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**SUBSTITUTE HOUSE BILL 2069**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** House Civil Rights & Judiciary (originally sponsored by Representatives Dufault, Springer, Santos, Dent, Reeves, DeBolt, Kirby, Harris, Walen, Caldier, Jinkins, Steele, Pollet, Paul, Barkis, Irwin, Lovick, Eslick, Van Werven, Walsh, Fey, Frame, Callan, Shewmake, Valdez, Peterson, Senn, and Leavitt)

READ FIRST TIME 02/19/19.

1 AN ACT Relating to a property owner's or tenant's liability for  
2 delinquent and unpaid utility service charges; amending RCW  
3 60.80.010, 60.80.020, and 35.21.290; adding a new section to chapter  
4 35.21 RCW; and repealing RCW 35.21.217.

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

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

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

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

1 same time and in the same manner the city or town notifies the tenant  
2 of the tenant's delinquency or by mail. When a city or town provides  
3 a real property owner or the owner's designee with duplicates of  
4 residential tenant utility service bills or notice that a tenant's  
5 utility account is delinquent, the city or town shall notify the  
6 tenant that it is providing the duplicate bills or delinquency notice  
7 to the owner or the owner's designee.

8 (b) When a city or town provides utility services to someone  
9 other than the owner of the property, the city or town is prohibited  
10 from collecting delinquent utility charges from the owner or the  
11 owner's designee. A city or town may only collect payments for past  
12 due utility charges from the residential utility customer whose name  
13 is listed on the utility account.

14 (c) When a city or town provides utility services to a new  
15 residential tenant utility customer, the city or town is prohibited  
16 from collecting delinquent utility charges connected to the property  
17 or premises from the new customer. A new residential tenant utility  
18 customer does not include a person who lived on the property or  
19 premises with the residential tenant utility customer whose name is  
20 listed on the delinquent utility account.

21 (3) If an occupied multiple residential rental unit receives  
22 utility service through a single utility account, if the utility  
23 account's billing address is not the same as the service address of a  
24 residential rental property, or if the city or town has been notified  
25 that a tenant resides at the service address, the city or town shall  
26 make a good faith and reasonable effort to provide written notice to  
27 the service address of pending disconnection of electric power and  
28 light or water service for nonpayment at least seven calendar days  
29 prior to disconnection. The purpose of this notice is to provide any  
30 affected tenant an opportunity to resolve the delinquency with his or  
31 her landlord or to arrange for continued service.

32 (4) In no case may cities or towns owning their own utility: (a)  
33 Require a property owner or the owner's designee to pay a delinquent  
34 utility bill in a tenant's name; or (b) have a lien against the  
35 premises of the property owner for a residential tenant's delinquent  
36 and unpaid utility charges when the utility account is in the  
37 tenant's name.

38 **Sec. 2.** RCW 60.80.010 and 2004 c 215 s 8 are each amended to  
39 read as follows:

1 (1) Unless otherwise stated and acknowledged in writing by the  
2 purchaser, the seller of a fee interest in real property is  
3 responsible for satisfying, upon closing, any lien provided for by  
4 RCW (~~(35.21.290,)~~) 35.67.200, 36.36.045, (~~(36.89.090)~~) 36.89.065, or  
5 36.94.150.

6 (2) No closing agent may refuse a written request by the seller  
7 or purchaser of a fee interest in real property to administer the  
8 disbursement of closing funds necessary to satisfy unpaid charges as  
9 charges are defined in RCW 60.80.005. Except as otherwise provided in  
10 this subsection (2), a closing agent who refuses such a written  
11 request is liable to the purchaser for unpaid charges for utility  
12 services covered by the request. A closing agent is not liable if the  
13 closing agent's refusal is based on the seller's inaccurate or  
14 incomplete identification of utilities providing service to the  
15 property, or if a utility fails to provide an estimated or actual  
16 final billing, or written extension of the per diem rate, as required  
17 by RCW 60.80.020, or if disbursement of closing funds necessary to  
18 satisfy the unpaid charges would violate RCW 18.44.400.

19 (3) A closing agent may charge a fee for performing the services  
20 required of the closing agent by this chapter, which fee may be in  
21 addition to other fees or settlement charges collected in the course  
22 of ordinary settlement practices.

23 **Sec. 3.** RCW 60.80.020 and 2004 c 215 s 9 are each amended to  
24 read as follows:

25 (1) Unless the seller and purchaser waive, in writing, the  
26 services of a closing agent in administering the disbursement of  
27 closing funds necessary to satisfy unpaid charges as charges are  
28 defined in RCW 60.80.005, the seller shall, as a provision in a  
29 written agreement for the purchase and sale of real estate, inform  
30 the closing agent for the sale of the names and addresses of all  
31 utilities, including special districts, providing service to the  
32 property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08  
33 RCW. The provision of the information in a written agreement for the  
34 purchase and sale of real estate constitutes a written request to the  
35 closing agent to administer disbursement of closing funds necessary  
36 to satisfy unpaid charges.

37 Unless the seller and purchaser have waived the services of a  
38 closing agent as provided in this subsection, the closing agent shall  
39 submit a written request for a final billing to each utility

1 identified by the seller as providing service to the property under  
2 chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW. Either the  
3 seller or purchaser may submit a written request for a final billing  
4 to each utility identified by the seller as providing service to the  
5 property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08  
6 RCW.

7 The written request must identify the property by both legal  
8 description and address. The closing agent, seller, or purchaser may  
9 submit a written request to a utility by facsimile. In requesting  
10 final billings for utility services, the closing agent may rely upon  
11 information provided by the seller, and a closing agent or a real  
12 estate agent who is not the seller is not liable for inaccurate or  
13 incomplete information.

14 (2) After receiving a written request for a final billing for  
15 utility services to real property to be sold, a utility operated  
16 under chapter 35.21, 35.67, 36.36, 36.89, 36.94, or 57.08 RCW shall  
17 provide the requesting party with a written estimated or actual final  
18 billing as provided in this section. If the utility is unable to  
19 provide a written estimated or actual final billing or written  
20 extension of the per diem rate, due to insufficient information to  
21 identify the account, the utility shall notify the requesting party  
22 in writing that the information is insufficient to identify the  
23 account.

24 The utility shall provide the written estimated or actual final  
25 billing, or statement that the information in the request is  
26 insufficient to identify the account, to the requesting party within  
27 seven business days of receipt of the written request if the request  
28 was mailed to the utility, or within three business days if the  
29 request was sent to the utility by facsimile or delivered to the  
30 utility by messenger. A utility may provide a written estimated or  
31 actual final billing to the requesting party by facsimile.

32 (a) The final billing must include all outstanding charges and,  
33 in addition to the estimated or actual final amount owing as of the  
34 stated closing date, must state the average per diem rate for the  
35 utility or utilities involved, including taxes and other charges,  
36 which shall apply for up to thirty days beyond the stated closing  
37 date if the closing date is delayed.

38 (b) If closing is delayed beyond thirty days, a new estimated or  
39 actual final billing must be requested in writing. In lieu of  
40 furnishing a written revised final billing, the utility may extend,

1 in writing, the number of days for which the per diem charge applies.  
2 The utility shall respond within seven business days of receipt of  
3 the written request for a new estimated or actual final billing if  
4 the request was mailed to the utility, or within three business days  
5 if the request was sent to the utility by facsimile or delivered to  
6 the utility by messenger.

7 (c) If a utility fails to provide a written estimated or actual  
8 final billing, written extension of the per diem rate, or statement  
9 that the information in the request is insufficient to identify the  
10 account, within seven business days of receipt of a written request  
11 if the request was mailed to the utility, or within three business  
12 days if the request was sent to the utility by facsimile or delivered  
13 to the utility by messenger, an unrecorded lien provided for by RCW  
14 (~~(35.21.290,)~~) 35.67.200, 36.36.045, (~~(36.89.090)~~) 36.89.065, or  
15 36.94.150 for charges incurred prior to the closing date is  
16 extinguished, and the utility may not recover the charges from the  
17 purchaser of the property.

18 (d) A closing agent shall inform the seller and purchaser of all  
19 applicable estimated and actual final billings furnished by  
20 utilities.

21 In performing his or her duties under this chapter, a closing  
22 agent may rely upon information provided by utilities and is not  
23 liable if information provided by utilities is inaccurate or  
24 incomplete.

25 (3) If closing occurs no later than the last date for which per  
26 diem charges may be applied, full payment of the estimated or actual  
27 final billing plus per diem charges extinguishes a lien of the  
28 utility provided for by RCW (~~(35.21.290,)~~) 35.67.200, 36.36.045,  
29 (~~(36.89.090)~~) 36.89.065, or 36.94.150 for charges incurred prior to  
30 the closing date.

31 (4)(a) Except as otherwise provided in this subsection (4)(a),  
32 this section does not limit the right of a utility to recover from  
33 the purchaser of the property unpaid utility charges incurred prior  
34 to closing, if the utility did not receive a written request for a  
35 final billing or if the utility complied with subsection (2) of this  
36 section.

37 A utility may not recover from a purchaser unpaid utility charges  
38 incurred prior to closing in excess of an estimated final billing.

39 (b) This section does not limit the right of a utility to recover  
40 unpaid utility charges incurred prior to closing, including unpaid

1 utility charges in excess of an estimated final billing, from the  
2 seller of the property, or from the person or persons who incurred  
3 the charges.

4 (c) If an estimated final billing is in excess of the actual  
5 final billing, unless otherwise directed in writing by the seller and  
6 purchaser, a utility shall refund any overcharge to the seller of the  
7 property by sending the refund in the seller's name to the last  
8 address provided by the seller. A utility shall refund the overcharge  
9 within fourteen business days of the date the utility receives  
10 payment for the final billing, unless a county treasurer acts in an  
11 ex officio capacity as the treasurer of a utility, in which case the  
12 utility shall refund the overcharge within thirty business days of  
13 the date the utility receives payment for the final billing.

14 **Sec. 4.** RCW 35.21.290 and 2010 c 135 s 2 are each amended to  
15 read as follows:

16 Except as provided in RCW 35.21.217(4) and section 1(4) of this  
17 act, cities and towns owning their own waterworks, or electric light  
18 or power plants shall have a lien against the premises to which  
19 water, electric light, or power services were furnished for four  
20 months charges therefor due or to become due, but not for any charges  
21 more than four months past due.

22 NEW SECTION. **Sec. 5.** RCW 35.21.217 (Utility services—Deposit—  
23 Tenants' delinquencies—Notice—Lien) and 2011 c 151 s 5, 2010 c 135 s  
24 1, & 1998 c 285 s 1 are each repealed.

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