
SENATE BILL 5372

State of Washington

58th Legislature

2003 Regular Session

By Senators Swecker and T. Sheldon

Read first time 01/23/2003. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to payment responsibility for utility service; and
2 amending RCW 35.21.290, 35.67.200, 36.94.150, 57.08.081, and 80.28.010.

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

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

6 Cities and towns owning their own waterworks, or electric light or
7 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.

1 A city or town may not require a security deposit of a property
2 owner for nonpayment of charges for utility service, for any charges
3 secured by lien under this section. All such security deposits held on
4 the effective date of this act must be refunded within thirty days.

5 **Sec. 2.** RCW 35.67.200 and 1991 c 36 s 2 are each amended to read
6 as follows:

7 Cities and towns owning their own sewer systems shall have a lien
8 for delinquent and unpaid rates and charges for sewer service,
9 penalties levied pursuant to RCW 35.67.190, and connection charges,
10 including interest thereon, against the premises to which such service
11 has been furnished or is available, which lien shall be superior to all
12 other liens and encumbrances except general taxes and local and special
13 assessments. The city or town by ordinance may provide that delinquent
14 charges shall bear interest at not exceeding eight percent per annum
15 computed on a monthly basis: PROVIDED, That a city or town using the
16 property tax system for utility billing may, by resolution or
17 ordinance, adopt the alternative lien procedure as set forth in RCW
18 35.67.215.

19 A city or town may not require a security deposit of a property
20 owner for nonpayment of charges for utility service, for any charges
21 secured by lien under this section. All such security deposits held on
22 the effective date of this act must be refunded within thirty days.

23 **Sec. 3.** RCW 36.94.150 and 1997 c 393 s 9 are each amended to read
24 as follows:

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

35 The county department established in RCW 36.94.120 shall certify

1 periodically the delinquencies to the auditor of the county at which
2 time the lien shall attach.

3 Upon the expiration of sixty days after the attachment of the lien,
4 the county may bring suit in foreclosure by civil action in the
5 superior court of the county where the property is located. Costs
6 associated with the foreclosure of the lien, including but not limited
7 to advertising, title report, and personnel costs, shall be added to
8 the lien upon filing of the foreclosure action. In addition to the
9 costs and disbursements provided by statute, the court may allow the
10 county a reasonable attorney's fee. The lien shall be foreclosed in
11 the same manner as the foreclosure of real property tax liens.

12 A county may not require a security deposit of a property owner for
13 nonpayment of charges for utility service, for any charges secured by
14 lien under this section. All such security deposits held on the
15 effective date of this act must be refunded within thirty days.

16 **Sec. 4.** RCW 57.08.081 and 1999 c 153 s 11 are each amended to read
17 as follows:

18 (1) The commissioners of any district shall provide for revenues by
19 fixing rates and charges for furnishing sewer and drainage service and
20 facilities to those to whom service is available or for providing
21 water, such rates and charges to be fixed as deemed necessary by the
22 commissioners, so that uniform charges will be made for the same class
23 of customer or service and facility. Rates and charges may be combined
24 for the furnishing of more than one type of sewer or drainage service
25 and facilities.

26 (2) In classifying customers of such water, sewer, or drainage
27 system, the board of commissioners may in its discretion consider any
28 or all of the following factors: The difference in cost to various
29 customers; the location of the various customers within and without the
30 district; the difference in cost of maintenance, operation, repair, and
31 replacement of the various parts of the system; the different character
32 of the service furnished various customers; the quantity and quality of
33 the service and facility furnished; the time of its use; the
34 achievement of water conservation goals and the discouragement of
35 wasteful practices; capital contributions made to the system including
36 but not limited to assessments; and any other matters which present a
37 reasonable difference as a ground for distinction. Rates shall be

1 established as deemed proper by the commissioners and as fixed by
2 resolution and shall produce revenues sufficient to take care of the
3 costs of maintenance and operation, revenue bond and warrant interest
4 and principal amortization requirements, and all other charges
5 necessary for efficient and proper operation of the system. Prior to
6 furnishing services, a district may require a deposit to guarantee
7 payment for services. However, failure to require a deposit does not
8 affect the validity of any lien authorized by this section.

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

25 (4) A district may not require a security deposit of a property
26 owner for nonpayment of charges for utility service, for any charges
27 secured by lien under this section. All such security deposits held on
28 the effective date of this act must be refunded within thirty days.

29 (5) The district may, at any time after the connection charges or
30 rates and charges for services supplied or available and penalties are
31 delinquent for a period of sixty days, bring suit in foreclosure by
32 civil action in the superior court of the county in which the real
33 property is located. The court may allow, in addition to the costs and
34 disbursements provided by statute, attorneys' fees, title search and
35 report costs, and expenses as it adjudges reasonable. The action shall
36 be in rem, and may be brought in the name of the district against an
37 individual or against all of those who are delinquent in one action.

1 The laws and rules of the court shall control as in other civil
2 actions.

3 ~~((+5+))~~ (6) In addition to the right to foreclose provided in this
4 section, the district may also cut off all or part of the service after
5 charges for water or sewer service supplied or available are delinquent
6 for a period of thirty days.

7 ~~((+6+))~~ (7) A district may determine how to apply partial payments
8 on past due accounts.

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

29 **Sec. 5.** RCW 80.28.010 and 1995 c 399 s 211 are each amended to
30 read as follows:

31 (1) All charges made, demanded or received by any gas company,
32 electrical company or water company for gas, electricity or water, or
33 for any service rendered or to be rendered in connection therewith,
34 shall be just, fair, reasonable and sufficient.

35 (2) Every gas company, electrical company and water company shall
36 furnish and supply such service, instrumentalities and facilities as

1 shall be safe, adequate and efficient, and in all respects just and
2 reasonable.

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

6 (4) Utility service for residential space heating shall not be
7 terminated between November 15 through March 15 if the customer:

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

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

25 (c) Has applied for home heating assistance from applicable
26 government and private sector organizations and certifies that any
27 assistance received will be applied to the current bill and future
28 utility bills;

29 (d) Has applied for low-income weatherization assistance to the
30 utility or other appropriate agency if such assistance is available for
31 the dwelling;

32 (e) Agrees to a payment plan and agrees to maintain the payment
33 plan. The plan will be designed both to pay the past due bill by the
34 following October 15 and to pay for continued utility service. If the
35 past due bill is not paid by the following October 15, the customer
36 shall not be eligible for protections under this chapter until the past
37 due bill is paid. The plan shall not require monthly payments in
38 excess of seven percent of the customer's monthly income plus one-

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

9 (f) Agrees to pay the moneys owed even if he or she moves.

10 (5) The utility shall:

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

14 (b) Assist the customer in fulfilling the requirements under this
15 section;

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

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

29 (e) Advise the customer in writing at the time it disconnects
30 service that it will restore service if the customer contacts the
31 utility and fulfills the other requirements of this section.

32 (6) A payment plan implemented under this section (~~(is)~~) must be
33 consistent with RCW 80.28.080.

34 (7) Every gas company and electrical company shall offer
35 residential customers the option of a budget billing or equal payment
36 plan. The budget billing or equal payment plan shall be offered low-
37 income customers eligible under the state's plan for low-income energy
38 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without

1 limiting availability to certain months of the year, without regard to
2 the length of time the customer has occupied the premises, and without
3 regard to whether the customer is the tenant or owner of the premises
4 occupied.

5 (8) A gas company, electric company, or water company may not
6 require a security deposit of a property owner for nonpayment of
7 charges for utility service, for any charges secured by lien under this
8 section. All such security deposits held on the effective date of this
9 act must be refunded within thirty days.

10 (9) Every gas company, electrical company and water company shall
11 construct and maintain such facilities in connection with the
12 manufacture and distribution of its product as will be efficient and
13 safe to its employees and the public.

14 ~~((+9))~~ (10) An agreement between the customer and the utility,
15 whether oral or written, shall not waive the protections afforded under
16 this chapter.

17 ~~((+10))~~ (11) In establishing rates or charges for water service,
18 water companies as defined in RCW 80.04.010 may consider the
19 achievement of water conservation goals and the discouragement of
20 wasteful water use practices.

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