

HOUSE BILL REPORT

ESB 6261

As Passed House - Amended:
March 4, 2010

Title: An act relating to utility services collections against rental property.

Brief Description: Addressing utility services collections against rental property.

Sponsors: Senators Marr, Schoesler, Berkey, Zarelli and Hobbs.

Brief History:

Committee Activity:

Local Government & Housing: 2/22/10 [DPA].

Floor Activity:

Passed House: 3/4/10, 98-0.

**Brief Summary of Engrossed Bill
(As Amended by House)**

- Establishes new provisions related to delinquent charges of municipal utility services.

HOUSE COMMITTEE ON LOCAL GOVERNMENT & HOUSING

Majority Report: Do pass as amended. Signed by 9 members: Representatives Simpson, Chair; Nelson, Vice Chair; Angel, Ranking Minority Member; Miloscia, Short, Springer, Upthegrove, White and Williams.

Minority Report: Do not pass. Signed by 2 members: Representatives DeBolt, Assistant Ranking Minority Member; Fagan.

Staff: Becca Kenna-Schenk (786-7291) and Ethan Moreno (786-7386).

Background:

Notification of a Tenant's Delinquent Charges.

When an owner or the owner's designee requests in writing to be notified of a tenant's delinquency on utility charges, the municipal electric light and power utility must provide the

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notice to the owner or the owner's designee. The owner or designee must identify the property as rental property and provide a mailing address. The utility must notify the owner or designee in the same manner the utility notifies the tenant of the tenant's delinquency or by mail. If the utility fails to notify the owner or designee of a tenant's delinquency after receiving a written request to do so, the utility has no lien on the property for the tenant's delinquent bill.

Utility Liens.

Utilities operated by municipalities have a lien against properties to which utility services are provided after four months of delinquent bills have accrued. The dollar amount of the lien may not include any charges that are more than four months past due. However, if the owner of the property provides a written request to the municipal utility to have services cut off and includes payment of any delinquent charges, the municipality has no lien against the property for further delinquent payments.

Summary of Amended Bill:

Delinquent Utility Charges for Rental Properties.

Municipal electric light and power utilities may only collect delinquent charges from owners of a rental property for up to four months of charges, provided that the owner has satisfied requirements to request notification of a tenant's delinquent utility charges. After August 1, 2010, if a municipality fails to notify an owner of rental property of a tenant's delinquent charges, the municipality has no lien on the rental property and is prohibited from collecting delinquent charges for electric light or power services from the owner, provided the owner of the rental property has provided a proper request to the municipality to receive such notification.

If a utility account is in a tenant's name, upon termination of a rental agreement and vacation of the premise, the property owner of the rental property or the owner's designee must notify the municipality. The notification must be submitted in writing within 14 days of the termination of the rental agreement and vacation of the premise. If the owner fails to comply with this requirement, and if the municipality has complied with its notification requirements, the municipal utility is no longer limited to collecting delinquent charges for only four months.

A municipality must make a reasonable effort to provide written notice of pending disconnection of electric power and light or water service to the service address at least seven calendar days prior to disconnection if: (1) an occupied multiple residential rental unit receives service through a single account; (2) the billing address of the utility account is not the same as the service address of the rental property; or (3) the municipality has been notified that a tenant resides at the service address.

With certain exceptions, if requested, a city or town must provide electric power and light or water services to an affected tenant on the same terms and conditions as other utility customers, without requiring that the tenant pay delinquent amounts for services billed directly to the property owner or previous tenant. In these cases, the tenant may deduct from the rent due all reasonable charges paid by the tenant to the city or town for such services, and a landlord may not take reprisals or retaliatory action against a tenant who deducts from

their rent payments for these purposes. A municipality retains the right to collect any delinquent amounts due for services previously provided from the property owner, previous tenant, or both.

Utility Liens.

A provision is removed that disallowed a municipality's lien against a property for further delinquent utility charges after the property owner provides a written request to the municipal utility to have services cut off and includes payment of any delinquent charges.

Appropriation: None.

Fiscal Note: Requested February 22, 2010.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is the result of negotiations between cities and landlords to clarify that a municipal utility may not collect more than four months of delinquent charges from a property owner if a tenant has not paid his or her utility bill. Landlords have agreed that, if the tenant is delinquent, the landlord will notify the utility within 14 days of the tenant's vacation from the property so that the utility may take appropriate action. This bill is limited only to electrical utility service, not water or sewer. It is unfair that landlords, upon contacting a municipal utility to have a service restarted at a rental property, are potentially confronted with two years of delinquent utility charges accrued by a previous tenant. The utility lien authority was supposed to address this problem. However, municipal utilities are not using this authority in practice, which leaves landlords with having to pay more than their fair share, without ever knowing that their tenant had delinquent charges.

(With concerns) The bill also addresses situations when a utility bill is in the landlord's name rather than the tenant's. Some municipal utilities will no longer provide service directly to tenants in response to delinquent charges accrued by previous tenants and due to the limitations in place for municipal utilities to collect delinquent charges. The 9th Circuit Court has held that tenants have a due process right to be notified if their landlord has defaulted on utility bill payments so that they can enforce their rights under the Landlord Tenant Act or open a new utility account in their own name. The courts have also ruled that a utility may not refuse utility service to a tenant due to delinquent bills accrued by the landlord or a previous tenant. These cases involved water utility services, which is why it is important that future legislation apply the provisions in this bill to all municipal utilities because otherwise, non-electric municipal utilities are exposed to liability.

Municipal utilities are currently required to notify landlords when there is a delinquency. This bill requires landlords to notify utilities when there is a vacancy at a rental property. The current version of the bill also clarifies when a municipality is required to notify a tenant of a pending disconnection of services. It is difficult for municipal utilities to know if a property is a rental. This issue needs to be clarified with an amendment to the bill.

(Opposed) None.

Persons Testifying: (In support) Senator Marr, prime sponsor; Joe Puckett, Washington Multi-Family Housing Association; Julie Johnson, Rental Housing Association; and Darlene Pennocil, Washington Apartment Association.

(With concerns) Greg Provenzano, Columbia Legal Services; and Victoria Lincoln, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.