
SENATE BILL 6519

State of Washington 58th Legislature 2004 Regular Session

By Senators Benton, Prentice, Winsley and Kline

Read first time 01/22/2004. Referred to Committee on Financial Services, Insurance & Housing.

1 AN ACT Relating to third party utility billings; adding a new
2 chapter to Title 59 RCW; and prescribing penalties.

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

4 NEW SECTION. **Sec. 1.** (1) This chapter may be known and cited as
5 the "third party utility billing act." The purpose of this chapter is
6 to prevent landlords, either themselves or through a third party
7 billing agent, from billing tenants for master metered or other
8 unmetered utility services without proper notice and disclosure of
9 billing practices to tenants, and to protect tenants from deceptive or
10 fraudulent billing practices, and to these ends this chapter shall be
11 liberally construed.

12 (2) This chapter does not prevent a landlord from including a
13 tenant's cost of master metered or other unmetered utility services
14 within the rent set forth in a rental agreement, and the practice of
15 including that cost within a tenant's rent is not a billing practice or
16 methodology affected by this chapter.

17 (3) This chapter does not affect the practices used by public
18 utilities to bill and collect residential multiunit building owners or
19 landlords for master metered or other unmetered utility service.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Billing entity" means the landlord or third party billing
4 agent, as the case may be, responsible for billing residential
5 multiunit building tenants for master metered or other unmetered
6 utility service.

7 (2) "Disclosure" means providing tenants with complete and accurate
8 written information in a clear, concise, and understandable manner in
9 all notices required under this chapter and on each bill presented from
10 the billing entity to tenants.

11 (3) "Landlord" means the same as in RCW 59.18.030 in effect at the
12 time the rental agreement is executed, and also means the owner of a
13 mobile home park under RCW 59.20.030 or boat moorage.

14 (4) "Master metered utility service" means a utility service
15 supplied to more than one unit in a multiunit building and measured
16 through a single inclusive metering system.

17 (5) "Methodology" means any method, technique, or criterion used to
18 apportion to tenants charges billed to the landlord by the utility for
19 master metered utility service or unmetered utility service, including
20 but not limited to ratio utility billing systems, installation of
21 submetering, and hot water metering.

22 (6) "Multiunit building" means a residential building or group of
23 buildings, which may include a mobile home park or boat moorage, with
24 three or more tenant units with a master metered utility service or
25 unmetered utility service, such as solid waste collection, that is
26 provided to the building or group of buildings as a whole.

27 (7) "Ratio utility billing system" means any methodology by which
28 the cost of master metered or other unmetered utility service provided
29 to tenants and common areas of a multiunit building is apportioned to
30 tenants through the use of a formula that estimates the utility usage
31 of each rental unit in the building based on the number of occupants in
32 a unit, number of bedrooms in a unit, square footage of a unit, or any
33 similar criterion.

34 (8) "Rental agreement" means the same as in RCW 59.18.030 in effect
35 at the time the rental agreement is executed, and includes any month-
36 to-month tenancy arrangement, whether written or oral.

37 (9) "Tenant" means the same as in RCW 59.18.030 in effect at the

1 time the rental agreement is executed, and also means a tenant of a
2 mobile home park or boat moorage.

3 (10) "Billing practices" means the practices of a landlord or third
4 party billing agent that bills residential multiunit building tenants
5 for the purpose of apportioning master metered or other unmetered
6 utility services provided to the building as a whole, either by
7 directly submetering tenants' usage or by otherwise apportioning
8 utility services among tenants, and also means any practices related
9 thereto, including but not limited to collecting, using, or disclosing
10 tenants' personally identifiable information, other than name and
11 address, attempting to collect unpaid amounts from tenants, verifying
12 tenants' credit, and reporting unpaid balances to credit reporting
13 agencies.

14 (11) "Third party billing agent" means any entity retained or
15 authorized by a landlord to bill tenants for master metered or other
16 unmetered utility service on behalf of and as the agent of a landlord.

17 (12) "Utilities" or "utility services" means water, sewer,
18 electric, and solid waste services.

19 NEW SECTION. **Sec. 3.** (1) A landlord shall not bill tenants
20 separately for utility services except as permitted in this chapter.

21 (2) A landlord shall not engage, retain, or authorize, and a
22 landlord is liable for the actions of, a third party billing agent that
23 does not comply with the requirements of this chapter.

24 NEW SECTION. **Sec. 4.** (1) A landlord may, itself or through a
25 third party billing agent, bill tenants for master metered or other
26 unmetered utility services, including electric service provided to
27 tenants of multiunit buildings, provided that the following
28 requirements are met:

29 (a) Billing practices may be adopted only upon advance written
30 notice to a tenant as part of a new or renewed rental agreement.
31 Tenants must receive the written notice at least ninety days before
32 expiration of their rental agreements, or, in the case of month-to-
33 month tenancies, at least ninety days before the billing practices may
34 become effective. However, if billing practices are already in place
35 on the effective date of this act, written notice must be given within
36 thirty days of the effective date of this act.

1 (b) The notice required under (a) of this subsection must include
2 a detailed written disclosure of the methodology used by the billing
3 agent to allocate the charges to each tenant, including the methodology
4 used to allocate utility services for common areas of the building,
5 along with all other terms and conditions of the billing arrangement.
6 If submetering is used, the notice required must also include
7 descriptions of the location of the submeter and of the access
8 requirements, if any, required by the landlord for access to tenant
9 units for submeter installation, reading, repair, maintenance, or
10 inspections, including removal of the submeter for testing, consistent
11 with the provisions of RCW 59.18.150. An additional written notice
12 must also be given at least thirty days prior to the due date of the
13 next rental payment in order to implement a change in billing agents,
14 apportionment methodology, fees, or other terms and conditions of the
15 billing arrangement.

16 (c) The total of all charges for any utility service included in
17 the bills sent to all units cumulatively may not exceed the amount of
18 the bill sent by the utility itself for the building as a whole, less
19 any late charges, interest, or other penalties owed by the landlord,
20 with the exception of the following, which may be included in each bill
21 covering an independent unit within the multiunit building:

- 22 (i) A service charge;
- 23 (ii) Late payment charges; and
- 24 (iii) Insufficient funds check charges for dishonored checks.

25 (d) Any third party billing agent must be properly registered and
26 licensed to do business in this state and must be in compliance with
27 all applicable state laws and rules, and all applicable state license
28 identification numbers, if any, must be disclosed upon request.

29 (e) Each billing statement sent to a tenant by a billing entity
30 must disclose all required information in a clear and conspicuous
31 manner and at minimum must:

- 32 (i) Include the name, business address, and telephone number of the
33 billing entity;
- 34 (ii) Identify and show the basis for each separate charge,
35 including service charges and late charges, if any, as a line item, and
36 show the total amount of the bill;
- 37 (iii) If the building units are submetered, include the current and

1 previous meter readings, the current read date, and the amount
2 consumed, or estimated to have been consumed if the utility has
3 provided the landlord with an estimated bill;

4 (iv) Specify the due date, the date upon which the bill becomes
5 overdue, the amount of any late charges or penalties that may apply,
6 and the date upon which the late charges or penalties may be imposed;

7 (v) Identify any past due dollar amounts;

8 (vi) Identify a mailing address and telephone number for billing
9 inquiries and disputes, identify the entity responsible for resolving
10 billing inquiries and disputes and its business hours and days of
11 availability, and describe the process used to resolve disputes related
12 to bills as set forth in this chapter; and

13 (vii) Include a statement to the effect that "this bill is from
14 (landlord name) and not from (utility company name)."

15 (f) If a utility company has billed the landlord using an estimate
16 of utility service consumed, the billing agent may estimate the charges
17 to be billed to tenants until billing based on actual consumption
18 resumes. Upon receipt of a corrected bill showing that the estimated
19 bill overstated charges, the landlord must refund the difference to
20 tenants. Upon receipt of a corrected bill showing that the estimated
21 bill understated charges, the landlord may attempt to recover the
22 underpayment from the tenants that actually incurred the charges during
23 the billing period, but may not attempt to recover an underpayment from
24 a tenant who did not reside in the unit during the billing period in
25 which the charges were incurred.

26 (g) Submetering is permitted as a way of allocating master metered
27 utility services to tenants.

28 (2) This section does not prevent a landlord from addressing
29 billing of master metered or other unmetered utility services in a
30 written addendum to a lease. A lease addendum may be used to give the
31 notice required under subsection (1)(a) of this section, so long as the
32 lease addendum is provided to the tenant with the notice required under
33 that subsection, and so long as all other requirements of this chapter
34 are satisfied.

35 NEW SECTION. **Sec. 5.** Sections 1 through 4 of this act constitute

1 a new chapter in Title 59 RCW.

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