

HOUSE BILL REPORT

HB 2008

As Reported By House Committee On:

Energy & Utilities

Title: An act relating to changing the nature of liens on a single-family dwelling for utility and other service from in rem to in personam if the dwelling is sold.

Brief Description: Collecting for utility and other service.

Sponsors: Representative Casada.

Brief History:

Committee Activity:

Energy & Utilities: 2/24/95, 3/1/95 [DP].

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: Do pass. Signed by 7 members: Representatives Casada, Chairman; Crouse, Vice Chairman; Hankins, Vice Chairman; Kessler, Ranking Minority Member; Kremen, Assistant Ranking Minority Member; Mastin and Patterson.

Minority Report: Without recommendation. Signed by 3 members: Representatives Chandler; Mielke and Mitchell.

Staff: Steve Lundin (786-7127).

Background: In certain instances, an in rem lien is established on property for unpaid and delinquent charges for utility and other service provided or made available to the property by several municipal utilities or entities.

An in rem lien is a lien attaching to the property, while an in personam lien is a lien attaching to a person and not property.

Summary of Bill: The in rem nature of a lien on a single family dwelling for delinquent charges for utility and other service made available or provided to property converts, at the sale of the single family dwelling, to an in personam lien on the seller of the property and the person who contracted for the utility service for which the charges are delinquent.

The altered nature of these liens, upon the sale of a single family dwelling, applies to liens on delinquent utility charges imposed by cities, counties, sewer districts, and water districts for utility service. The altered nature of these liens, upon the sale of a single family dwelling, applies to liens on delinquent fees imposed by an aquifer protection district for the withdrawal of subterranean water or on-site sewage disposal.

Further, the altered nature of these liens, upon the sale of a single family dwelling, applies to liens on delinquent rates, tolls, or charges imposed by an irrigation district for utility and other purposes. Irrigation district assessments for water are not affected.

Appropriation: None.

Fiscal Note: Requested on February 20, 1995.

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

Testimony For: All utilities of past owners should be taken care of at time of closing. This bill would require a person to be responsible for his or her own debt. It is both irresponsible and immoral for local governments to tack on one person's debt to another person, simply because it is the easiest route to take. Local government, in this case, has overstepped its bounds. Escrow agents are dramatically affected at closing by further imposing regulations and statutes which do not fall within their realm. This bill fairly addresses the issue of utility liens. Thank you for taking a pragmatic approach and being in line with Regulatory Reform.

Testimony Against: Currently, utilities can place liens on real property. Under this bill, they may place a lien against a person they may not be able to find. Liens in place by utilities are as important as tax liens. Cities are concerned with this bill. They are supportive of the approach taken in HB 1785. Utilities are very concerned that this bill would affect their bond ratings and bond covenants. If this bill passes, utilities will have to implement a deposit system and accelerate their foreclosure system. These are unintended results. Liens should be taken care of at the time of closing.

Testified: Joyce McDonald; and Tamara Warnke, Escrow Association of Washington (pro). Leonard Sanderson, City of Milton; Victoria Lincoln, Association of Washington Cities; Benny Barnes, Seattle City Light; and George Walk, Pierce County (con). Steve Lindstrom, Sno-King Coalition (with concerns).