

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 2551

Chapter 285, Laws of 1998

55th Legislature
1998 Regular Session

UNRECORDED UTILITY LIENS

EFFECTIVE DATE: 6/11/98

Passed by the House March 10, 1998
Yeas 98 Nays 0

CLYDE BALLARD
**Speaker of the
House of Representatives**

Passed by the Senate March 6, 1998
Yeas 40 Nays 5

BRAD OWEN
President of the Senate

Approved April 2, 1998

GARY LOCKE
Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 2551** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN
Chief Clerk

FILED

April 2, 1998 - 2:25 p.m.

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 2551

AS AMENDED BY THE SENATE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representative Crouse)

Read first time 02/03/98. Referred to Committee on .

1 AN ACT Relating to unrecorded utility liens; amending RCW 57.08.081
2 and 87.03.445; and adding a new section to chapter 35.21 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 35.21 RCW
5 to read as follows:

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

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

1 or town notifies the tenant of the tenant's delinquency or by mail.
2 When a city or town provides a real property owner or the owner's
3 designee with duplicates of tenant utility service bills or notice that
4 a tenant's utility account is delinquent, the city or town shall notify
5 the tenant that it is providing the duplicate bills or delinquency
6 notice to the owner or the owner's designee. After January 1, 1999, if
7 a city or town fails to notify the owner of a tenant's delinquency
8 after receiving a written request to do so and after receiving the
9 other information required by this subsection, the city or town shall
10 have no lien against the premises for the tenant's delinquent and
11 unpaid charges.

12 **Sec. 2.** RCW 57.08.081 and 1997 c 447 s 19 are each amended to read
13 as follows:

14 (1) The commissioners of any district shall provide for revenues by
15 fixing rates and charges for furnishing sewer and drainage service and
16 facilities to those to whom service is available or for providing
17 water, such rates and charges to be fixed as deemed necessary by the
18 commissioners, so that uniform charges will be made for the same class
19 of customer or service and facility. Rates and charges may be combined
20 for the furnishing of more than one type of sewer service and facility,
21 such as, but not limited to, storm or surface water and sanitary.

22 (2) In classifying customers of such water, sewer, or drainage
23 system, the board of commissioners may in its discretion consider any
24 or all of the following factors: The difference in cost to various
25 customers; the location of the various customers within and without the
26 district; the difference in cost of maintenance, operation, repair, and
27 replacement of the various parts of the system; the different character
28 of the service furnished various customers; the quantity and quality of
29 the service and facility furnished; the time of its use; the
30 achievement of water conservation goals and the discouragement of
31 wasteful practices; capital contributions made to the system including
32 but not limited to assessments; and any other matters which present a
33 reasonable difference as a ground for distinction. Rates shall be
34 established as deemed proper by the commissioners and as fixed by
35 resolution and shall produce revenues sufficient to take care of the
36 costs of maintenance and operation, revenue bond and warrant interest
37 and principal amortization requirements, and all other charges
38 necessary for efficient and proper operation of the system. Prior to

1 furnishing services, a district may require a deposit to guarantee
2 payment for services. However, failure to require a deposit does not
3 affect the validity of any lien authorized by this section.

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

20 (4) The district may, at any time after the connection charges or
21 rates and charges for services supplied or available and penalties are
22 delinquent for a period of sixty days, bring suit in foreclosure by
23 civil action in the superior court of the county in which the real
24 property is located. The court may allow, in addition to the costs and
25 disbursements provided by statute, attorneys' fees, title search and
26 report costs, and expenses as it adjudges reasonable. The action shall
27 be in rem, and may be brought in the name of the district against an
28 individual or against all of those who are delinquent in one action.
29 The laws and rules of the court shall control as in other civil
30 actions.

31 (5) In addition to the right to foreclose provided in this section,
32 the district may also cut off all or part of the service after charges
33 for water or sewer service supplied or available are delinquent for a
34 period of ((sixty)) thirty days.

35 (6) A district may determine how to apply partial payments on past
36 due accounts.

37 (7) A district may provide a real property owner or the owner's
38 designee with duplicate bills for service to tenants, or may notify an
39 owner or the owner's designee that a tenant's service account is

1 delinquent. However, if an owner or the owner's designee notifies the
2 district in writing that a property served by the district is a rental
3 property, asks to be notified of a tenant's delinquency, and has
4 provided, in writing, a complete and accurate mailing address, the
5 district shall notify the owner or the owner's designee of a tenant's
6 delinquency at the same time and in the same manner the district
7 notifies the tenant of the tenant's delinquency or by mail. When a
8 district provides a real property owner or the owner's designee with
9 duplicates of tenant utility service bills or notice that a tenant's
10 utility account is delinquent, the district shall notify the tenant
11 that it is providing the duplicate bills or delinquency notice to the
12 owner or the owner's designee. After January 1, 1999, if a district
13 fails to notify the owner of a tenant's delinquency after receiving a
14 written request to do so and after receiving the other information
15 required by this subsection (7), the district shall have no lien
16 against the premises for the tenant's delinquent and unpaid charges.

17 **Sec. 3.** RCW 87.03.445 and 1979 ex.s. c 185 s 5 are each amended to
18 read as follows:

19 (1) The cost and expense of purchasing and acquiring property, and
20 construction, reconstruction, extension, and betterment of the works
21 and improvements herein provided for, and the expenses incidental
22 thereto, and indebtedness to the United States for district lands
23 assumed by the district, and for the carrying out of the purposes of
24 this chapter, may be paid for by the board of directors out of the
25 funds received from bond sales as well as other district funds.

26 (2) For the purpose of defraying the costs and expenses of the
27 organization of the district, and of the care, operation, management,
28 maintenance, repair, and improvement of the district and its irrigation
29 water, domestic water, electric power, drainage, or sewer facilities or
30 of any portion thereof, or for the payment of any indebtedness due the
31 United States or the state of Washington, or for the payment of
32 district bonds, the board may either fix rates or tolls and charges,
33 and collect the same from all persons for whom district service is made
34 available for irrigation water, domestic water, electric power,
35 drainage or sewerage, and other purposes, or it may provide for the
36 payment of said costs and expenses by a levy of assessment therefor, or
37 by both said rates or tolls and charges and assessment.

1 (3) If the assessment method is utilized, the levy of assessments
2 shall be made on the completion and equalization of the assessment roll
3 each year, and the board shall have the same powers and functions for
4 the purpose of said levy as possessed by it in case of levy to pay
5 bonds of the district. The procedure for the collection of assessments
6 by such levy shall in all respects conform with the provisions of this
7 chapter, relating to the collection of assessments for the payment of
8 principal and interest of bonds herein provided for, and shall be made
9 at the same time.

10 (4) If the rates or tolls and charges method is adopted in whole or
11 in part, the secretary shall deliver to the board of directors, within
12 the time for filing the assessment roll, a schedule containing the
13 names of the owners or reputed owners, as shown on the rolls of the
14 county treasurer as of the first Tuesday in November of each year such
15 a schedule is filed of the various parcels of land against which rates
16 or tolls and charges are to be levied, the description of each such
17 parcel of land and the amount to be charged against each parcel for
18 irrigation water, domestic water, electric power, drainage, sewerage,
19 and other district costs and expenses. Said schedule of rates or tolls
20 and charges shall be equalized pursuant to the same notice, in the same
21 manner, at the same time and with the same legal effect as in the case
22 of assessments. Such schedule of rates or tolls and charges for a
23 given year shall be filed with the proper county treasurer within the
24 same time as that provided by law for the filing of the annual
25 assessment roll, and the county treasurer shall collect and receipt for
26 the payment of said rates or tolls and charges and credit them to the
27 proper funds of the district. The board may designate the time and
28 manner of making such collections and shall require the same to be paid
29 in advance of delivery of water and other service. All tolls and
30 charges levied shall also at once become and constitute an assessment
31 upon and against the lands for which they are levied, with the same
32 force and effect, and the same manner of enforcement, and with the same
33 rate of interest from date of delinquency, in case of nonpayment, as
34 other district assessments.

35 (5) As an alternative method of imposing, collecting, and enforcing
36 such rates or tolls and charges, the board may also base such rates or
37 tolls and charges upon the quantity of irrigation water, domestic
38 water, or electric power delivered, or drainage or sewage disposed of,
39 and may fix a minimum rate or toll and charge to be paid by each parcel

1 of land or use within the district for the delivery or disposal of a
2 stated quantity of each such service with a graduated charge for
3 additional quantities of such services delivered or disposed of. If
4 the board elects to utilize this alternative method of imposing,
5 collecting, and enforcing such rates or tolls and charges, there shall
6 be no requirement that the schedule referred to in the preceding
7 paragraph be prepared, be filed with the board of directors by the
8 secretary, be equalized, or be filed with a county treasurer. The
9 board shall enforce collection of such rates or tolls and charges
10 against property to which and its owners to whom the service is
11 available, such rates or tolls and charges being deemed charges against
12 the property to which the service is available. Prior to furnishing
13 services, a board may require a deposit to guarantee payment for
14 services. However, failure to require a deposit does not affect the
15 validity of any lien authorized by this section.

16 (6) The board may provide by resolution that where such rates or
17 tolls and charges are delinquent for any specified period of time, the
18 district shall certify the delinquencies to the treasurer of the county
19 in which the real property is located, and the charges and any
20 penalties added thereto and interest thereon at the rate not to exceed
21 twelve percent per annum fixed by resolution shall be a lien against
22 the property to which the service was available, subject only to the
23 lien for general taxes. The district may, at any time after such rates
24 or tolls and charges and penalties provided for herein are delinquent
25 for a period of one year, bring suit in foreclosure by civil action in
26 the superior court of the county in which the real property is
27 situated.

28 (7) A board may determine how to apply partial payments on past due
29 accounts.

30 (8) A board may provide a real property owner or the owner's
31 designee with duplicate bills for service to tenants, or may notify an
32 owner or the owner's designee that a tenant's service account is
33 delinquent. However, if an owner or the owner's designee notifies the
34 board in writing that a property served by the board is a rental
35 property, asks to be notified of a tenant's delinquency, and has
36 provided, in writing, a complete and accurate mailing address, the
37 board shall notify the owner or the owner's designee of a tenant's
38 delinquency at the same time and in the same manner the board notifies
39 the tenant of the tenant's delinquency or by mail. When a district

1 provides a real property owner or the owner's designee with duplicates
2 of tenant utility service bills or notice that a tenant's utility
3 account is delinquent, the district shall notify the tenant that it is
4 providing the duplicate bills or delinquency notice to the owner or the
5 owner's designee. After January 1, 1999, if a board fails to notify
6 the owner of a tenant's delinquency after receiving a written request
7 to do so and after receiving the other information required by this
8 subsection (8), the board shall have no lien against the premises for
9 the tenant's delinquent and unpaid charges.

10 (9) The court may allow, in addition to the costs and disbursements
11 provided by statute, such ((attorney's)) attorneys' fees as it may
12 adjudge reasonable. The action shall be in rem against the property,
13 and in addition may be brought in the name of the district against an
14 individual, or against all of those who are delinquent, in one action,
15 and the rules of the court shall control as in other civil actions.
16 The board may in the same year use the assessment method for part of
17 the lands in the district and the rates or tolls and charges method for
18 the remaining lands in the district in such proportion as it may deem
19 advisable for the best interest of the district.

20 (10) The procedures herein provided for the collection and
21 enforcement of rates, tolls, and charges also shall be applicable and
22 available to the districts board of directors for the collection and
23 enforcement of charges for water imposed by contract entered into or
24 administered by the district's board of directors.

Passed the House March 10, 1998.

Passed the Senate March 6, 1998.

Approved by the Governor April 2, 1998.

Filed in Office of Secretary of State April 2, 1998.