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HOUSE BILL 1705

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State of Washington

66th Legislature

2019 Regular Session

**By** Representatives Dufault, Springer, Dent, Eslick, Santos, Reeves, Barkis, Goodman, Valdez, Irwin, Harris, Steele, Griffey, Kraft, Peterson, Pollet, Senn, Orwall, Entenman, Chandler, Gildon, Lovick, Sells, Paul, Van Werven, Corry, Jinkins, Leavitt, and Frame

Read first time 01/28/19. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to charging an owner or placing a lien against  
2 the owner's property for utility services provided and billed to a  
3 tenant; amending RCW 35.21.217, 60.80.010, and 60.80.020; adding a  
4 new section to chapter 35.21 RCW; and repealing RCW 35.21.290 and  
5 35A.21.100.

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

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

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

14 (2) A city or town may provide a real property owner or the  
15 owner's designee with duplicates of tenant utility service bills, or  
16 may notify an owner or the owner's designee that a tenant's utility  
17 account is delinquent. However, if an owner or the owner's designee  
18 notifies the city or town in writing that a property served by the  
19 city or town is a residential rental property, asks to be notified of  
20 a tenant's delinquency, and has provided, in writing, a complete and  
21 accurate mailing address, the city or town shall notify the owner or

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

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

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

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

1 to an affected tenant on the same terms and conditions as other  
2 residential utility customers, without requiring that he or she pay  
3 delinquent amounts for services billed directly to the property owner  
4 or a previous tenant except as otherwise allowed by law and only  
5 where the city or town offers the opportunity for the affected tenant  
6 to set up a reasonable payment plan for the delinquent amounts  
7 legally due. If a landlord fails to pay for electric power and light  
8 or water services, any tenant who requests that the services be  
9 placed in his or her name may deduct from the rent due all reasonable  
10 charges paid by the tenant to the city or town for such services. A  
11 landlord may not take or threaten to take reprisals or retaliatory  
12 action as defined in RCW 59.18.240 against a tenant who deducts from  
13 his or her rent payments made to a city or town as provided in this  
14 subsection.

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

23 NEW SECTION. **Sec. 2.** A new section is added to chapter 35.21  
24 RCW to read as follows:

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

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

37 **Sec. 3.** RCW 60.80.010 and 2004 c 215 s 8 are each amended to  
38 read as follows:

1 (1) Unless otherwise stated and acknowledged in writing by the  
2 purchaser, the seller of a fee interest in real property is  
3 responsible for satisfying, upon closing, any lien provided for by  
4 RCW (~~(35.21.290,)~~) 35.67.200, 36.36.045, (~~(36.89.090)~~) 36.89.065, or  
5 36.94.150.

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

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

23 **Sec. 4.** RCW 60.80.020 and 2004 c 215 s 9 are each amended to  
24 read as follows:

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

37 Unless the seller and purchaser have waived the services of a  
38 closing agent as provided in this subsection, the closing agent shall  
39 submit a written request for a final billing to each utility

1 identified by the seller as providing service to the property under  
2 chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW. Either the  
3 seller or purchaser may submit a written request for a final billing  
4 to each utility identified by the seller as providing service to the  
5 property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08  
6 RCW.

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

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

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

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

38 (b) If closing is delayed beyond thirty days, a new estimated or  
39 actual final billing must be requested in writing. In lieu of  
40 furnishing a written revised final billing, the utility may extend,

1 in writing, the number of days for which the per diem charge applies.  
2 The utility shall respond within seven business days of receipt of  
3 the written request for a new estimated or actual final billing if  
4 the request was mailed to the utility, or within three business days  
5 if the request was sent to the utility by facsimile or delivered to  
6 the utility by messenger.

7 (c) If a utility fails to provide a written estimated or actual  
8 final billing, written extension of the per diem rate, or statement  
9 that the information in the request is insufficient to identify the  
10 account, within seven business days of receipt of a written request  
11 if the request was mailed to the utility, or within three business  
12 days if the request was sent to the utility by facsimile or delivered  
13 to the utility by messenger, an unrecorded lien provided for by RCW  
14 (~~(35.21.290,)~~) 35.67.200, 36.36.045, (~~(36.89.090)~~) 36.89.065, or  
15 36.94.150 for charges incurred prior to the closing date is  
16 extinguished, and the utility may not recover the charges from the  
17 purchaser of the property.

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

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

25 (3) If closing occurs no later than the last date for which per  
26 diem charges may be applied, full payment of the estimated or actual  
27 final billing plus per diem charges extinguishes a lien of the  
28 utility provided for by RCW (~~(35.21.290,)~~) 35.67.200, 36.36.045,  
29 (~~(36.89.090)~~) 36.89.065, or 36.94.150 for charges incurred prior to  
30 the closing date.

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

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

39 (b) This section does not limit the right of a utility to recover  
40 unpaid utility charges incurred prior to closing, including unpaid

1 utility charges in excess of an estimated final billing, from the  
2 seller of the property, or from the person or persons who incurred  
3 the charges.

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

14 NEW SECTION. **Sec. 5.** The following acts or parts of acts are  
15 each repealed:

16 (1) RCW 35.21.290 (Utility services—Lien for) and 2010 c 135 s 2  
17 & 1965 c 7 s 35.21.290; and

18 (2) RCW 35A.21.100 (Lien for utility services) and 1967 ex.s. c  
19 119 s 35A.21.100.

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