

---

HOUSE BILL 3091

---

State of Washington

55th Legislature

1998 Regular Session

By Representative Van Luven

Read first time . Referred to Committee on .

1 AN ACT Relating to liens for unrecorded utility charges; amending  
2 RCW 60.80.010 and 60.80.020; and adding a new section to chapter 60.80  
3 RCW.

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

5 **Sec. 1.** RCW 60.80.010 and 1996 c 43 s 2 are each amended to read  
6 as follows:

7 (1) Except as otherwise provided in section 3 of this act, unless  
8 otherwise stated and acknowledged in writing by the purchaser, the  
9 seller of a fee interest in real property is responsible for  
10 satisfying, upon closing, any lien provided for by RCW 35.21.290,  
11 35.67.200, 36.36.045, 36.89.090, 36.94.150, (~~56.16.100, 57.08.080,~~)  
12 57.08.081, or 87.03.445.

13 (2) No closing agent may refuse a written request by the seller or  
14 purchaser of a fee interest in real property to administer the  
15 disbursement of closing funds necessary to satisfy unpaid charges as  
16 charges are defined in RCW 60.80.005. Except as otherwise provided in  
17 this subsection (2), a closing agent who refuses such a written request  
18 is liable to the purchaser for unpaid charges for utility services  
19 covered by the request. A closing agent is not liable if the closing

1 agent's refusal is based on the seller's inaccurate or incomplete  
2 identification of utilities providing service to the property, or if a  
3 utility fails to provide an estimated or actual final billing, or  
4 written extension of the per diem rate, as required by RCW 60.80.020,  
5 or if disbursement of closing funds necessary to satisfy the unpaid  
6 charges would violate RCW 18.44.070.

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

11 **Sec. 2.** RCW 60.80.020 and 1996 c 43 s 3 are each amended to read  
12 as follows:

13 (1) Except as otherwise provided in section 3 of this act, unless  
14 the seller and purchaser waive, in writing, the services of a closing  
15 agent in administering the disbursement of closing funds necessary to  
16 satisfy unpaid charges as charges are defined in RCW 60.80.005, the  
17 seller shall, as a provision in a written agreement for the purchase  
18 and sale of real estate, inform the closing agent for the sale of the  
19 names and addresses of all utilities, including special districts,  
20 providing service to the property under chapter 35.21, 35.67, 36.36,  
21 36.89, 36.94, ((56.167)) 57.08, or 87.03 RCW. The provision of the  
22 information in a written agreement for the purchase and sale of real  
23 estate constitutes a written request to the closing agent to administer  
24 disbursement of closing funds necessary to satisfy unpaid charges.

25 Unless the seller and purchaser have waived the services of a  
26 closing agent as provided in this subsection, the closing agent shall  
27 submit a written request for a final billing to each utility identified  
28 by the seller as providing service to the property under chapter 35.21,  
29 35.67, 36.36, 36.89, 36.94, ((56.167)) 57.08, or 87.03 RCW. Either the  
30 seller or purchaser may submit a written request for a final billing to  
31 each utility identified by the seller as providing service to the  
32 property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, ((56.167))  
33 57.08, or 87.03 RCW.

34 The written request must identify the property by both legal  
35 description and address. The closing agent, seller, or purchaser may  
36 submit a written request to a utility by facsimile. In requesting  
37 final billings for utility services, the closing agent may rely upon  
38 information provided by the seller, and a closing agent or a real

1 estate agent who is not the seller is not liable for inaccurate or  
2 incomplete information.

3 (2) After receiving a written request for a final billing for  
4 utility services to real property to be sold, a utility operated under  
5 chapter 35.21, 35.67, 36.36, 36.89, 36.94, (~~56.16~~) 57.08, or 87.03  
6 RCW shall provide the requesting party with a written estimated or  
7 actual final billing as provided in this section. If the utility is  
8 unable to provide a written estimated or actual final billing or  
9 written extension of the per diem rate, due to insufficient information  
10 to identify the account, the utility shall notify the requesting party  
11 in writing that the information is insufficient to identify the  
12 account.

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

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

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

36 (c) If a utility fails to provide a written estimated or actual  
37 final billing, written extension of the per diem rate, or statement  
38 that the information in the request is insufficient to identify the  
39 account, within seven business days of receipt of a written request if

1 the request was mailed to the utility, or within three business days if  
2 the request was sent to the utility by facsimile or delivered to the  
3 utility by messenger, an unrecorded lien provided for by RCW 35.21.290,  
4 35.67.200, 36.36.045, 36.89.090, 36.94.150, (~~56.16.100, 57.08.080,~~)  
5 or 87.03.445 for charges incurred prior to the closing date is  
6 extinguished, and the utility may not recover the charges from the  
7 purchaser of the property.

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

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

13 (3) If closing occurs no later than the last date for which per  
14 diem charges may be applied, full payment of the estimated or actual  
15 final billing plus per diem charges extinguishes a lien of the utility  
16 provided for by RCW 35.21.290, 35.67.200, 36.36.045, 36.89.090,  
17 36.94.150, (~~56.16.100, 57.08.080,~~) or 87.03.445 for charges incurred  
18 prior to the closing date.

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

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

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

31 (c) If an estimated final billing is in excess of the actual final  
32 billing, unless otherwise directed in writing by the seller and  
33 purchaser, a utility shall refund any overcharge to the seller of the  
34 property by sending the refund in the seller's name to the last address  
35 provided by the seller. A utility shall refund the overcharge within  
36 fourteen business days of the date the utility receives payment for the  
37 final billing, unless a county treasurer acts in an ex officio capacity  
38 as the treasurer of a utility, in which case the utility shall refund

1 the overcharge within thirty business days of the date the utility  
2 receives payment for the final billing.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 60.80 RCW  
4 to read as follows:

5 RCW 60.80.010 and 60.80.020 do not apply:

6 (1) If a condominium or homeowner's association collects and pays  
7 charges for utility services provided to the property by a utility  
8 operated under chapter 35.21, 35.67, 36.36, 36.89, 36.94, 57.08, or  
9 87.03 RCW; or

10 (2) To the refinancing of real property or to the refinancing of  
11 interests in real property.

--- END ---