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**SUBSTITUTE SENATE BILL 5016**

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**State of Washington**

**53rd Legislature**

**1994 Regular Session**

**By** Senate Committee on Energy & Utilities (originally sponsored by Senators Nelson and Amondson)

Read first time 01/27/94.

1 AN ACT Relating to municipal utility liens; amending RCW 35.21.290,  
2 35.67.200, 36.94.150, 56.16.100, and 57.08.080; adding new sections to  
3 Title 35 RCW; creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter Title 35  
6 RCW to read as follows:

7 (1) For residential premises only, the property of a landlord is  
8 not subject to a lien under RCW 35.21.290, 35.67.200, 36.94.150,  
9 56.16.100, or 57.08.080 if, prior to the commencement of a rental  
10 agreement between a landlord and a tenant in which the tenant is  
11 responsible under the agreement for the payment of utility charges, the  
12 landlord notifies the affected utility in writing of the tenants'  
13 responsibility for such charges and provides such information as  
14 reasonably required by the utility. For this section to be in effect  
15 the landlord must also notify the utility in writing of the termination  
16 of the rental agreement prior to such termination, or upon the tenant's  
17 vacating the property, whichever occurs first.

18 (2) The provisions of this section only apply to utilities that  
19 operate a residential security deposit system. A "residential security

1 deposit system" means a uniform system of screening customers, or  
2 classes of customers, and setting and collecting deposit requirements  
3 based upon such screening.

4 **Sec. 2.** RCW 35.21.290 and 1965 c 7 s 35.21.290 are each amended to  
5 read as follows:

6 (1) Cities and towns owning their own waterworks, or electric light  
7 or power plants shall have a lien against the premises to which water,  
8 electric light, or power services were furnished for four months  
9 charges therefor due or to become due, but not for any charges more  
10 than four months past due: PROVIDED, That the owner of the premises or  
11 the owner of a delinquent mortgage thereon may give written notice to  
12 the superintendent or other head of such works or plant to cut off  
13 service to such premises accompanied by payment or tender of payment of  
14 the then delinquent and unpaid charges for such service against the  
15 premises together with the cut-off charge, whereupon the city or town  
16 shall have no lien against the premises for charges for such service  
17 thereafter furnished, nor shall the owner of the premises or the owner  
18 of a delinquent mortgage thereon be held for the payment thereof.

19 (2) A city or town electric or water utility shall furnish  
20 information relating to a customer's current billing status, including  
21 any unpaid delinquencies to the customer within seven working days of  
22 receipt of the request from the customer. The utility may verify, upon  
23 request of a landlord, any utility information supplied by a  
24 prospective tenant to the landlord. The utility may in addition  
25 furnish the information to other public or private utilities or a  
26 utility information network, provided that the customer is timely  
27 mailed a copy of the information furnished and advised of the  
28 opportunity to dispute any of the information furnished by filing  
29 written objections with the utility. If objections are filed, the  
30 utility shall promptly investigate the objections and notify the  
31 utility or information network to whom the information was furnished if  
32 corrections are required. The utility may charge the customer who  
33 requests a current billing status, including any unpaid delinquencies  
34 a reasonable fee for providing the information but may at its  
35 discretion waive the fee. For the purposes of this section, the term  
36 "customer" shall include the owner of the property served if the owner  
37 would be held responsible for outstanding charges not paid by the  
38 person named in the utility account.

1       (3) A city or town furnishing service to a premises in the name of  
2 a tenant shall provide the tenant and landlord, if the latter so  
3 requests, a copy of unpaid delinquency notices and the final closing  
4 bill for the service. The request by a landlord must be in writing and  
5 shall remain effective until the utility is otherwise notified by the  
6 landlord. It is the responsibility of the landlord to notify the  
7 utility of a change of address. The utility shall provide a copy of  
8 the final closing bill within seven working days of the date of  
9 termination of the account or within seven working days of a landlord's  
10 request, if the request is made subsequent to termination of the  
11 account. Copies of the billing may be sent by mail or a more  
12 expeditious means to the last known address of the tenant or landlord.

13       (4) If a former customer has an outstanding utility charge from a  
14 prior account and subsequently applies to open or opens a new account  
15 with the utility, the utility may require payment of the outstanding  
16 charge prior to opening the account or transferring the outstanding  
17 charge to the customer's new account. If a new account is opened and  
18 the outstanding charge is not timely paid, the utility may exercise the  
19 authority it has to disconnect service as if the outstanding charge had  
20 been incurred on the new account. This section does not limit the  
21 former customer's right to contest whether the outstanding charges are  
22 lawfully owed and shall not be construed to transfer the prior  
23 obligations of the former customer to the owner of property  
24 subsequently rented by the former customer.

25       (5) For residential property only, if a landlord establishes that  
26 a utility has not made a good faith effort to comply with subsections  
27 (2) through (4) of this section, then any lien imposed on that premises  
28 under subsection (1) of this section during the time of noncompliance  
29 shall be dissolved. "Good faith effort" is established by record of  
30 electronic notation or any other reasonable evidence of compliance.

31       **Sec. 3.** RCW 35.67.200 and 1991 c 36 s 2 are each amended to read  
32 as follows:

33       (1) Cities and towns owning their own sewer systems shall have a  
34 lien for delinquent and unpaid rates and charges for sewer service,  
35 penalties levied pursuant to RCW 35.67.190, and connection charges,  
36 including interest thereon, against the premises to which such service  
37 has been furnished or is available, which lien shall be superior to all  
38 other liens and encumbrances except general taxes and local and special

1 assessments. The city or town by ordinance may provide that delinquent  
2 charges shall bear interest at not exceeding eight percent per annum  
3 computed on a monthly basis: PROVIDED, That a city or town using the  
4 property tax system for utility billing may, by resolution or  
5 ordinance, adopt the alternative lien procedure as set forth in RCW  
6 35.67.215.

7 (2) Cities and towns shall furnish information relating to a  
8 customer's current billing status, including any unpaid delinquencies  
9 to the customer within seven working days of receipt of the request  
10 from the customer. The utility may verify, upon request of a landlord,  
11 any utility information supplied by a prospective tenant to the  
12 landlord. Cities and towns may in addition furnish the information to  
13 public or private utilities or a utility information network, provided  
14 that the customer is timely mailed a copy of the information furnished  
15 and advised of the opportunity to dispute any of the information  
16 furnished by filing written objections with the city or town. If  
17 objections are filed, the city or town shall promptly investigate the  
18 objections and notify the utility or information network to whom the  
19 information was furnished if corrections are required. The city or  
20 town may charge the customer who requests a current billing status,  
21 including any unpaid delinquencies a reasonable fee for providing such  
22 information but may at its discretion waive the fee. For the purposes  
23 of this section, the term "customer" shall include the owner of the  
24 property served if the owner would be held responsible for outstanding  
25 charges not paid by the person named in the utility account.

26 (3) A city or town furnishing service to a premises in the name of  
27 a tenant shall provide the tenant and landlord, if the latter so  
28 requests, a copy of unpaid delinquency notices and the final closing  
29 bill for the service. The request by a landlord must be in writing and  
30 shall remain effective until the city or town is otherwise notified by  
31 the landlord. It is the responsibility of the landlord to notify the  
32 city or town of a change of address. The city or town shall provide a  
33 copy of the final closing bill within seven working days of the date of  
34 termination of the account or within seven working days of a landlord's  
35 request, if the request is made subsequent to termination of the  
36 account. Copies of the billing may be sent by mail or a more  
37 expeditious means to the last known address of the tenant or landlord.

38 (4) If a former customer has an outstanding utility charge from a  
39 prior account and subsequently applies to open or opens a new account

1 with the city or town, the city or town may require payment of the  
2 outstanding charge prior to opening the account or transferring the  
3 outstanding charge to the customer's new account. If a new account is  
4 opened and the outstanding charge is not timely paid, the city or town  
5 may exercise the authority it has to disconnect service as if the  
6 outstanding charge had been incurred on the new account. This section  
7 does not limit the former customer's right to contest whether the  
8 outstanding charges are lawfully owed and shall not be construed to  
9 transfer the prior obligations of the former customer to the owner of  
10 property subsequently rented by the former customer.

11 (5) For residential property only, if a landlord establishes that  
12 a utility has not made a good faith effort to comply with subsections  
13 (2) through (4) of this section, then any lien imposed on that premises  
14 under subsection (1) of this section during the time of noncompliance  
15 shall be dissolved. "Good faith effort" is established by record of  
16 electronic notation or any other reasonable evidence of compliance.

17 **Sec. 4.** RCW 36.94.150 and 1975 1st ex.s. c 188 s 3 are each  
18 amended to read as follows:

19 (1) All counties operating a system of sewerage and/or water shall  
20 have a lien for delinquent connection charges and charges for the  
21 availability of sewerage and/or water service, together with interest  
22 fixed by resolution at eight percent per annum from the date due until  
23 paid. Penalties of not more than ten percent of the amount due may be  
24 imposed in case of failure to pay the charges at times fixed by  
25 resolution. The lien shall be for all charges, interest, and penalties  
26 and shall attach to the premises to which the services were available.  
27 The lien shall be superior to all other liens and encumbrances, except  
28 general taxes and local and special assessments of the county.

29 The county department established in RCW 36.94.120 shall certify  
30 periodically the delinquencies to the treasurer of the county at which  
31 time the lien shall attach.

32 Upon the expiration of sixty days after the attachment of the lien,  
33 the county may bring suit in foreclosure by civil action in the  
34 superior court of the county where the property is located. In  
35 addition to the costs and disbursements provided by statute, the court  
36 may allow the county a reasonable attorney's fee. The lien shall be  
37 foreclosed in the same manner as the foreclosure of real property tax  
38 liens.

1       (2) Counties shall furnish information relating to a customer's  
2 current billing status, including any unpaid delinquencies to the  
3 customer within seven working days of receipt of the request from the  
4 customer. The utility may verify, upon request of a landlord, any  
5 utility information supplied by a prospective tenant to the landlord.  
6 Counties may in addition furnish the information to public or private  
7 utilities or a utility information network, provided that the customer  
8 is timely mailed a copy of the information furnished and advised of the  
9 opportunity to dispute the information furnished by filing written  
10 objections with the county. If objections are filed, the county shall  
11 promptly investigate the objections and notify the utility or  
12 information network to whom the information was furnished if  
13 corrections are required. The county may charge the customer who  
14 requests a current billing status, including any unpaid delinquencies  
15 a reasonable fee for providing the information but may at its  
16 discretion waive the fee. For the purposes of this section, the term  
17 "customer" shall include the owner of the property served if the owner  
18 would be held responsible for outstanding charges not paid by the  
19 person named in the utility account.

20       (3) Counties furnishing service to a premises in the name of a  
21 tenant shall provide the tenant and landlord, if the latter so  
22 requests, a copy of unpaid delinquency notices and the final closing  
23 bill for the service. The request by a landlord must be in writing and  
24 shall remain effective until the county is otherwise notified by the  
25 landlord. It is the responsibility of the landlord to notify the  
26 county of a change of address. The county shall provide a copy of the  
27 final closing bill within seven working days of the date of termination  
28 of the account or within seven working days of a landlord's request, if  
29 the request is made subsequent to termination of the account. Copies  
30 of the billing may be sent by mail or a more expeditious means to the  
31 last known address of the tenant or landlord.

32       (4) If a former customer has an outstanding utility charge from a  
33 prior account and subsequently applies to open or opens a new account  
34 with the county, the county may require payment of the outstanding  
35 charge prior to opening the account or transferring the outstanding  
36 charge to the customer's new account. If a new account is opened and  
37 the outstanding charge is not timely paid, the county may exercise the  
38 authority it has to disconnect service as if the outstanding charge had  
39 been incurred on the new account. This section does not limit the

1 former customer's right to contest whether the outstanding charges are  
2 lawfully owed and shall not be construed to transfer the prior  
3 obligations of the former customer to the owner of property  
4 subsequently rented by the former customer.

5 (5) For residential property only, if a landlord establishes that  
6 a utility has not made a good faith effort to comply with subsections  
7 (2) through (4) of this section, then any lien imposed on that premises  
8 under subsection (1) of this section during the time of noncompliance  
9 shall be dissolved. "Good faith effort" is established by record of  
10 electronic notation or any other reasonable evidence of compliance.

11 **Sec. 5.** RCW 56.16.100 and 1977 ex.s. c 300 s 6 are each amended to  
12 read as follows:

13 (1) The commissioners shall enforce collection of the sewer  
14 connection charges and sewerage disposal service charges against  
15 property to which and its owners to whom the service is available, such  
16 charges being deemed charges against the property to which the service  
17 is available, by addition of penalties of not more than ten percent  
18 thereof in case of failure to pay the charges at times fixed by  
19 resolution. The commissioners may provide by resolution that where  
20 either sewer connection charges or sewer service charges are delinquent  
21 for any specified period of time, the district shall certify the  
22 delinquencies to the treasurer of the county in which the real property  
23 is located, and the charges and any penalties added thereto and  
24 interest thereon at the rate fixed by resolution, shall be a lien  
25 against the property to which the service was available, subject only  
26 to the lien for general taxes.

27 (2) The district shall furnish information relating to a customer's  
28 current billing status, including any unpaid delinquencies to the  
29 customer within seven working days of receipt of the request from the  
30 customer. The utility may verify, upon request of a landlord, any  
31 utility information supplied by a prospective tenant to the landlord.  
32 The district may in addition furnish the information to public or  
33 private utilities or a utility information network, provided that the  
34 customer is timely mailed a copy of the information furnished and  
35 advised of the opportunity to dispute the information furnished by  
36 filing written objections with the district. If the objections are  
37 filed, the district shall promptly investigate the objections and  
38 notify the utility or information network to whom the information was

1 furnished if corrections are required. The district may charge the  
2 customer who requests a current billing status, including any unpaid  
3 delinquencies a reasonable fee for providing the information but may at  
4 their discretion waive the fee. For the purposes of this section, the  
5 term "customer" shall include the owner of the property served if the  
6 owner would be held responsible for outstanding charges not paid by the  
7 person named in the utility account.

8 (3) A district furnishing service to a premises in the name of a  
9 tenant shall provide the tenant and landlord, if the latter so  
10 requests, a copy of unpaid delinquency notices and the final closing  
11 bill for the service. The request by a landlord must be in writing and  
12 shall remain effective until the district is otherwise notified by the  
13 landlord. It is the responsibility of the landlord to notify the  
14 district of a change of address. The district shall provide a copy of  
15 the final closing bill within seven working days of the date of  
16 termination of the account or within seven working days of a landlord's  
17 request, if the request is made subsequent to termination of the  
18 account. Copies of the billing may be sent by mail or a more  
19 expeditious means to the last known address of the tenant or landlord.

20 (4) If a former customer has an outstanding utility charge from a  
21 prior account and subsequently applies to open or opens a new account  
22 with the district, the district may require payment of the outstanding  
23 charge prior to opening the account or transferring the outstanding  
24 charge to the customer's new account. If a new account is opened and  
25 the outstanding charge is not timely paid, the district may exercise  
26 the authority it has to disconnect service as if the outstanding charge  
27 had been incurred on the new account. This section does not limit the  
28 former customer's right to contest whether the outstanding charges are  
29 lawfully owed and shall not be construed to transfer the prior  
30 obligations of the former customer to the owner of property  
31 subsequently rented by the former customer.

32 (5) For residential property only, if a landlord establishes that  
33 a utility has not made a good faith effort to comply with subsections  
34 (2) through (4) of this section, then any lien imposed on that premises  
35 under subsection (1) of this section during the time of noncompliance  
36 shall be dissolved. "Good faith effort" is established by record of  
37 electronic notation or any other reasonable evidence of compliance.

1       **Sec. 6.** RCW 57.08.080 and 1982 1st ex.s. c 17 s 12 are each  
2 amended to read as follows:

3       (1) The commissioners shall enforce collection of the water  
4 connection charges and rates and charges for water supplied against  
5 property owners connecting with the system and/or receiving such water,  
6 such charges being deemed charges against the property served, by  
7 addition of penalties of not more than ten percent thereof in case of  
8 failure to pay the charges at times fixed by resolution. The  
9 commissioners may provide by resolution that where either water  
10 connection charges or rates and charges for water supplied are  
11 delinquent for any specified period of time, the district shall certify  
12 the delinquencies to the treasurer of the county in which the real  
13 property is located, and the charges and any penalties added thereto  
14 and interest thereon at the rate of not more than eight percent per  
15 year shall be a lien against the property upon which the service was  
16 received, subject only to the lien for general taxes.

17       (2) The district shall furnish information relating to a customer's  
18 current billing status, including any unpaid delinquencies to the  
19 customer within seven working days of receipt of the request from the  
20 customer. The utility may verify, upon request of a landlord, any  
21 utility information supplied by a prospective tenant to the landlord.  
22 The district may in addition furnish the information to public or  
23 private utilities or a utility information network, provided that the  
24 customer is timely mailed a copy of the information furnished and  
25 advised of the opportunity to dispute the information furnished by  
26 filing written objections with the district. If objections are filed,  
27 the district shall promptly investigate the objections and notify the  
28 utility or information network to whom the information was furnished if  
29 corrections are required. The district may charge the customer who  
30 requests a current billing status, including any unpaid delinquencies  
31 a reasonable fee for providing the information but may at their  
32 discretion waive the fee. For the purposes of this section, the term  
33 "customer" shall include the owner of the property served if the owner  
34 would be held responsible for outstanding charges not paid by the  
35 person named in the utility account.

36       (3) A district furnishing service to a premises in the name of a  
37 tenant shall provide the tenant and landlord, if the latter so  
38 requests, a copy of unpaid delinquency notices and the final closing  
39 bill for the service. The request by a landlord must be in writing and

1 shall remain effective until the district is otherwise notified by the  
2 landlord. It is the responsibility of the landlord to notify the  
3 district of a change of address. The district shall provide a copy of  
4 the final closing bill within seven working days of the date of  
5 termination of the account or within seven working days of a landlord's  
6 request, if the request is made subsequent to termination of the  
7 account. Copies of the billing may be sent by mail or a more  
8 expeditious means to the last known address of the tenant or landlord.

9 (4) If a former customer has an outstanding utility charge from a  
10 prior account and subsequently applies to open or opens a new account  
11 with the district, the district may require payment of the outstanding  
12 charge prior to opening the account or transferring the outstanding  
13 charge to the customer's new account. If a new account is opened and  
14 the outstanding charge is not timely paid, the district may exercise  
15 the authority it has to disconnect service as if the outstanding charge  
16 had been incurred on the new account. This section shall not in any  
17 manner limit the former customer's right to contest whether the  
18 outstanding charges are lawfully owed and shall not be construed to  
19 transfer the prior obligations of the former customer to the owner of  
20 property subsequently rented by the former customer.

21 (5) For residential property only, if a landlord establishes that  
22 a utility has not made a good faith effort to comply with subsections  
23 (2) through (4) of this section, then any lien imposed on that premises  
24 under subsection (1) of this section during the time of noncompliance  
25 shall be dissolved. "Good faith effort" is established by record of  
26 electronic notation or any other reasonable evidence of compliance.

27 **NEW SECTION. Sec. 7.** A new section is added to Title 35 RCW to  
28 read as follows:

29 All charges for water, storm water, sewer, garbage, electricity,  
30 and natural gas that after the effective date of this act may be  
31 assessed by a political subdivision of the state, together with  
32 interest on the charge, are declared to be a lien for which no filing  
33 is required on the real property to which the services were furnished.  
34 The lien shall be satisfied after all other liens to which the real  
35 property is subject; however, the lien shall not affect the priority or  
36 validity of other liens against the real property for the utility  
37 services authorized under this section. A lien established under this  
38 section may be foreclosed only after a fee interest is conveyed in the

1 subject property. Unless otherwise expressly stated in writing and  
2 specifically acknowledged by the purchaser of a fee interest in the  
3 subject property, it is the responsibility of the seller of the fee  
4 interest to satisfy upon closing the lien created by this section. No  
5 person serving as an escrow agent under chapter 18.44 RCW may refuse a  
6 request by the seller of a fee interest or purchaser of a fee interest  
7 to administer the disbursement of closing funds necessary to satisfy a  
8 lien under this section.

9 NEW SECTION. **Sec. 8.** A new section is added to Title 35 RCW to  
10 read as follows:

11 (1) Upon request for a final billing with respect to real property  
12 that is to be sold, a utility operated by a political subdivision of  
13 the state that provides water, storm water, sewer, garbage,  
14 electricity, or natural gas service to the property shall provide the  
15 owner of the property or the closing agent for the sale with an  
16 estimated final billing under the conditions set forth in this section.

17 (2) If the request for an estimated final billing is received by  
18 the billing office of the utility no less than seven working days  
19 before the closing date stated in the request, the utility shall  
20 provide the estimated final billing no less than one day before the  
21 stated closing date. However, if the request is received less than  
22 seven working days before the stated closing date, the utility shall  
23 make reasonable efforts to provide the estimated final billing prior to  
24 the stated closing date.

25 (3) The estimated final billing shall, in addition to stating the  
26 estimated final amount owing as of the date of the stated closing,  
27 state the average per diem rate for the utility or utilities involved,  
28 including taxes and other charges, which shall be applied for up to  
29 seven days beyond the stated date of closing in the event that the  
30 closing date is delayed. If closing is delayed beyond seven days, a  
31 new estimated final billing must be requested. In lieu of furnishing  
32 a revised billing, the utility may extend the number of days for which  
33 the per diem charge may be used.

34 (4) If the utility fails to timely provide the estimated final  
35 billing in response to a request made no less than seven working days  
36 before the stated closing date, the utility shall forfeit the right it  
37 may have to collect from the purchaser outstanding utility charges of  
38 the former owner that were incurred before the stated closing date.

1 (5) If closing occurs no later than the last date for which per  
2 diem charges may be applied, full payment of the amount plus per diem  
3 charges, shall extinguish the lien of the utility provided under  
4 section 6 of this act for charges incurred prior to the date of  
5 closing.

6 (6) This section does not in any manner limit the right of a  
7 utility to obtain recovery from the former owner of the property for  
8 outstanding charges that are in excess of the estimated final billing.  
9 However, if the estimated final billing is in excess of the amount owed  
10 as determined by an actual meter reading, the utility shall refund the  
11 amount to the former owner within seven working days of the actual  
12 reading by sending the refund in the owner's name to the last address  
13 given by the former owner.

14 (7) For the purposes of this section, a "working day" is considered  
15 to be a day that the utility in question is open for business.

16 NEW SECTION. **Sec. 9.** This act shall take effect June 1, 1995.

17 NEW SECTION. **Sec. 10.** Utilities are encouraged to implement this  
18 act before June 1, 1995.

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