

SENATE BILL 5262

State of Washington

52nd Legislature

1991 Regular Session

By Senators Nelson, Madsen, Thorsness, Sutherland, McCaslin, Saling and Bauer.

Read first time January 25, 1991. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to payment responsibility for utility service;
2 amending RCW 35.21.290, 35.67.200, 36.94.150, 56.16.100, 57.08.080, and
3 80.28.010; and adding a new section to chapter 54.16 RCW.

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

5 **Sec. 1.** RCW 35.21.290 and 1965 c 7 s 35.21.290 are each amended to
6 read as follows:

7 Cities and towns owning their own waterworks, or electric light or
8 power plants shall have a lien against the premises to which water,
9 electric light, or power services were furnished for four months
10 charges therefor due or to become due, but not for any charges more
11 than four months past due: PROVIDED, That the owner of the premises or
12 the owner of a delinquent mortgage thereon may give written notice to
13 the superintendent or other head of such works or plant to cut off
14 service to such premises accompanied by payment or tender of payment of
15 the then delinquent and unpaid charges for such service against the

1 premises together with the cut-off charge, whereupon the city or town
2 shall have no lien against the premises for charges for such service
3 thereafter furnished, nor shall the owner of the premises or the owner
4 of a delinquent mortgage thereon be held for the payment thereof.

5 All charges made for utility services shall be charged to the
6 customer requesting the service. In cases where the service is
7 provided to a tenant, collection of charges shall be made from that
8 individual or individuals, and liens against the property of the
9 landlord for such service are prohibited. A city or town may not
10 refuse to provide service to a residential customer who is a tenant
11 based on the nonpayment for services by the prior customer. The city
12 or town may refuse to provide service if the prior nonpaying customer
13 continues to reside in the premises.

14 **Sec. 2.** RCW 35.67.200 and 1965 c 7 s 35.67.200 are each amended to
15 read as follows:

16 Cities and towns owning their own sewer systems shall have a lien
17 for delinquent and unpaid rates and charges for sewer service,
18 penalties levied pursuant to RCW 35.67.190, and connection charges,
19 including interest thereon, against the premises to which such service
20 has been furnished or is available, which lien shall be superior to all
21 other liens and encumbrances except general taxes and local and special
22 assessments. The city or town by ordinance may provide that delinquent
23 charges shall bear interest at not exceeding eight percent per annum.

24 All charges made for utility services shall be charged to the
25 customer requesting the service. In cases where the service is
26 provided to a tenant, collection of charges shall be made from that
27 individual or individuals, and liens against the property of the
28 landlord for such service are prohibited. A city or town may not
29 refuse to provide service to a residential customer who is a tenant

1 based on the nonpayment for services by the prior customer. The city
2 or town may refuse to provide service if the prior nonpaying customer
3 continues to reside in the premises.

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

6 All counties operating a system of sewerage and/or water shall have
7 a lien for delinquent connection charges and charges for the
8 availability of sewerage and/or water service, together with interest
9 fixed by resolution at eight percent per annum from the date due until
10 paid. Penalties of not more than ten percent of the amount due may be
11 imposed in case of failure to pay the charges at times fixed by
12 resolution. The lien shall be for all charges, interest, and penalties
13 and shall attach to the premises to which the services were available.
14 The lien shall be superior to all other liens and encumbrances, except
15 general taxes and local and special assessments of the county.

16 The county department established in RCW 36.94.120 shall certify
17 periodically the delinquencies to the treasurer of the county at which
18 time the lien shall attach.

19 Upon the expiration of sixty days after the attachment of the lien,
20 the county may bring suit in foreclosure by civil action in the
21 superior court of the county where the property is located. In
22 addition to the costs and disbursements provided by statute, the court
23 may allow the county a reasonable attorney's fee. The lien shall be
24 foreclosed in the same manner as the foreclosure of real property tax
25 liens.

26 All charges made for utility services shall be charged to the
27 customer requesting the service. In cases where the service is
28 provided to a tenant, collection of charges shall be made from that
29 individual or individuals, and liens against the property of the

1 landlord for such service are prohibited. A county may not refuse to
2 provide service to a residential customer who is a tenant based on the
3 nonpayment for services by the prior customer. The county may refuse
4 to provide service if the prior nonpaying customer continues to reside
5 in the premises.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 54.16 RCW
7 to read as follows:

8 All charges made for utility services shall be charged to the
9 customer requesting the service. In cases where the service is
10 provided to a tenant, collection of charges shall be made from that
11 individual or individuals, and liens against the property of the
12 landlord for such service are prohibited. A district may not refuse to
13 provide service to a residential customer who is a tenant based on the
14 nonpayment for services by the prior customer. The district may refuse
15 to provide service if the prior nonpaying customer continues to reside
16 in the premises.

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

19 The commissioners shall enforce collection of the sewer connection
20 charges and sewerage disposal service charges against property to which
21 and its owners to whom the service is available, such charges being
22 deemed charges against the property to which the service is available,
23 by addition of penalties of not more than ten percent thereof in case
24 of failure to pay the charges at times fixed by resolution. The
25 commissioners may provide by resolution that where either sewer
26 connection charges or sewer service charges are delinquent for any
27 specified period of time, the district shall certify the delinquencies
28 to the treasurer of the county in which the real property is located,

1 and the charges and any penalties added thereto and interest thereon at
2 the rate fixed by resolution, shall be a lien against the property to
3 which the service was available, subject only to the lien for general
4 taxes.

5 All charges made for utility services shall be charged to the
6 customer requesting the service. In cases where the service is
7 provided to a tenant, collection of charges shall be made from that
8 individual or individuals, and liens against the property of the
9 landlord for such service are prohibited. A district may not refuse to
10 provide service to a residential customer who is a tenant based on the
11 nonpayment for services by the prior customer. The district may refuse
12 to provide service if the prior nonpaying customer continues to reside
13 in the premises.

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

16 The commissioners shall enforce collection of the water connection
17 charges and rates and charges for water supplied against property
18 owners connecting with the system and/or receiving such water, such
19 charges being deemed charges against the property served, by addition
20 of penalties of not more than ten percent thereof in case of failure to
21 pay the charges at times fixed by resolution. The commissioners may
22 provide by resolution that where either water connection charges or
23 rates and charges for water supplied are delinquent for any specified
24 period of time, the district shall certify the delinquencies to the
25 treasurer of the county in which the real property is located, and the
26 charges and any penalties added thereto and interest thereon at the
27 rate of not more than eight percent per year shall be a lien against
28 the property upon which the service was received, subject only to the
29 lien for general taxes.

1 All charges made for utility services shall be charged to the
2 customer requesting the service. In cases where the service is
3 provided to a tenant, collection of charges shall be made from that
4 individual or individuals, and liens against the property of the
5 landlord for such service are prohibited. A district may not refuse to
6 provide service to a residential customer who is a tenant based on the
7 nonpayment for services by the prior customer. The district may refuse
8 to provide service if the prior nonpaying customer continues to reside
9 in the premises.

10 **Sec. 7.** RCW 80.28.010 and 1990 1st ex.s. c 1 s 5 are each amended
11 to read as follows:

12 (1) All charges made, demanded or received by any gas company,
13 electrical company or water company for gas, electricity or water, or
14 for any service rendered or to be rendered in connection therewith,
15 shall be just, fair, reasonable and sufficient. To meet the
16 requirements of this subsection, all charges made shall be to the
17 customer requesting the service. In cases where the service is
18 provided to a tenant, collection of charges shall be made from that
19 individual or individuals, and liens against the property of the
20 landlord for such service are prohibited.

21 (2) Every gas company, electrical company and water company shall
22 furnish and supply such service, instrumentalities and facilities as
23 shall be safe, adequate and efficient, and in all respects just and
24 reasonable.

25 (3) All rules and regulations issued by any gas company, electrical
26 company or water company, affecting or pertaining to the sale or
27 distribution of its product, shall be just and reasonable.

28 (4) Until June 30, 1991:

1 (a) Utility service for residential space heating shall not be
2 terminated between November 15 through March 15 if the customer:

3 (i) Notifies the utility of the inability to pay the bill,
4 including a security deposit. This notice should be provided within
5 five business days of receiving a payment overdue notice unless there
6 are extenuating circumstances. If the customer fails to notify the
7 utility within five business days and service is terminated, the
8 customer can, by paying reconnection charges, if any, and fulfilling
9 the requirements of this section, receive the protections of this
10 chapter;

11 (ii) Provides self-certification of household income for the prior
12 twelve months to a grantee of the department of community development
13 which administers federally funded energy assistance programs. The
14 grantee shall determine that the household income does not exceed the
15 maximum allowed for eligibility under the state's plan for low-income
16 energy assistance under 42 U.S.C. 8624 and shall provide a dollar
17 figure that is seven percent of household income. The grantee may
18 verify information provided in the self-certification;

19 (iii) Has applied for home heating assistance from applicable
20 government and private sector organizations and certifies that any
21 assistance received will be applied to the current bill and future
22 utility bills;

23 (iv) Has applied for low-income weatherization assistance to the
24 utility or other appropriate agency if such assistance is available for
25 the dwelling;

26 (v) Agrees to a payment plan and agrees to maintain the payment
27 plan. The plan will be designed both to pay the past due bill by the
28 following October 15 and to pay for continued utility service. If the
29 past due bill is not paid by the following October 15, the customer
30 shall not be eligible for protections under this chapter until the past

1 due bill is paid. The plan shall not require monthly payments in
2 excess of seven percent of the customer's monthly income plus
3 one-twelfth of any arrearage accrued from the date application is made
4 and thereafter during November 15 through March 15. A customer may
5 agree to pay a higher percentage during this period, but shall not be
6 in default unless payment during this period is less than seven percent
7 of monthly income plus one-twelfth of any arrearage accrued from the
8 date application is made and thereafter. If assistance payments are
9 received by the customer subsequent to implementation of the plan, the
10 customer shall contact the utility to reformulate the plan; and

11 (vi) Agrees to pay the moneys owed even if he or she moves.

12 (b) The utility shall:

13 (i) Include in any notice that an account is delinquent and that
14 service may be subject to termination, a description of the customer's
15 duties in this section;

16 (ii) Assist the customer in fulfilling the requirements under this
17 section;

18 (iii) Be authorized to transfer an account to a new residence when
19 a customer who has established a plan under this section moves from one
20 residence to another within the same utility service area;

21 (iv) Be permitted to disconnect service if the customer fails to
22 honor the payment program. Utilities may continue to disconnect
23 service for those practices authorized by law other than for nonpayment
24 as provided for in this subsection. Customers who qualify for payment
25 plans under this section who default on their payment plans and are
26 disconnected can be reconnected and maintain the protections afforded
27 under this chapter by paying reconnection charges, if any, and by
28 paying all amounts that would have been due and owing under the terms
29 of the applicable payment plan, absent default, on the date on which
30 service is reconnected; and

1 (v) Advise the customer in writing at the time it disconnects
2 service that it will restore service if the customer contacts the
3 utility and fulfills the other requirements of this section.

4 (c) A payment plan implemented under this section is consistent
5 with RCW 80.28.080.

6 (5) Every gas company and electrical company shall offer
7 residential customers the option of a budget billing or equal payment
8 plan. The budget billing or equal payment plan shall be offered
9 low-income customers eligible under the state's plan for low-income
10 energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1)
11 without limiting availability to certain months of the year, without
12 regard to the length of time the customer has occupied the premises,
13 and without regard to whether the customer is the tenant or owner of
14 the premises occupied.

15 (6) A gas company, electrical company, or water company may not
16 refuse to provide service to a residential customer who is a tenant
17 based on the nonpayment for services by the prior customer. The
18 company may refuse to provide service if the prior nonpaying customer
19 continues to reside in the premises.

20 (7) Every gas company, electrical company and water company shall
21 construct and maintain such facilities in connection with the
22 manufacture and distribution of its product as will be efficient and
23 safe to its employees and the public.

24 ((+7)) (8) An agreement between the customer and the utility,
25 whether oral or written, shall not waive the protections afforded under
26 this chapter.