
SUBSTITUTE SENATE BILL 5472

State of Washington

54th Legislature

1995 Regular Session

By Senate Committee on Energy, Telecommunications & Utilities
(originally sponsored by Senators Wojahn, Winsley, Haugen, Wood,
Gaspard, Sheldon and Sutherland)

Read first time 02/24/95.

1 AN ACT Relating to satisfaction of utility liens at the time of
2 sale; adding a new chapter to Title 60 RCW; creating a new section; and
3 providing an effective date.

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

5 NEW SECTION. **Sec. 1.** (1) Upon receipt of a written request for a
6 final billing with respect to real property that is to be sold, a
7 utility operated by a political subdivision of the state that provides
8 water, storm water, sewer, garbage, electricity, or natural gas service
9 to the property shall provide the owner of the property or the closing
10 agent for the sale with an estimated final billing or actual closing
11 bill under the conditions set forth in this section.

12 (2) If the request for an estimated final billing or actual closing
13 bill is received by the billing office of the utility no less than
14 seven working days before the closing date stated in the request, the
15 utility shall provide at its billing office the estimated final billing
16 or actual closing bill no less than one day before the stated closing
17 date. The utility is encouraged to provide the estimated final billing
18 or actual closing bill by telefax upon request. However, if the
19 request is received less than seven working days before the stated

1 closing date, the utility shall make reasonable efforts to provide the
2 estimated final billing or actual closing bill prior to the stated
3 closing date.

4 (3) For charges by a utility having a lien established by RCW
5 35.21.290, the estimated final billing or actual closing bill shall
6 include only the amounts owing that are subject to the lien established
7 by RCW 35.21.290. In addition to stating the estimated final amount
8 owing as of the date of the stated closing, the estimated final billing
9 or actual closing bill shall state the average per diem rate for the
10 utility or utilities involved, including taxes and other charges, which
11 shall be applied for up to seven days beyond the stated date of closing
12 in the event that the closing date is delayed. If closing is delayed
13 beyond seven days, a new estimated final billing or actual closing bill
14 must be requested. In lieu of furnishing a revised billing, the
15 utility may extend the number of days for which the per diem charge may
16 be used.

17 (4) If the utility fails to timely provide the estimated final
18 billing or actual closing bill in response to a request made no less
19 than seven working days before the stated closing date, the utility
20 shall forfeit the right it may have to collect from the purchaser
21 outstanding utility charges of the former owner that were incurred
22 before the stated closing date.

23 (5) If closing occurs no later than the last date for which per
24 diem charges may be applied, full payment of the amount plus per diem
25 charges shall extinguish the lien of the utility provided under section
26 2 of this act or the lien provided by RCW 35.21.290 for charges
27 incurred prior to the date of closing.

28 (6) This section does not in any manner limit the right of a
29 utility to obtain recovery from the former owner of the property for
30 outstanding charges that are in excess of the estimated final billing
31 or actual closing bill, except that for charges by a utility having a
32 lien established by RCW 35.21.290, RCW 35.21.290 and 35.21.300 are the
33 exclusive method of recovery. However, if the estimated final billing
34 or actual closing bill is in excess of the amount owed as determined by
35 an actual meter reading, the utility shall refund the amount to the
36 former owner within twenty-one working days of the actual reading by
37 sending the refund in the owner's name to the last address given by the
38 former owner.

1 (7) For the purposes of this section, a "working day" is considered
2 to be a day that the utility in question is open for business.

3 NEW SECTION. **Sec. 2.** (1) All charges for water, storm water,
4 sewer, garbage, electricity, and natural gas that after the effective
5 date of this act may be assessed by a political subdivision of the
6 state, together with interest on the charge, are declared to be a lien
7 for which no filing is required on the real property to which the
8 services were furnished. The lien shall be satisfied after and be
9 junior to all recorded liens or liens imposed by statute to which the
10 real property is subject; however, the lien shall not affect the
11 priority or validity of other liens against the real property for the
12 utility services authorized under this section. A lien established
13 under this section may be foreclosed only after a fee interest is
14 conveyed in the subject property.

15 (2) Unless otherwise expressly stated in writing and specifically
16 acknowledged by the purchaser of a fee interest in the subject
17 property, it is the responsibility of the seller of the fee interest to
18 satisfy upon closing the lien created by this section. No person
19 serving as an escrow agent under chapter 18.44 RCW may refuse a request
20 by the seller of a fee interest or purchaser of a fee interest to
21 administer the disbursement of closing funds necessary to satisfy a
22 lien under this section. If an escrow agent as defined in chapter
23 18.44 RCW handles the sale, the escrow agent shall timely request a
24 final billing pursuant to section 1 of this act from all affected
25 utilities, and inform the seller and the purchaser of all amounts for
26 final estimated billings or actual closing bills furnished by those
27 utilities prior to closing.

28 (3) Final billings shall include all outstanding charges.

29 (4) "Charges" as used in this section includes all lawful charges
30 assessed by the utility, including but not limited to consumption
31 charges, connection charges, contributions provided for by state law,
32 charges for meters and other equipment provided to the customer, and
33 charges in connection with repair, replacement, or location of customer
34 facilities, but does not include charges by a utility having a lien
35 established by RCW 35.21.290.

36 (5) RCW 35.21.290 and 35.21.300 are the exclusive method of
37 recovery for charges by a utility having a lien established by RCW
38 35.21.290.

1 NEW SECTION. **Sec. 3.** This act shall take effect June 1, 1996.

2 NEW SECTION. **Sec. 4.** Utilities are encouraged to implement this
3 act before June 1, 1996.

4 NEW SECTION. **Sec. 5.** Sections 1 and 2 of this act shall
5 constitute a new chapter in Title 60 RCW.

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