
SENATE BILL 5472

State of Washington

54th Legislature

1995 Regular Session

By Senators Wojahn, Winsley, Haugen, Wood, Gaspard, Sheldon and Sutherland

Read first time 01/24/95. Referred to Committee on Energy, Telecommunications & Utilities.

1 AN ACT Relating to satisfaction of utility liens at the time of
2 sale; adding new sections to Title 35 RCW; adding new sections to Title
3 36 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 Title 35 RCW to
6 read as follows:

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

14 (2) If the request for an estimated final billing is received by
15 the billing office of the utility no less than seven working days
16 before the closing date stated in the request, the utility shall
17 provide the estimated final billing no less than one day before the
18 stated closing date. However, if the request is received less than
19 seven working days before the stated closing date, the utility shall

1 make reasonable efforts to provide the estimated final billing prior to
2 the stated closing date.

3 (3) The estimated final billing shall, in addition to stating the
4 estimated final amount owing as of the date of the stated closing,
5 state the average per diem rate for the utility or utilities involved,
6 including taxes and other charges, which shall be applied for up to
7 seven days beyond the stated date of closing in the event that the
8 closing date is delayed. If closing is delayed beyond seven days, a
9 new estimated final billing must be requested. In lieu of furnishing
10 a revised billing, the utility may extend the number of days for which
11 the per diem charge may be used.

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

17 (5) If closing occurs no later than the last date for which per
18 diem charges may be applied, full payment of the amount plus per diem
19 charges shall extinguish the lien of the utility provided under section
20 2 of this act for charges incurred prior to the date of closing.

21 (6) This section does not in any manner limit the right of a
22 utility to obtain recovery from the former owner of the property for
23 outstanding charges that are in excess of the estimated final billing.
24 However, if the estimated final billing is in excess of the amount owed
25 as determined by an actual meter reading, the utility shall refund the
26 amount to the former owner within seven working days of the actual
27 reading by sending the refund in the owner's name to the last address
28 given by the former owner.

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

31 NEW SECTION. **Sec. 2.** A new section is added to Title 35 RCW to
32 read as follows:

33 All charges for water, storm water, sewer, garbage, electricity,
34 and natural gas that after the effective date of this act may be
35 assessed by a political subdivision of the state, together with
36 interest on the charge, are declared to be a lien for which no filing
37 is required on the real property to which the services were furnished.
38 The lien shall be satisfied after all other liens to which the real

1 property is subject; however, the lien shall not affect the priority or
2 validity of other liens against the real property for the utility
3 services authorized under this section. A lien established under this
4 section may be foreclosed only after a fee interest is conveyed in the
5 subject property. Unless otherwise expressly stated in writing and
6 specifically acknowledged by the purchaser of a fee interest in the
7 subject property, it is the responsibility of the seller of the fee
8 interest to satisfy upon closing the lien created by this section. No
9 person serving as an escrow agent under chapter 18.44 RCW may refuse a
10 request by the seller of a fee interest or purchaser of a fee interest
11 to administer the disbursement of closing funds necessary to satisfy a
12 lien under this section. If an escrow agent as defined in chapter
13 18.44 RCW handles the sale, the escrow agent shall timely request a
14 final billing pursuant to section 1 of this act from all affected
15 utilities, and inform the seller and the purchaser of all amounts for
16 final estimated billings furnished by those utilities prior to closing.
17 Final billing shall include all outstanding charges. "Charges" as used
18 in this section includes all lawful charges assessed by the utility,
19 including but not limited to consumption charges, connection charges,
20 contributions provided for by state law, charges for meters and other
21 equipment provided to the customer, and charges in connection with
22 repair, replacement, or location of customer facilities.

23 NEW SECTION. **Sec. 3.** A new section is added to Title 36 RCW to
24 read as follows:

25 (1) Upon receipt of a written request for a final billing with
26 respect to real property that is to be sold, a utility operated by a
27 political subdivision of the state that provides water, storm water,
28 sewer, garbage, electricity, or natural gas service to the property
29 shall provide the owner of the property or the closing agent for the
30 sale with an estimated final billing under the conditions set forth in
31 this section.

32 (2) If the request for an estimated final billing is received by
33 the billing office of the utility no less than seven working days
34 before the closing date stated in the request, the utility shall
35 provide the estimated final billing no less than one day before the
36 stated closing date. However, if the request is received less than
37 seven working days before the stated closing date, the utility shall

1 make reasonable efforts to provide the estimated final billing prior to
2 the stated closing date.

3 (3) The estimated final billing shall, in addition to stating the
4 estimated final amount owing as of the date of the stated closing,
5 state the average per diem rate for the utility or utilities involved,
6 including taxes and other charges, which shall be applied for up to
7 seven days beyond the stated date of closing in the event that the
8 closing date is delayed. If closing is delayed beyond seven days, a
9 new estimated final billing must be requested. In lieu of furnishing
10 a revised billing, the utility may extend the number of days for which
11 the per diem charge may be used.

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

17 (5) If closing occurs no later than the last date for which per
18 diem charges may be applied, full payment of the amount plus per diem
19 charges shall extinguish the lien of the utility provided under section
20 2 of this act for charges incurred prior to the date of closing.

21 (6) This section does not in any manner limit the right of a
22 utility to obtain recovery from the former owner of the property for
23 outstanding charges that are in excess of the estimated final billing.
24 However, if the estimated final billing is in excess of the amount owed
25 as determined by an actual meter reading, the utility shall refund the
26 amount to the former owner within seven working days of the actual
27 reading by sending the refund in the owner's name to the last address
28 given by the former owner.

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

31 NEW SECTION. **Sec. 4.** A new section is added to Title 36 RCW to
32 read as follows:

33 All charges for water, storm water, sewer, garbage, electricity,
34 and natural gas that after the effective date of this act may be
35 assessed by a political subdivision of the state, together with
36 interest on the charge, are declared to be a lien for which no filing
37 is required on the real property to which the services were furnished.
38 The lien shall be satisfied after all other liens to which the real

1 property is subject; however, the lien shall not affect the priority or
2 validity of other liens against the real property for the utility
3 services authorized under this section. A lien established under this
4 section may be foreclosed only after a fee interest is conveyed in the
5 subject property. Unless otherwise expressly stated in writing and
6 specifically acknowledged by the purchaser of a fee interest in the
7 subject property, it is the responsibility of the seller of the fee
8 interest to satisfy upon closing the lien created by this section. No
9 person serving as an escrow agent under chapter 18.44 RCW may refuse a
10 request by the seller of a fee interest or purchaser of a fee interest
11 to administer the disbursement of closing funds necessary to satisfy a
12 lien under this section. If an escrow agent as defined in chapter
13 18.44 RCW handles the sale, the escrow agent shall timely request a
14 final billing pursuant to section 3 of this act from all affected
15 utilities, and inform the seller and the purchaser of all amounts for
16 final estimated billings furnished by those utilities prior to closing.
17 Final billing shall include all outstanding charges. "Charges" as used
18 in this section includes all lawful charges assessed by the utility,
19 including but not limited to consumption charges, connection charges,
20 contributions provided for by state law, charges for meters and other
21 equipment provided to the customer, and charges in connection with
22 repair, replacement, or location of customer facilities.

23 NEW SECTION. **Sec. 5.** This act shall take effect June 1, 1996.

24 NEW SECTION. **Sec. 6.** Utilities are encouraged to implement this
25 act before June 1, 1996.

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