
HOUSE BILL 2069

State of Washington

66th Legislature

2019 Regular Session

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

Read first time 02/15/19. Referred to Committee on Civil Rights & Judiciary.

1 AN ACT Relating to a property owner's or tenant's liability for
2 delinquent and unpaid utility service charges; amending RCW
3 35.21.217, 60.80.010, and 60.80.020; adding a new section to chapter
4 35.21 RCW; and repealing RCW 35.21.290 and 35A.21.100.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 **Sec. 3.** RCW 60.80.010 and 2004 c 215 s 8 are each amended to
37 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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