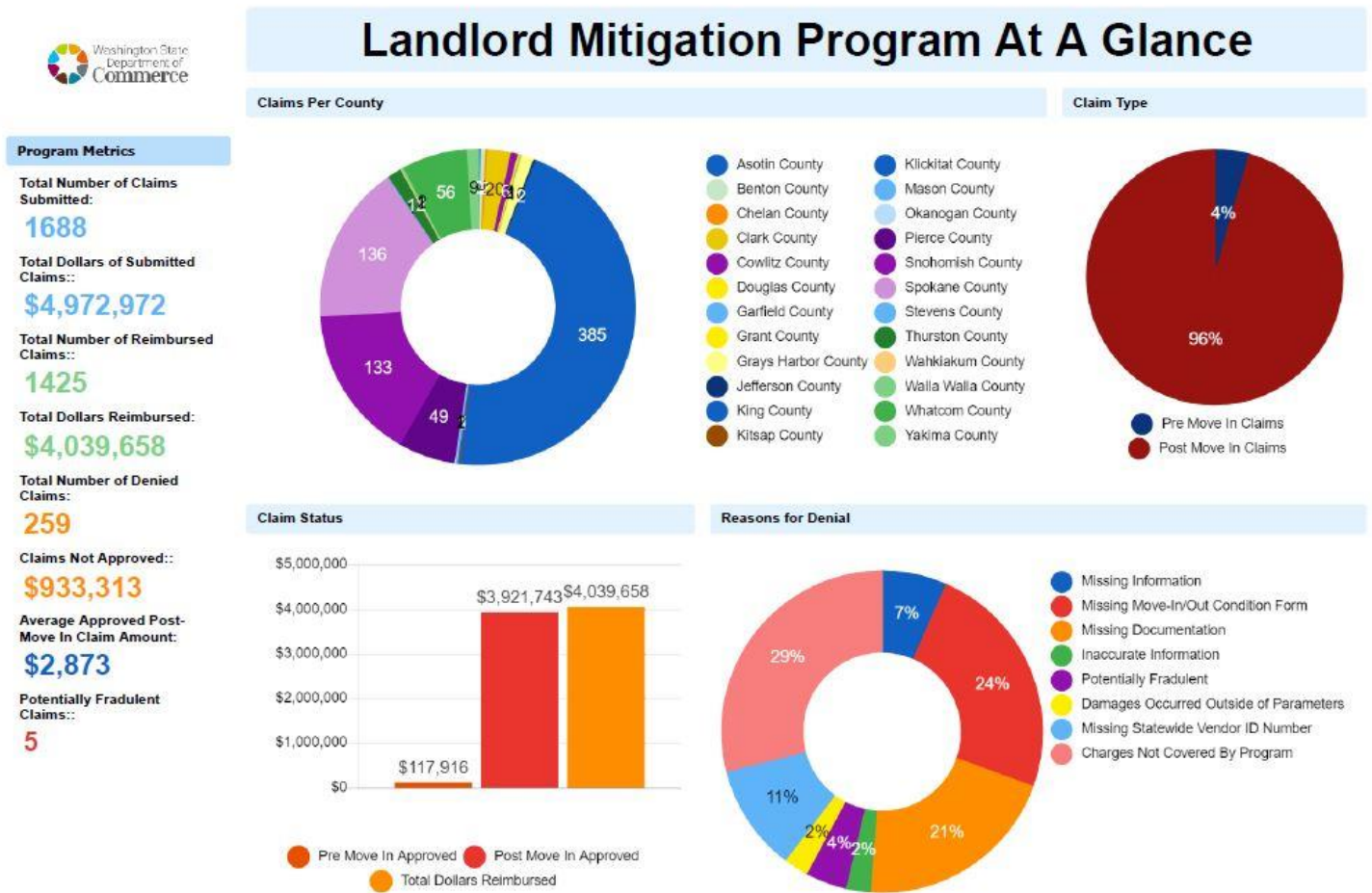


# Appendix A: Program Metric Snapshots

## Landlord Mitigation Program

Real-time metrics are available for the Landlord Mitigation Program on the Commerce webpage: <https://www.commerce.wa.gov/serving-communities/homelessness/landlord-fund-programs/landlord-mitigation-program/>

Figure 2: Landlord Mitigation Metrics



# Tenancy Preservation Program

Real-time metrics are available for the Tenancy Preservation Program on the Commerce webpage:

<https://www.commerce.wa.gov/serving-communities/homelessness/landlord-fund-programs/tenancy-preservation/>

**Table 3: Tenancy Preservation Metrics**

