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SENATE BILL 5472

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State of Washington

54th Legislature

1995 Regular Session

By Senators Wojahn, Winsley, Haugen, Wood, Gaspard, Sheldon and Sutherland

Read first time 01/24/95. Referred to Committee on Energy, Telecommunications & Utilities.

1 AN ACT Relating to satisfaction of utility liens at the time of  
2 sale; adding new sections to Title 35 RCW; adding new sections to Title  
3 36 RCW; creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** A new section is added to Title 35 RCW to  
6 read as follows:

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

14 (2) If the request for an estimated final billing is received by  
15 the billing office of the utility no less than seven working days  
16 before the closing date stated in the request, the utility shall  
17 provide the estimated final billing no less than one day before the  
18 stated closing date. However, if the request is received less than  
19 seven working days before the stated closing date, the utility shall

1 make reasonable efforts to provide the estimated final billing prior to  
2 the stated closing date.

3 (3) The estimated final billing shall, in addition to stating the  
4 estimated final amount owing as of the date of the stated closing,  
5 state the average per diem rate for the utility or utilities involved,  
6 including taxes and other charges, which shall be applied for up to  
7 seven days beyond the stated date of closing in the event that the  
8 closing date is delayed. If closing is delayed beyond seven days, a  
9 new estimated final billing must be requested. In lieu of furnishing  
10 a revised billing, the utility may extend the number of days for which  
11 the per diem charge may be used.

12 (4) If the utility fails to timely provide the estimated final  
13 billing in response to a request made no less than seven working days  
14 before the stated closing date, the utility shall forfeit the right it  
15 may have to collect from the purchaser outstanding utility charges of  
16 the former owner that were incurred before the stated closing date.

17 (5) If closing occurs no later than the last date for which per  
18 diem charges may be applied, full payment of the amount plus per diem  
19 charges shall extinguish the lien of the utility provided under section  
20 2 of this act for charges incurred prior to the date of closing.

21 (6) This section does not in any manner limit the right of a  
22 utility to obtain recovery from the former owner of the property for  
23 outstanding charges that are in excess of the estimated final billing.  
24 However, if the estimated final billing is in excess of the amount owed  
25 as determined by an actual meter reading, the utility shall refund the  
26 amount to the former owner within seven working days of the actual  
27 reading by sending the refund in the owner's name to the last address  
28 given by the former owner.

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

31 NEW SECTION. **Sec. 2.** A new section is added to Title 35 RCW to  
32 read as follows:

33 All charges for water, storm water, sewer, garbage, electricity,  
34 and natural gas that after the effective date of this act may be  
35 assessed by a political subdivision of the state, together with  
36 interest on the charge, are declared to be a lien for which no filing  
37 is required on the real property to which the services were furnished.  
38 The lien shall be satisfied after all other liens to which the real

1 property is subject; however, the lien shall not affect the priority or  
2 validity of other liens against the real property for the utility  
3 services authorized under this section. A lien established under this  
4 section may be foreclosed only after a fee interest is conveyed in the  
5 subject property. Unless otherwise expressly stated in writing and  
6 specifically acknowledged by the purchaser of a fee interest in the  
7 subject property, it is the responsibility of the seller of the fee  
8 interest to satisfy upon closing the lien created by this section. No  
9 person serving as an escrow agent under chapter 18.44 RCW may refuse a  
10 request by the seller of a fee interest or purchaser of a fee interest  
11 to administer the disbursement of closing funds necessary to satisfy a  
12 lien under this section. If an escrow agent as defined in chapter  
13 18.44 RCW handles the sale, the escrow agent shall timely request a  
14 final billing pursuant to section 1 of this act from all affected  
15 utilities, and inform the seller and the purchaser of all amounts for  
16 final estimated billings furnished by those utilities prior to closing.  
17 Final billing shall include all outstanding charges. "Charges" as used  
18 in this section includes all lawful charges assessed by the utility,  
19 including but not limited to consumption charges, connection charges,  
20 contributions provided for by state law, charges for meters and other  
21 equipment provided to the customer, and charges in connection with  
22 repair, replacement, or location of customer facilities.

23 NEW SECTION. **Sec. 3.** A new section is added to Title 36 RCW to  
24 read as follows:

25 (1) Upon receipt of a written request for a final billing with  
26 respect to real property that is to be sold, a utility operated by a  
27 political subdivision of the state that provides water, storm water,  
28 sewer, garbage, electricity, or natural gas service to the property  
29 shall provide the owner of the property or the closing agent for the  
30 sale with an estimated final billing under the conditions set forth in  
31 this section.

32 (2) If the request for an estimated final billing is received by  
33 the billing office of the utility no less than seven working days  
34 before the closing date stated in the request, the utility shall  
35 provide the estimated final billing no less than one day before the  
36 stated closing date. However, if the request is received less than  
37 seven working days before the stated closing date, the utility shall

1 make reasonable efforts to provide the estimated final billing prior to  
2 the stated closing date.

3 (3) The estimated final billing shall, in addition to stating the  
4 estimated final amount owing as of the date of the stated closing,  
5 state the average per diem rate for the utility or utilities involved,  
6 including taxes and other charges, which shall be applied for up to  
7 seven days beyond the stated date of closing in the event that the  
8 closing date is delayed. If closing is delayed beyond seven days, a  
9 new estimated final billing must be requested. In lieu of furnishing  
10 a revised billing, the utility may extend the number of days for which  
11 the per diem charge may be used.

12 (4) If the utility fails to timely provide the estimated final  
13 billing in response to a request made no less than seven working days  
14 before the stated closing date, the utility shall forfeit the right it  
15 may have to collect from the purchaser outstanding utility charges of  
16 the former owner that were incurred before the stated closing date.

17 (5) If closing occurs no later than the last date for which per  
18 diem charges may be applied, full payment of the amount plus per diem  
19 charges shall extinguish the lien of the utility provided under section  
20 2 of this act for charges incurred prior to the date of closing.

21 (6) This section does not in any manner limit the right of a  
22 utility to obtain recovery from the former owner of the property for  
23 outstanding charges that are in excess of the estimated final billing.  
24 However, if the estimated final billing is in excess of the amount owed  
25 as determined by an actual meter reading, the utility shall refund the  
26 amount to the former owner within seven working days of the actual  
27 reading by sending the refund in the owner's name to the last address  
28 given by the former owner.

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

31 NEW SECTION. **Sec. 4.** A new section is added to Title 36 RCW to  
32 read as follows:

33 All charges for water, storm water, sewer, garbage, electricity,  
34 and natural gas that after the effective date of this act may be  
35 assessed by a political subdivision of the state, together with  
36 interest on the charge, are declared to be a lien for which no filing  
37 is required on the real property to which the services were furnished.  
38 The lien shall be satisfied after all other liens to which the real

1 property is subject; however, the lien shall not affect the priority or  
2 validity of other liens against the real property for the utility  
3 services authorized under this section. A lien established under this  
4 section may be foreclosed only after a fee interest is conveyed in the  
5 subject property. Unless otherwise expressly stated in writing and  
6 specifically acknowledged by the purchaser of a fee interest in the  
7 subject property, it is the responsibility of the seller of the fee  
8 interest to satisfy upon closing the lien created by this section. No  
9 person serving as an escrow agent under chapter 18.44 RCW may refuse a  
10 request by the seller of a fee interest or purchaser of a fee interest  
11 to administer the disbursement of closing funds necessary to satisfy a  
12 lien under this section. If an escrow agent as defined in chapter  
13 18.44 RCW handles the sale, the escrow agent shall timely request a  
14 final billing pursuant to section 3 of this act from all affected  
15 utilities, and inform the seller and the purchaser of all amounts for  
16 final estimated billings furnished by those utilities prior to closing.  
17 Final billing shall include all outstanding charges. "Charges" as used  
18 in this section includes all lawful charges assessed by the utility,  
19 including but not limited to consumption charges, connection charges,  
20 contributions provided for by state law, charges for meters and other  
21 equipment provided to the customer, and charges in connection with  
22 repair, replacement, or location of customer facilities.

23 NEW SECTION. **Sec. 5.** This act shall take effect June 1, 1996.

24 NEW SECTION. **Sec. 6.** Utilities are encouraged to implement this  
25 act before June 1, 1996.

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