
HOUSE BILL 1421

State of Washington

67th Legislature

2021 Regular Session

By Representatives Dufault and Barkis

Read first time 01/29/21. Referred to Committee on Housing, Human Services & Veterans.

1 AN ACT Relating to a property owner's or tenant's liability for
2 delinquent and unpaid utility service charges; and amending RCW
3 35.21.217, 60.80.010, 60.80.020, and 35.21.290.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 35.21.217 and 2011 c 151 s 5 are each amended to
6 read as follows:

7 (1) For the purposes of this section, "utility or service"
8 includes but is not limited to electricity, natural or liquid propane
9 gas, oil, water, hot water, heat, sewer service, public services, and
10 garbage collection and disposal.

11 (2) Prior to furnishing utility services, a city or town may
12 require a deposit to guarantee payment for services. (~~However,~~
13 ~~failure to require a deposit does not affect the validity of any lien~~
14 ~~authorized by RCW 35.21.290 or 35.67.200.)) A city or town may
15 determine how to apply partial payments on past due accounts.~~

16 ~~((2))~~ (3) (a) A city or town may provide a real property owner or
17 the owner's designee with duplicates of tenant utility service bills,
18 or may notify an owner or the owner's designee that a tenant's
19 utility account is delinquent. However, if an owner or the owner's
20 designee notifies the city or town in writing that a property served
21 by the city or town is a residential rental property, asks to be

1 notified of a tenant's delinquency, and has provided, in writing, a
2 complete and accurate mailing address, the city or town shall notify
3 the owner or the owner's designee of a residential tenant's
4 delinquency at the same time and in the same manner the city or town
5 notifies the tenant of the tenant's delinquency or by mail (~~(, and the~~
6 ~~city or town is prohibited from collecting from the owner or the~~
7 ~~owner's designee any charges for electric light or power services~~
8 ~~more than four months past due)). When a city or town provides a real~~
9 property owner or the owner's designee with duplicates of residential
10 tenant utility service bills or notice that a tenant's utility
11 account is delinquent, the city or town shall notify the tenant that
12 it is providing the duplicate bills or delinquency notice to the
13 owner or the owner's designee.

14 ~~((3) After August 1, 2010, if a city or town fails to notify the~~
15 ~~owner of a tenant's delinquency after receiving a written request to~~
16 ~~do so and after receiving the other information required by~~
17 ~~subsection (2) of this section, the city or town shall have no lien~~
18 ~~against the premises for the residential tenant's delinquent and~~
19 ~~unpaid charges and is prohibited from collecting the tenant's~~
20 ~~delinquent and unpaid charges for electric light or power services~~
21 ~~from the owner or the owner's designee.~~

22 ~~(4) When a utility account is in a tenant's name, the owner or~~
23 ~~the owner's designee shall notify the city or town in writing within~~
24 ~~fourteen days of the termination of the rental agreement and vacation~~
25 ~~of the premises. If the owner or the owner's designee fails to~~
26 ~~provide this notice, a city or town providing electric light or power~~
27 ~~services is not limited to collecting only up to four months of a~~
28 ~~tenant's delinquent charges from the owner or the owner's designee,~~
29 ~~provided that the city or town has complied with the notification~~
30 ~~requirements of subsection (2) of this section.~~

31 (5)(a)) (b) When a city or town provides utility services to
32 someone other than the owner of the property, the city or town is
33 prohibited from collecting delinquent utility charges from the owner
34 or the owner's designee, provided that the account was listed in the
35 residential tenant utility customer's name. A city or town may only
36 collect payments for past due utility charges from the residential
37 utility customer whose name is listed on the utility account.

38 (c) Upon request of the city or town utility providing services
39 to someone other than the owner of the property, the property owner
40 shall provide a city or town utility service notice of the

1 residential tenant's vacation of the premises within fourteen days of
2 actual knowledge of vacation. If the owner or owner's designee fails
3 to provide this notice, a city or town utility service may collect a
4 residential tenant's delinquent charges from the owner or owner's
5 designee, provided that the city or town had requested notification
6 as requested herein and only for charges incurred after the date of
7 the residential tenant's vacation of the property.

8 (d) When a city or town provides utility services to a new
9 residential tenant utility customer, the city or town is prohibited
10 from collecting delinquent utility charges connected to the property
11 or premises from the new customer. A new residential tenant utility
12 customer does not include a person who lived on the property or
13 premises with the residential tenant utility customer whose name is
14 listed on the delinquent utility account.

15 (4) If an occupied multiple residential rental unit receives
16 utility service through a single utility account, if the utility
17 account's billing address is not the same as the service address of a
18 residential rental property, or if the city or town has been notified
19 that a tenant resides at the service address, the city or town shall
20 make a good faith and reasonable effort to provide written notice to
21 the service address of pending disconnection of electric power and
22 light or water service for nonpayment at least seven calendar days
23 prior to disconnection. The purpose of this notice is to provide any
24 affected tenant an opportunity to resolve the delinquency with his or
25 her landlord or to arrange for continued service. If requested, a
26 city or town (~~shall~~) may provide electric power and light or water
27 services to an affected tenant on the same terms and conditions as
28 other residential utility customers, without requiring that he or she
29 pay delinquent amounts for services billed directly to the property
30 owner or a previous tenant except as otherwise allowed by law and
31 only where the city or town offers the opportunity for the affected
32 tenant to set up a reasonable payment plan for the delinquent amounts
33 legally due. If a landlord fails to pay for electric power and light
34 or water services, any tenant who requests that the services be
35 placed in his or her name may deduct from the rent due all reasonable
36 charges paid by the tenant to the city or town for such services. A
37 landlord may not take or threaten to take reprisals or retaliatory
38 action as defined in RCW 59.18.240 against a tenant who deducts from
39 his or her rent payments made to a city or town as provided in this
40 subsection.

1 (~~(b) Nothing in this subsection (5) affects the validity of any~~
2 ~~lien authorized by RCW 35.21.290 or 35.67.200. Furthermore, a city or~~
3 ~~town that provides electric power and light or water services to a~~
4 ~~residential tenant in these circumstances shall retain the right to~~
5 ~~collect from the property owner, previous tenant, or both, any~~
6 ~~delinquent amounts due for service previously provided to the service~~
7 ~~address if the city or town has complied with the notification~~
8 ~~requirements of subsection (2) of this section when applicable.))~~)

9 (5) (a) In no case, except as provided in subsection (3)(c) of
10 this section, may cities or towns owning their own utility:

11 (i) Require a property owner or the owner's designee to pay a
12 delinquent utility bill in a tenant's name; or

13 (ii) Have a lien against the premises of the property owner for a
14 residential tenant's delinquent and unpaid utility charges when the
15 utility account is in the tenant's name.

16 (b) A city or town may not refuse to open an account in the name
17 of a residential tenant seeking utility services but may charge a
18 reasonable deposit.

19 (6) This section does not apply to utility services provided to
20 property zoned for commercial or industrial use. Commercial use does
21 not include any form of residential property.

22 (7) Nothing in this section affects the validity of any lien
23 authorized by RCW 35.21.290 or 35.67.200. Furthermore, a city or town
24 that provides electric power and light or water services to a
25 commercial or industrial use tenant or property owner in these
26 circumstances shall retain the right to collect from the property
27 owner any delinquent amounts due for service previously provided to
28 the service address.

29 **Sec. 2.** RCW 60.80.010 and 2004 c 215 s 8 are each amended to
30 read as follows:

31 (1) Unless otherwise stated and acknowledged in writing by the
32 purchaser, the seller of a fee interest in real property is
33 responsible for satisfying, upon closing, any lien provided for by
34 RCW 35.21.290, 35.67.200, 36.36.045, (~~36.89.090~~) 36.89.065, or
35 36.94.150.

36 (2) No closing agent may refuse a written request by the seller
37 or purchaser of a fee interest in real property to administer the
38 disbursement of closing funds necessary to satisfy unpaid charges as
39 charges are defined in RCW 60.80.005. Except as otherwise provided in

1 this subsection (2), a closing agent who refuses such a written
2 request is liable to the purchaser for unpaid charges for utility
3 services covered by the request. A closing agent is not liable if the
4 closing agent's refusal is based on the seller's inaccurate or
5 incomplete identification of utilities providing service to the
6 property, or if a utility fails to provide an estimated or actual
7 final billing, or written extension of the per diem rate, as required
8 by RCW 60.80.020, or if disbursement of closing funds necessary to
9 satisfy the unpaid charges would violate RCW 18.44.400.

10 (3) A closing agent may charge a fee for performing the services
11 required of the closing agent by this chapter, which fee may be in
12 addition to other fees or settlement charges collected in the course
13 of ordinary settlement practices.

14 **Sec. 3.** RCW 60.80.020 and 2004 c 215 s 9 are each amended to
15 read as follows:

16 (1) Unless the seller and purchaser waive, in writing, the
17 services of a closing agent in administering the disbursement of
18 closing funds necessary to satisfy unpaid charges as charges are
19 defined in RCW 60.80.005, the seller shall, as a provision in a
20 written agreement for the purchase and sale of real estate, inform
21 the closing agent for the sale of the names and addresses of all
22 utilities, including special districts, providing service to the
23 property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08
24 RCW. The provision of the information in a written agreement for the
25 purchase and sale of real estate constitutes a written request to the
26 closing agent to administer disbursement of closing funds necessary
27 to satisfy unpaid charges.

28 Unless the seller and purchaser have waived the services of a
29 closing agent as provided in this subsection, the closing agent shall
30 submit a written request for a final billing to each utility
31 identified by the seller as providing service to the property under
32 chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW. Either the
33 seller or purchaser may submit a written request for a final billing
34 to each utility identified by the seller as providing service to the
35 property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08
36 RCW.

37 The written request must identify the property by both legal
38 description and address. The closing agent, seller, or purchaser may
39 submit a written request to a utility by facsimile. In requesting

1 final billings for utility services, the closing agent may rely upon
2 information provided by the seller, and a closing agent or a real
3 estate agent who is not the seller is not liable for inaccurate or
4 incomplete information.

5 (2) After receiving a written request for a final billing for
6 utility services to real property to be sold, a utility operated
7 under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW shall
8 provide the requesting party with a written estimated or actual final
9 billing as provided in this section. If the utility is unable to
10 provide a written estimated or actual final billing or written
11 extension of the per diem rate, due to insufficient information to
12 identify the account, the utility shall notify the requesting party
13 in writing that the information is insufficient to identify the
14 account.

15 The utility shall provide the written estimated or actual final
16 billing, or statement that the information in the request is
17 insufficient to identify the account, to the requesting party within
18 seven business days of receipt of the written request if the request
19 was mailed to the utility, or within three business days if the
20 request was sent to the utility by facsimile or delivered to the
21 utility by messenger. A utility may provide a written estimated or
22 actual final billing to the requesting party by facsimile.

23 (a) The final billing must include all outstanding charges and,
24 in addition to the estimated or actual final amount owing as of the
25 stated closing date, must state the average per diem rate for the
26 utility or utilities involved, including taxes and other charges,
27 which shall apply for up to thirty days beyond the stated closing
28 date if the closing date is delayed.

29 (b) If closing is delayed beyond thirty days, a new estimated or
30 actual final billing must be requested in writing. In lieu of
31 furnishing a written revised final billing, the utility may extend,
32 in writing, the number of days for which the per diem charge applies.
33 The utility shall respond within seven business days of receipt of
34 the written request for a new estimated or actual final billing if
35 the request was mailed to the utility, or within three business days
36 if the request was sent to the utility by facsimile or delivered to
37 the utility by messenger.

38 (c) If a utility fails to provide a written estimated or actual
39 final billing, written extension of the per diem rate, or statement
40 that the information in the request is insufficient to identify the

1 account, within seven business days of receipt of a written request
2 if the request was mailed to the utility, or within three business
3 days if the request was sent to the utility by facsimile or delivered
4 to the utility by messenger, an unrecorded lien provided for by RCW
5 35.21.290, 35.67.200, 36.36.045, (~~36.89.090~~) 36.89.065, or
6 36.94.150 for charges incurred prior to the closing date is
7 extinguished, and the utility may not recover the charges from the
8 purchaser of the property.

9 (d) A closing agent shall inform the seller and purchaser of all
10 applicable estimated and actual final billings furnished by
11 utilities.

12 In performing his or her duties under this chapter, a closing
13 agent may rely upon information provided by utilities and is not
14 liable if information provided by utilities is inaccurate or
15 incomplete.

16 (3) If closing occurs no later than the last date for which per
17 diem charges may be applied, full payment of the estimated or actual
18 final billing plus per diem charges extinguishes a lien of the
19 utility provided for by RCW 35.21.290, 35.67.200, 36.36.045,
20 (~~36.89.090~~) 36.89.065, or 36.94.150 for charges incurred prior to
21 the closing date.

22 (4)(a) Except as otherwise provided in this subsection (4)(a),
23 this section does not limit the right of a utility to recover from
24 the purchaser of the property unpaid utility charges incurred prior
25 to closing, if the utility did not receive a written request for a
26 final billing or if the utility complied with subsection (2) of this
27 section.

28 A utility may not recover from a purchaser unpaid utility charges
29 incurred prior to closing in excess of an estimated final billing.

30 (b) This section does not limit the right of a utility to recover
31 unpaid utility charges incurred prior to closing, including unpaid
32 utility charges in excess of an estimated final billing, from the
33 seller of the property, or from the person or persons who incurred
34 the charges.

35 (c) If an estimated final billing is in excess of the actual
36 final billing, unless otherwise directed in writing by the seller and
37 purchaser, a utility shall refund any overcharge to the seller of the
38 property by sending the refund in the seller's name to the last
39 address provided by the seller. A utility shall refund the overcharge
40 within fourteen business days of the date the utility receives

1 payment for the final billing, unless a county treasurer acts in an
2 ex officio capacity as the treasurer of a utility, in which case the
3 utility shall refund the overcharge within thirty business days of
4 the date the utility receives payment for the final billing.

5 **Sec. 4.** RCW 35.21.290 and 2010 c 135 s 2 are each amended to
6 read as follows:

7 Except as provided in RCW 35.21.217(~~(+4)~~), cities and towns
8 owning their own waterworks, or electric light or power plants shall
9 have a lien against the premises to which water, electric light, or
10 power services were furnished for four months charges therefor due or
11 to become due, but not for any charges more than four months past
12 due.

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