## HOUSE BILL 1298

State of Washington 61st Legislature 2009 Regular Session

**By** Representatives O'Brien, Warnick, Williams, McCune, Rodne, Simpson, Kelley, and Ormsby

Read first time 01/16/09. Referred to Committee on Local Government & Housing.

1 AN ACT Relating to utility liens against rental property; and 2 amending RCW 35.21.290, 35.67.200, and 36.94.150.

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:

(1) Except as provided in subsection (2) of this section, cities 6 7 and towns owning their own waterworks $((\tau))$  or electric light or power plants, but excluding services that cities or towns have contracted out 8 9 to another organization, shall have a lien against the premises to 10 which water, electric light, or power services were furnished for four 11 months charges therefor due or to become due, but not for any charges more than four months past due: PROVIDED, That the owner of the 12 13 premises or the owner of a delinquent mortgage thereon may give written 14 notice to the superintendent or other head of such works or plant to 15 cut off service to such premises accompanied by payment or tender of 16 payment of the then delinquent and unpaid charges for such service 17 against the premises together with the cut-off charge, whereupon the 18 city or town shall have no lien against the premises for charges for

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such service thereafter furnished, nor shall the owner of the premises
or the owner of a delinquent mortgage thereon be held for the payment
thereof.

4 (2) If a city or town contracts directly with the tenant for services and a property owner or the owner's designee notifies the city 5 6 or town in writing, within ten days after the property owner or owner's designee becomes aware that the property has been vacated by the 7 tenant, that a property served by the city or town is a rental 8 9 property, and provides, in writing, the last known mailing address for the tenant and the property owner, the city or town shall have no lien 10 11 against the premises for the tenant's delinguent and unpaid charges and the city or town shall have no right of action against the property 12 13 owner.

(3) If a city or town contracts directly with the tenant for 14 services and the tenant becomes delinguent, the city or town may not 15 hold the property owner liable for more than thirty days for delinquent 16 costs or withhold services to the premises for future occupants if the 17 property owner or the owner's designee has provided the city or town 18 19 with an address, other than the physical location of where the services 20 are provided, to send the property owner or the owner's designee 21 notification of delinquency.

22 **Sec. 2.** RCW 35.67.200 and 1991 c 36 s 2 are each amended to read 23 as follows:

(1) Except as provided in subsection (2) of this section, cities 24 25 and towns owning their own sewer systems shall have a lien for 26 delinquent and unpaid rates and charges for sewer service, penalties levied pursuant to RCW 35.67.190, and connection charges, including 27 28 interest thereon, against the premises to which such service has been 29 furnished or is available, which lien shall be superior to all other 30 liens and encumbrances except general taxes and local and special 31 assessments. The city or town by ordinance may provide that delinquent 32 charges shall bear interest at not exceeding eight percent per annum computed on a monthly basis: PROVIDED, That a city or town using the 33 34 property tax system for utility billing may, by resolution or 35 ordinance, adopt the alternative lien procedure as set forth in RCW 36 35.67.215.

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(2) If a city or town contracts directly with the tenant for 1 2 services and a property owner or the owner's designee notifies the city or town in writing, within ten days after the property owner or owner's 3 designee becomes aware that the property has been vacated by the 4 tenant, that a property served by the city or town is a rental 5 property, and provides, in writing, the last known mailing address for б the tenant and the property owner, the city or town shall have no lien 7 against the premises for the tenant's delinguent and unpaid charges and 8 9 the city or town shall have no right of action against the property 10 owner.

11 **Sec. 3.** RCW 36.94.150 and 1997 c 393 s 9 are each amended to read 12 as follows:

(1) Except as provided in subsection (4) of this section, all 13 counties operating a system of sewerage and/or water shall have a lien 14 15 for delinquent connection charges and charges for the availability of 16 sewerage and/or water service, together with interest fixed by 17 resolution at eight percent per annum from the date due until paid. 18 Penalties of not more than ten percent of the amount due may be imposed in case of failure to pay the charges at times fixed by resolution. 19 20 The lien shall be for all charges, interest, and penalties and shall 21 attach to the premises to which the services were available. The lien 22 shall be superior to all other liens and encumbrances, except general 23 taxes and local and special assessments of the county.

(2) The county department established in RCW 36.94.120 shall
certify periodically the delinquencies to the auditor of the county at
which time the lien shall attach.

(3) Upon the expiration of sixty days after the attachment of the 27 lien, the county may bring suit in foreclosure by civil action in the 28 29 superior court of the county where the property is located. Costs associated with the foreclosure of the lien, including but not limited 30 31 to advertising, title report, and personnel costs, shall be added to the lien upon filing of the foreclosure action. In addition to the 32 costs and disbursements provided by statute, the court may allow the 33 34 county a reasonable attorney's fee. The lien shall be foreclosed in 35 the same manner as the foreclosure of real property tax liens.

36 (4) If a county contracts directly with the tenant for services and 37 <u>a property owner or the owner's designee notifies the county in</u>

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writing, within ten days after the property owner or owner's designee becomes aware that the property has been vacated by the tenant, that a property served by the county is a rental property, and provides, in writing, the last known mailing address for the tenant and the property owner, the county shall have no lien against the premises for the tenant's delinquent and unpaid charges and the county shall have no right of action against the property owner.

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