

HOUSE BILL REPORT

SSB 5016

As Reported By House Committee On:
Energy & Utilities

Title: An act relating to municipal utility liens.

Brief Description: Modifying provisions for city and county utility liens.

Sponsors: Senate Committee on Energy & Utilities (originally sponsored by Senators Nelson and Amondson).

Brief History:

Reported by House Committee on:
Energy & Utilities, February 25, 1994, DPA.

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: Do pass as amended. Signed by 8 members: Representatives Bray, Chair; Finkbeiner, Vice Chair; Casada, Ranking Minority Member; Caver; Johanson; Kessler; Kremen and Long.

Minority Report: Do not pass. Signed by 1 member: Representative Chandler, Assistant Ranking Minority Member.

Staff: Fred Adair (786-7110).

Background: Under current law, a utility of a city, town, county, and sewer or water district may place a lien against the property of a landlord if a tenant fails to pay for services rendered. These utilities may also refuse to provide services to a residential customer who is a tenant based upon nonpayment of services by a prior tenant or the landlord.

Summary of Amended Bill: For residences only and only with utilities that operate a residential security deposit system, the property of a landlord will not be subject to a utility lien if the landlord notifies the utility that under the rental agreement the tenant is responsible for the payment of utility charges. The landlord must provide this notification to the utility in writing before the beginning of the rental agreement and must notify the utility at the termination of the rental agreement.

Utilities will furnish to tenants and landlords, upon request, information relating to a customer's current billing status, including any unpaid delinquencies, and payment history for the past year. Utilities may also furnish this information to other public or private utilities or utility information networks. Copies of this information must be provided to the customer who may dispute the bill. If in error, the utility must notify all recipients of the prior information of the correction. Credit information and reporting must be managed in compliance with the Fair Credit Reporting Act. Utilities may verify customer information given by a tenant to a landlord. Tenants and, upon request, landlords will receive copies of delinquency notices and final closing bills.

Utilities may require payment from a customer who is in arrears on a prior account before opening a new account or transferring the balance of an old account to a new one. If the account is opened and the outstanding charge or charges for current service are not paid, the utility may discontinue service. The customer's right to contest the fairness of a prior bill is not impaired. The foregoing provisions do not apply to low-income households.

For residential property only, if a landlord establishes that a utility has not made a good faith effort to comply with the information sharing provisions in the bill, a lien imposed by the utility on the landlord's property during the time of non-compliance is dissolved.

A lien is established on property for utility services to that property that are unpaid at the time of property sale. This lien may be foreclosed only upon sale of the property. The validity and ranking of other liens are unaffected. This lien shall be satisfied after the other liens. Escrow agents and sellers must acknowledge and deal with this lien at closing of the property sale. Escrow agents must request final billings from utilities and if the utilities fail to respond, they lose this time of sale lien.

Amended Bill Compared to Substitute Bill: In addition to current billing information, utilities shall furnish payment history for the past year. Credit information and reports must be managed in compliance with the Fair Credit Reporting Act. Sections 2, 3, and 4 do not apply to low-income households. Sewer and water districts are removed from the bill. In so doing, it is made clear that sections 6 and 7 apply only to cities, towns, and counties. Escrow agents must request final billings from utilities prior to closing a property sale.

Fiscal Note: Requested February 18, 1994.

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

Testimony For: One person should not be responsible for another's debts. There needs to be better utility management and utilities should do better screening of customers. This bill is the product of utilities and landlords working together. Some utilities want to take the easy way out and rely exclusively on liens. This bill is a balanced approach. Milton is a small to medium-sized town and is able to handle the provisions of the bill and it is a representation of what a concerned municipal utility should be doing. The bill puts a burden on utilities to meet landlords half way. The delayed effective date of the bill should provide ample time for utilities to prepare to meet the requirements of the bill. There is a new lien created in the bill that is designed to facilitate its inclusion in closing costs at property sale. This issue goes back a long way and should be resolved. This bill is a major step forward. Improved communications between utilities, tenants, and landlords is the objective of the bill. We should move what we agree upon and set out what we don't agree on for study after the session.

Testimony Against: The bill risks permanent denial of utility services. Regulated utilities do not have lien powers, but still have low uncollectible bills. Special provision should be made for low income citizens or they should be exempt from the provisions of the bill. Different utilities need different procedures. The "cookie cutter" approach is harmful. The only protection for sewer districts is the lien on properties. It is not reasonable to disconnect sewers, but it is the property that is benefitted by sewers. The bill would increase charges for services because of extra utility staff that would be needed to fulfill the requirements of the bill. There are constitutional questions concerning the sanctity of contracts. Sewer and water districts are small enough to give individual attention to customers having difficulty. They should be taken out of the bill and they would agree to do a study on delinquent account handling. Numerous stakeholders heard about this bill only recently, yet are significantly involved. They were not party to negotiations which took place before the bill was heard in the Senate. Security deposits would be a big initial expense for water and sewer districts. The bill could require utilities to do more frequent billings, at additional cost to ratepayers. Loss of lien power would hurt utility borrowing capability. King County Metro has not been involved in bill considerations and would be given responsibilities and liabilities it does not now have. Counties have likewise not been involved in prior considerations and could get

additional burdens. They should be removed from the bill. Dual addressing of delinquent notices would be costly and may exceed the computer capacity. The time of sale lien is confusing and its implications are unclear. There is risk of creating a whole new class of homeless citizens. Mortgage lenders are concerned that their lien rights be preserved.

Witnesses: David Girard, Evergreen Legal Services (con); Ted Rosenblume, representing Shoreline Watershed Management District (con); Gary Shirley, Shoreline Watershed Management District (con); Philip Montgomery, Shoreline Watershed Management District (con); Alan King, Eastgate Sewer District (con); Judy Nelson, Covington Water District (con); Linda Oestereich, Rental Housing Association of Pierce County (pro); Arnold Fox, Washington Apartment Association (pro); Rick Slunaker, Yakima Valley Rental Association (pro); Ray Isaacson, Benton County Commissioner, but for self (pro); Leonard Sanderson, Mayor, City of Milton (pro); Joe Daniels, Washington State Water and Wastewater Association (con); Stephen Lindstrom, SnoKing Water District Coalition (con); Ian MacGowan, Washington State Association of Water and Sewer Districts (con); William E. Blakney, King County Department of Metropolitan Services (Metro) (con); George Walk, Pierce County (con); Curtis Eschels, Washington State Association of Counties (con); Pat Anders, Redmond City Manager (pro); Brian Faller, City of Seattle (pro); Victoria Lincoln, Association of Washington Cities (pro); Kim Gerhardt, Attorney for City of Tacoma Public Utilities (Pro on substitute bill, con on striking amendment); Bill Brumfield, Washington Apartment Association (pro); John Woodring, Washington Association of Realtors and Manufactured Housing Commission of Washington (pro); Sharon Parker, King County Department of Metropolitan Services (Metro) (con); Mike Piper, Department of Community Development (con); and Larry Shannon, Washington Mortgage Lenders' Association (neutral).