
SECOND SUBSTITUTE HOUSE BILL 2069

State of Washington

66th Legislature

2020 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)

1 AN ACT Relating to a property owner's or tenant's liability for
2 delinquent and unpaid utility service charges; and amending RCW
3 35.21.217, 60.80.010, and 60.80.020.

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

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

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

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

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

10 (b) When a city or town provides utility services to someone
11 other than the owner of the property, the city or town is prohibited
12 from collecting delinquent utility charges from the owner or the
13 owner's designee, provided that the account was listed in the
14 residential tenant utility customer's name. A city or town may only
15 collect payments for past due utility charges from the residential
16 utility customer whose name is listed on the utility account.

17 (c) Upon request of the city or town utility providing services
18 to someone other than the owner of the property, the property owner
19 shall provide a city or town utility service notice of the
20 residential tenant's vacation of the premises within fourteen days of
21 actual knowledge of vacation. If the owner or owner's designee fails
22 to provide this notice, a city or town utility service may collect a
23 residential tenant's delinquent charges from the owner or owner's
24 designee, provided that the city or town had requested notification
25 as requested herein and only for charges incurred after the date of
26 the residential tenant's vacation of the property.

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

34 ~~(3) ((After August 1, 2010, if a city or town fails to notify the~~
35 ~~owner of a tenant's delinquency after receiving a written request to~~
36 ~~do so and after receiving the other information required by~~
37 ~~subsection (2) of this section, the city or town shall have no lien~~
38 ~~against the premises for the residential tenant's delinquent and~~
39 ~~unpaid charges and is prohibited from collecting the tenant's~~

1 ~~delinquent and unpaid charges for electric light or power services~~
2 ~~from the owner or the owner's designee.~~

3 ~~(4) When a utility account is in a tenant's name, the owner or~~
4 ~~the owner's designee shall notify the city or town in writing within~~
5 ~~fourteen days of the termination of the rental agreement and vacation~~
6 ~~of the premises. If the owner or the owner's designee fails to~~
7 ~~provide this notice, a city or town providing electric light or power~~
8 ~~services is not limited to collecting only up to four months of a~~
9 ~~tenant's delinquent charges from the owner or the owner's designee,~~
10 ~~provided that the city or town has complied with the notification~~
11 ~~requirements of subsection (2) of this section.~~

12 ~~(5)(a))~~ If an occupied multiple residential rental unit receives
13 utility service through a single utility account, if the utility
14 account's billing address is not the same as the service address of a
15 residential rental property, or if the city or town has been notified
16 that a tenant resides at the service address, the city or town shall
17 make a good faith and reasonable effort to provide written notice to
18 the service address of pending disconnection of electric power and
19 light or water service for nonpayment at least seven calendar days
20 prior to disconnection. The purpose of this notice is to provide any
21 affected tenant an opportunity to resolve the delinquency with his or
22 her landlord or to arrange for continued service. If requested, a
23 city or town (~~shall~~) may provide electric power and light or water
24 services to an affected tenant on the same terms and conditions as
25 other residential utility customers, without requiring that he or she
26 pay delinquent amounts for services billed directly to the property
27 owner or a previous tenant except as otherwise allowed by law and
28 only where the city or town offers the opportunity for the affected
29 tenant to set up a reasonable payment plan for the delinquent amounts
30 legally due. If a landlord fails to pay for electric power and light
31 or water services, any tenant who requests that the services be
32 placed in his or her name may deduct from the rent due all reasonable
33 charges paid by the tenant to the city or town for such services. A
34 landlord may not take or threaten to take reprisals or retaliatory
35 action as defined in RCW 59.18.240 against a tenant who deducts from
36 his or her rent payments made to a city or town as provided in this
37 subsection.

38 ~~((b) Nothing in this subsection (5) affects the validity of any~~
39 ~~lien authorized by RCW 35.21.290 or 35.67.200. Furthermore, a city or~~
40 ~~town that provides electric power and light or water services to a~~

1 residential tenant in these circumstances shall retain the right to
2 collect from the property owner, previous tenant, or both, any
3 delinquent amounts due for service previously provided to the service
4 address if the city or town has complied with the notification
5 requirements of subsection (2) of this section when applicable.)

6 (4) In no case, except as provided in subsection (2)(c) of this
7 section, may cities or towns owning their own utility:

8 (a) Require a property owner or the owner's designee to pay a
9 delinquent utility bill in a tenant's name; or

10 (b) Have a lien against the premises of the property owner for a
11 residential tenant's delinquent and unpaid utility charges when the
12 utility account is in the tenant's name.

13 (5) This section does not apply to utility services provided to
14 property zoned for commercial or industrial use. Commercial use does
15 not include any form of residential property.

16 (6) Nothing in this section affects the validity of any lien
17 authorized by RCW 35.21.290 or 35.67.200. Furthermore, a city or town
18 that provides electric power and light or water services to a
19 commercial or industrial use tenant or property owner in these
20 circumstances shall retain the right to collect from the property
21 owner any delinquent amounts due for service previously provided to
22 the service address.

23 **Sec. 2.** RCW 60.80.010 and 2004 c 215 s 8 are each amended to
24 read as follows:

25 (1) Unless otherwise stated and acknowledged in writing by the
26 purchaser, the seller of a fee interest in real property is
27 responsible for satisfying, upon closing, any lien provided for by
28 RCW 35.21.290, 35.67.200, 36.36.045, (~~36.89.090~~) 36.89.065, or
29 36.94.150.

30 (2) No closing agent may refuse a written request by the seller
31 or purchaser of a fee interest in real property to administer the
32 disbursement of closing funds necessary to satisfy unpaid charges as
33 charges are defined in RCW 60.80.005. Except as otherwise provided in
34 this subsection (2), a closing agent who refuses such a written
35 request is liable to the purchaser for unpaid charges for utility
36 services covered by the request. A closing agent is not liable if the
37 closing agent's refusal is based on the seller's inaccurate or
38 incomplete identification of utilities providing service to the
39 property, or if a utility fails to provide an estimated or actual

1 final billing, or written extension of the per diem rate, as required
2 by RCW 60.80.020, or if disbursement of closing funds necessary to
3 satisfy the unpaid charges would violate RCW 18.44.400.

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

8 **Sec. 3.** RCW 60.80.020 and 2004 c 215 s 9 are each amended to
9 read as follows:

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

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

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

38 (2) After receiving a written request for a final billing for
39 utility services to real property to be sold, a utility operated

1 under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW shall
2 provide the requesting party with a written estimated or actual final
3 billing as provided in this section. If the utility is unable to
4 provide a written estimated or actual final billing or written
5 extension of the per diem rate, due to insufficient information to
6 identify the account, the utility shall notify the requesting party
7 in writing that the information is insufficient to identify the
8 account.

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

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

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

32 (c) If a utility fails to provide a written estimated or actual
33 final billing, written extension of the per diem rate, or statement
34 that the information in the request is insufficient to identify the
35 account, within seven business days of receipt of a written request
36 if the request was mailed to the utility, or within three business
37 days if the request was sent to the utility by facsimile or delivered
38 to the utility by messenger, an unrecorded lien provided for by RCW
39 35.21.290, 35.67.200, 36.36.045, (~~36.89.090~~) 36.89.065, or
40 36.94.150 for charges incurred prior to the closing date is

1 extinguished, and the utility may not recover the charges from the
2 purchaser of the property.

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

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

10 (3) If closing occurs no later than the last date for which per
11 diem charges may be applied, full payment of the estimated or actual
12 final billing plus per diem charges extinguishes a lien of the
13 utility provided for by RCW 35.21.290, 35.67.200, 36.36.045,
14 (~~36.89.090~~) 36.89.065, or 36.94.150 for charges incurred prior to
15 the closing date.

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

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

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

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

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