H-1787.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 2069**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2019 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Dufault, Springer, Santos, Dent, Reeves, DeBolt, Kirby, Harris, Walen, Caldier, Jinkins, Steele, Pollet, Paul, Barkis, Irwin, Lovick, Eslick, Van Werven, Walsh, Fey, Frame, Callan, Shewmake, Valdez, Peterson, Senn, and Leavitt)

AN ACT Relating to a property owner's or tenant's liability for delinquent and unpaid utility service charges; amending RCW 60.80.010, 60.80.020, and 35.21.290; adding a new section to chapter 35.21 RCW; and repealing RCW 35.21.217.

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

NEW SECTION. **Sec.**  A new section is added to chapter 35.21 RCW to read as follows:

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

(2)(a) A city or town may provide a real property owner or the owner's designee with duplicates of tenant utility service bills, or may notify an owner or the owner's designee that a tenant's utility account is delinquent. However, if an owner or the owner's designee notifies the city or town in writing that a property served by the city or town is a residential rental property, asks to be notified of a tenant's delinquency, and has provided, in writing, a complete and accurate mailing address, the city or town shall notify the owner or the owner's designee of a residential tenant's delinquency at the same time and in the same manner the city or town notifies the tenant of the tenant's delinquency or by mail. When a city or town provides a real property owner or the owner's designee with duplicates of residential tenant utility service bills or notice that a tenant's utility account is delinquent, the city or town shall notify the tenant that it is providing the duplicate bills or delinquency notice to the owner or the owner's designee.

(b) When a city or town provides utility services to someone other than the owner of the property, the city or town is prohibited from collecting delinquent utility charges from the owner or the owner's designee. A city or town may only collect payments for past due utility charges from the residential utility customer whose name is listed on the utility account.

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

(3) If an occupied multiple residential rental unit receives utility service through a single utility account, if the utility account's billing address is not the same as the service address of a residential rental property, or if the city or town has been notified that a tenant resides at the service address, the city or town shall make a good faith and reasonable effort to provide written notice to the service address of pending disconnection of electric power and light or water service for nonpayment at least seven calendar days prior to disconnection. The purpose of this notice is to provide any affected tenant an opportunity to resolve the delinquency with his or her landlord or to arrange for continued service.

(4) In no case may cities or towns owning their own utility: (a) Require a property owner or the owner's designee to pay a delinquent utility bill in a tenant's name; or (b) have a lien against the premises of the property owner for a residential tenant's delinquent and unpaid utility charges when the utility account is in the tenant's name.

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

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

(2) No closing agent may refuse a written request by the seller or purchaser of a fee interest in real property to administer the disbursement of closing funds necessary to satisfy unpaid charges as charges are defined in RCW 60.80.005. Except as otherwise provided in this subsection (2), a closing agent who refuses such a written request is liable to the purchaser for unpaid charges for utility services covered by the request. A closing agent is not liable if the closing agent's refusal is based on the seller's inaccurate or incomplete identification of utilities providing service to the property, or if a utility fails to provide an estimated or actual final billing, or written extension of the per diem rate, as required by RCW 60.80.020, or if disbursement of closing funds necessary to satisfy the unpaid charges would violate RCW 18.44.400.

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

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

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

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

The written request must identify the property by both legal description and address. The closing agent, seller, or purchaser may submit a written request to a utility by facsimile. In requesting final billings for utility services, the closing agent may rely upon information provided by the seller, and a closing agent or a real estate agent who is not the seller is not liable for inaccurate or incomplete information.

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

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

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

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

(c) If a utility fails to provide a written estimated or actual final billing, written extension of the per diem rate, or statement that the information in the request is insufficient to identify the account, within seven business days of receipt of a written request if the request was mailed to the utility, or within three business days if the request was sent to the utility by facsimile or delivered to the utility by messenger, an unrecorded lien provided for by RCW ((~~35.21.290,~~)) 35.67.200, 36.36.045, ((~~36.89.090~~)) 36.89.065, or 36.94.150 for charges incurred prior to the closing date is extinguished, and the utility may not recover the charges from the purchaser of the property.

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

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

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

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

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

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

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

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

Except as provided in RCW 35.21.217(4) and section 1(4) of this act, cities and towns owning their own waterworks, or electric light or power plants shall have a lien against the premises to which water, electric light, or power services were furnished for four months charges therefor due or to become due, but not for any charges more than four months past due.

NEW SECTION. **Sec.**  RCW 35.21.217 (Utility services—Deposit—Tenants' delinquencies—Notice—Lien) and 2011 c 151 s 5, 2010 c 135 s 1, & 1998 c 285 s 1 are each repealed.

**--- END ---**