
SUBSTITUTE HOUSE BILL 1421

State of Washington

67th Legislature

2021 Regular Session

By House Housing, Human Services & Veterans (originally sponsored by Representatives Dufault and Barkis)

READ FIRST TIME 02/15/21.

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, 60.80.020, and 35.21.290.

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

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

27 ~~(5)(a))~~ (b) When a city or town provides utility services to
28 someone other than the owner of the property, the city or town is
29 prohibited from collecting delinquent utility charges from the owner
30 or the owner's designee, provided that the account was listed in the
31 residential tenant utility customer's name. A city or town may only
32 collect payments for past due utility charges from the residential
33 utility customer whose name is listed on the utility account.

34 (c) Upon request of the city or town utility providing services
35 to someone other than the owner of the property, the property owner
36 shall provide a city or town utility service notice of the
37 residential tenant's vacation of the premises within fourteen days of
38 actual knowledge of vacation. If the owner or owner's designee fails
39 to provide this notice, a city or town utility service may collect a
40 residential tenant's delinquent charges from the owner or owner's

1 designee, provided that the city or town had requested notification
2 as requested herein and only for charges incurred after the date of
3 the residential tenant's vacation of the property.

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

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

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

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

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

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

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

12 (c) Refuse to open an account in the name of a residential tenant
13 seeking utility services based on either of the following criteria:

14 (i) The fact that the individual is a residential tenant and not
15 the property owner; or

16 (ii) Unpaid utility charges that were accrued by the residential
17 tenant during the time the governor's emergency proclamation was in
18 effect.

19 (5) A city or town may charge a residential tenant seeking
20 utility services a reasonable deposit.

21 (6) This section does not apply to utility services provided to
22 property zoned for commercial or industrial use. Commercial use does
23 not include any form of residential property.

24 (7) Nothing in this section affects the validity of any lien
25 authorized by RCW 35.21.290 or 35.67.200. Furthermore, a city or town
26 that provides electric power and light or water services to a
27 commercial or industrial use tenant or property owner in these
28 circumstances shall retain the right to collect from the property
29 owner any delinquent amounts due for service previously provided to
30 the service address.

31 (8) Upon the expiration or termination of the governor's
32 emergency proclamation related to ratepayer assistance and
33 preservation of essential services, a city or town may implement a
34 repayment plan to collect from a residential tenant any unpaid
35 utility charges that were incurred by the tenant during the time the
36 governor's emergency proclamation was in effect. A city or town must
37 collect the unpaid utility charges within 12 months of the expiration
38 or termination of the governor's emergency proclamation. Any unpaid
39 utility charges remaining after the 12-month collection period is
40 over must be waived.

1 (9) For the purposes of this section:

2 (a) "Governor's emergency proclamation" means proclamation 20-23,
3 in effect beginning March 18, 2020, and includes all subsequent
4 orders extending and amending this proclamation.

5 (b) "Utility or service" means electricity, garbage collection
6 and disposal, internet, sewer, storm and surface water collection and
7 disposal, and water.

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

10 (1) Unless otherwise stated and acknowledged in writing by the
11 purchaser, the seller of a fee interest in real property is
12 responsible for satisfying, upon closing, any lien provided for by
13 RCW 35.21.290, 35.67.200, 36.36.045, (~~36.89.090~~) 36.89.065, or
14 36.94.150.

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

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

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

34 (1) Unless the seller and purchaser waive, in writing, the
35 services of a closing agent in administering the disbursement of
36 closing funds necessary to satisfy unpaid charges as charges are
37 defined in RCW 60.80.005, the seller shall, as a provision in a
38 written agreement for the purchase and sale of real estate, inform

1 the closing agent for the sale of the names and addresses of all
2 utilities, including special districts, providing service to the
3 property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08
4 RCW. The provision of the information in a written agreement for the
5 purchase and sale of real estate constitutes a written request to the
6 closing agent to administer disbursement of closing funds necessary
7 to satisfy unpaid charges.

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

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

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

34 The utility shall provide the written estimated or actual final
35 billing, or statement that the information in the request is
36 insufficient to identify the account, to the requesting party within
37 seven business days of receipt of the written request if the request
38 was mailed to the utility, or within three business days if the
39 request was sent to the utility by facsimile or delivered to the

1 utility by messenger. A utility may provide a written estimated or
2 actual final billing to the requesting party by facsimile.

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

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

18 (c) If a utility fails to provide a written estimated or actual
19 final billing, written extension of the per diem rate, or statement
20 that the information in the request is insufficient to identify the
21 account, within seven business days of receipt of a written request
22 if the request was mailed to the utility, or within three business
23 days if the request was sent to the utility by facsimile or delivered
24 to the utility by messenger, an unrecorded lien provided for by RCW
25 35.21.290, 35.67.200, 36.36.045, (~~36.89.090~~) 36.89.065, or
26 36.94.150 for charges incurred prior to the closing date is
27 extinguished, and the utility may not recover the charges from the
28 purchaser of the property.

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

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

36 (3) If closing occurs no later than the last date for which per
37 diem charges may be applied, full payment of the estimated or actual
38 final billing plus per diem charges extinguishes a lien of the
39 utility provided for by RCW 35.21.290, 35.67.200, 36.36.045,

1 ((~~36.89.090~~)) 36.89.065, or 36.94.150 for charges incurred prior to
2 the closing date.

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

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

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

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

26 **Sec. 4.** RCW 35.21.290 and 2010 c 135 s 2 are each amended to
27 read as follows:

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

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