

SENATE BILL REPORT

SB 6519

As Reported By Senate Committee On:
Financial Services, Insurance & Housing, February 2, 2004

Title: An act relating to third party utility billings.

Brief Description: Regulating third party utility billings.

Sponsors: Senators Benton, Prentice, Winsley and Kline.

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 1/27/04, 2/2/04 [DPS].

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 6519 be substituted therefor, and the substitute bill do pass.

Signed by Senators Benton, Chair; Winsley, Vice Chair; Berkey, Keiser, Murray, Prentice and Roach.

Staff: Fara Daun (786-7459)

Background: In recent years, there has been considerable discussion of the practice of third-party billing of master-metered or unmetered utilities by owners of multiple unit apartments. Third-party billing occurs when the landlord or the landlord's agent bill tenants for some proportion of utilities when those utilities are not separately metered for each unit and billed by the utility provider. There has been concern in cases where the tenants have not had adequate notice and where the procedure for dividing master metered or unmetered utilities has been unclear.

Some local jurisdictions have enacted ordinances regulating third party billing. There is concern about the result of inconsistent local provisions.

Summary of Substitute Bill: A landlord may only bill tenants separately for utilities as permitted in this chapter. A landlord may only engage a third-party billing agent that complies with the requirements of the chapter. Any third-party billing agent must be properly registered and licensed to do business in Washington and be in compliance with all state laws and rules.

A landlord may bill tenants for master-metered or unmetered utilities only after advance written notice to the tenants and as part of a new or renewed rental agreement. Notice must be provided 30 days in advance unless billing practices are already in place on the effective date of the act, in which case notice must be given 30 days in advance. Tenants must have 30 days notice of a change in billing agent, apportionment method, fees or other terms and conditions of the agreement.

The notice must include a detailed written disclosure of billing practices. This includes the method used to apportion charges to each tenant, including charges for common areas and practices related to collections, charges, and the use of personal information. If submeters are used, it must include their location and any requirements for access to the meters. Submeters must be accurate and regularly maintained.

The total charges billed to the tenants cannot exceed the total billed to the landlord, less any late payment charges, interest, or penalties owed by the landlord. Individual tenants may be subject to a reasonable service charge, late payment charge, or insufficient funds check charge, based on a flat fee or schedule of fees. No late fee may accrue until 21 days after the bill was mailed or otherwise delivered.

Individual tenant billing statements must include the name, address and telephone number of the billing entity, as well as a mailing address and telephone number for complaints and disputes, along with dispute resolution information. Statements must identify and show the basis for each separate charge as separate line items, show submetering information, and show the total amount of the bill, past due amounts, and due dates. Dispute resolution provisions may not require a tenant to pursue a remedy in another state.

When a utility bill to the landlord is estimated, the billing agent may estimate charges to be billed based on actual usages. If the estimate results in an overcharge, it must be refunded to the tenants. If it results in an undercharge, the landlord may attempt to recover the charges from the tenants that actually incurred the charges but may not attempt to recover against a tenant who did not live in the building during the billing period. Adjustments may be made in a subsequent bill for continuing tenants, but if the tenant is no longer a resident, any refund due must be promptly forwarded. To the extent that the basis for the adjustment is provided by the utility, it must also be provided to the tenant.

There is a state preemption provision.

Substitute Bill Compared to Original Bill: There is a preemption provision. The notice provision changed from 90 days to 30 days. There is no statement as to landlord liability. Individual submeters or hot water meters must be accurate and regularly maintained. Adjustments due to an estimated bill may be made for ongoing tenants in a subsequent bill. To the extent that the utility provides the basis for the adjustment in the master bill, the basis for the adjustment in a subsequent bill must be provided to the tenant. Refunds for overpayment of an estimated bill due to a tenant who is no longer a resident must be forwarded to the tenant promptly. Service charges, late fees, and insufficient funds check fees must be reasonable, based on a flat fee or schedule of fees that is disclosed in the billing practices notice. No late charges may accrue until at least 21 days after the bill is mailed or otherwise delivered to the tenant. No dispute resolution provision may require a tenant to pursue a remedy in another state. There are clarifying and technical amendments.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill is needed to provide consistency across the state. It also resolves the problem of tenants not knowing the basis for their utility charges. There are problems when tenants get the same utility bill even when they have been away from home for the billing period. There need to be provisions about dispute resolution. Some persons have had difficulty reaching third party billing providers or being provided the formula on which the bill is based. All who testified suggested that the bill needs to be amended to be a better bill. Suggested amendments included provisions related to service charges, requirements that the meters work and be read by a certified person, a preemption clause, an amendment removing landlord liability for third party billing agents, changing the notice requirement to 30 days, reasonable grace period before late charges are applied, a cap on service fees and other charges, mandatory submetering, protection for personal information, and an explicit dispute resolution process.

Testimony Against: While generally supportive, the City of Seattle objects to a preemption clause.

Testified: Fred Jones, Mobile Home Owners of America (pro); John Woodring, Rental Housing Association of Puget Sound (pro); Doug Neyhart, Rental Housing Association of Puget Sound (pro); Shauna Larsen, City of Seattle (w/amendments); Brian Heaven, citizen (pro); Terry Hotvedt, Rental Housing Association of Puget Sound (pro).