

# SENATE BILL REPORT

## ESB 6261

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As Amended by House, March 7, 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:** Financial Institutions, Housing & Insurance: 1/19/10, 2/02/10, 2/03/10 [DPS, DNP].

Passed Senate: 2/16/10, 45-2; 3/07/10, 46-0.

Passed House: 3/04/10, 98-0.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Majority Report:** That Substitute Senate Bill No. 6261 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton, Ranking Minority Member; Schoesler.

**Minority Report:** Do not pass.

Signed by Senator McDermott.

**Staff:** Alison Mendiola (786-7483)

**Background:** When a local municipality provides its own utility services and the property owner requests to be notified of a tenant's delinquency, then the local municipality is to notify the tenant and owner of a tenant's delinquency at the same time.

A municipality has authority to place a lien on the property when a utility account is four months past due. However, if the owner provides the proper notice and is not notified of a tenant's delinquency, then the local municipality does not have the authority to place a lien on the property for the tenant's delinquent and unpaid charges.

The owner of a property or the owner of a delinquent mortgage on the property may provide written notice to the utility to cut off such services provided the request includes payment of any delinquent and unpaid charges. If the utility continues to provide services despite this

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request and payment, the municipality may not place a lien for future unpaid charges, and the owner or the holder of the delinquent mortgage on the property is not liable for these charges.

**Summary of Engrossed Bill:** If a property owner provides proper notice to the local municipality that provides their own utilities and the municipality informs the owner of the tenant's delinquency for electric light and power services, then the owner is only liable for up to four months of unpaid electrical or power charges.

After August 1, 2010, if the municipality fails to provide the owner with notice of the tenant's delinquency then the municipality may not collect the tenant's delinquent and unpaid electric light and power services charges from the owner.

When a utility account is in a tenant's name, the owner is to notify the city or town in writing within 14 days of the termination of the rental agreement and vacation of the premises. If the owner fails to provide this notice, a city or town providing electric light or power services is not limited to collecting only up to four months of a tenant's delinquent charges from the owner, provided that the city or town has complied with the notification requirements.

When the utility account for a rental property is in the owner's name and a city or town has been previously notified that a tenant resides at that property, the city or town is to notify the tenant of a pending disconnection of electric light or power services at least ten calendar days prior to disconnection, so that the tenant has an opportunity to resolve the delinquency or dispute with his or her landlord or to arrange for continued service by opening his or her own utility service account. The tenant is not responsible for the landlord's delinquency.

The language regarding shutting off utility services is struck.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed, except for Section 1 which take effect on August 1, 2010.

**Staff Summary of Public Testimony on Proposed Substitute As Heard in Committee:**  
PRO: This bill clarifies that a utility can only collect up to four months of a tenant's delinquent charges from the landlord, if the landlord had notice of the tenant's delinquency. Liens are limited to four months of charges, so collections should have the same limitations. All parties need to act in good faith to avoid unpaid charges.

CON: Some cities only bill every other month, so you'd need to collect after just two billing statements. Cities don't use the lien authority because it's difficult and takes a lot of time.

OTHER: Similar protection is needed for tenant's if the utility is in the landlord's name and the landlord isn't making payments.

**Persons Testifying:** PRO: Senator Marr, prime sponsor; Joe Puckett, Washington Multifamily Housing Assn.; Julie Johnson, Rental Housing Assn.

CON: Victoria Lincoln, Assn. of Washington Cities.

OTHER: Greg Provenzano, Columbia Legal Services.

**House Amendment(s):** The following changes are made:

1. Specifies that the act applies to residential tenants or rental properties.
2. Requires that 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: (a) multiple residential rental units receive the service through a single account; (b) the billing address of the utility account is not the same as the service address of the rental property; or (c) the municipality has been notified that a tenant resides at the service address.
3. With certain exceptions, specifies that 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.
4. Specifies that the provisions of the act do not affect the validity of any lien.
5. Specifies that a municipality retains the right to collect any delinquent amounts due for services previously provided from the property owner, previous tenant, or both.