

HOUSE BILL REPORT

HB 2551

As Reported By House Committee On:
Energy & Utilities

Title: An act relating to unrecorded utility liens.

Brief Description: Allowing utilities to take actions, such as requiring deposits, to ensure payment.

Sponsors: Representative Crouse.

Brief History:

Committee Activity:

Energy & Utilities: 1/21/98, 2/3/98 [DPS].

HOUSE COMMITTEE ON ENERGY & UTILITIES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Crouse, Chairman; DeBolt, Vice Chairman; Mastin, Vice Chairman; Poulsen, Ranking Minority Member; Morris, Assistant Ranking Minority Member; Bush; Cooper; Delvin; Honeyford; Kastama; Kessler; Mielke and B. Thomas.

Staff: Margaret Allen (786-7110).

Background: Utilities operated by municipalities and other political subdivisions of the state are authorized to place liens for charges due but unpaid against the property to which utility services are provided. Examples are liens for municipal water, sewer, and electricity services, and for water-sewer district or irrigation district services.

Different kinds of governmental utilities have different lien provisions. The differences involve the method of enforcing the lien, the number of months of unpaid charges that may be subject to a lien, the priority status of the lien, and how the lien is perfected. In addition, similar utilities that are subject to the same lien laws vary greatly in size and have significantly different billing systems.

Utility liens are a source of tension between owners of rental property and utilities. Some owners of rental property would like to receive duplicate billings for services provided to rental units, or to be notified when an account is delinquent, because they may become liable for accounts they are unaware are in arrears.

While some governmental utilities already send duplicate bills, some report that their billing systems cannot feasibly generate duplicate bills, and that they (utilities) may not know which accounts involve rental properties. In addition, utilities report a split of opinion among their attorneys about whether utilities are authorized to collect deposits or to inform consumer reporting agencies (credit bureaus) of customers whose service has been discontinued due to nonpayment or who have moved without notifying or paying the utility for outstanding charges. Also, some utilities worry that by reporting unpaid account information to consumer reporting agencies, the utilities themselves will be viewed as consumer reporting agencies and have to comply with all the provisions of state and federal fair credit reporting laws.

An existing law exempts the residential addresses and residential telephone numbers of public utility customers from disclosure under the public records act, but does not address Social Security numbers. However, some utilities report that some customers either do not have social security numbers or are unwilling to divulge them.

Governmental utilities have requested explicit authority to allocate partial payments on past due accounts in accordance with utility priorities, where consolidated bills are issued for more than one utility service. In addition, some water-sewer districts have asked for authority to terminate service once an account is delinquent for thirty days, rather than having to wait 60 s as is currently required.

Summary of Substitute Bill: A municipal utility, water-sewer district, or irrigation district may provide duplicates of tenant utility service bills to owners of rental property, or may notify an owner that a tenant's account is delinquent. However, the utility or district must notify an owner (or the owner's designee) of a tenant's delinquency, if the owner or designee has made a written request that the utility do so. The owner or designee must identify the property as rental property, and provide a mailing address. The utility is to notify the owner or designee in the same manner the utility notifies the tenant of the tenant's delinquency. After January 1, 1999, if a utility or district fails to notify the owner or designee of a tenant's delinquency after receiving a written request to do so, the utility or district may not place a lien on the property for the tenant's delinquent bill.

A utility may require deposits from customers, but failure to do so will not affect the validity of a utility lien. Also, the utility may determine how to allocate partial payments on past due accounts.

Utilities may notify consumer reporting agencies of utility customers whose service has been discontinued due to nonpayment or who have moved without notifying or paying the utility for outstanding charges. The utility may not disclose the customer's residential address or residential telephone number to the consumer reporting agencies, but may disclose the customer's Social Security number if available. Providing information to

consumer reporting agencies is insufficient by itself to qualify a utility as a consumer reporting agency.

Finally, the length of time an account must be delinquent before a water-sewer district may terminate service is reduced from 60 to 30 days.

Substitute Bill Compared to Original Bill: The proposed substitute requires a municipal utility, water-sewer district, or irrigation district to notify an owner (or the owner's designee) of a tenant's delinquency, if the owner or designee has made a written request that the utility do so. After January 1, 1999, the utility or district may not place a lien on the property for the tenant's delinquent bill if the utility or district has failed to provide the notice as requested.

The proposed substitute deletes a statement providing that a property owner will not be liable for electricity provided to rental property by a municipal utility after the owner notifies the utility that a tenant has moved out.

Finally, the proposed substitute makes some clarifying changes in the original bill, the most significant of which is to change thirty- back to sixty- in one place to clarify that while water-sewer district services may be terminated once a bill is 30 days in arrears, foreclosure proceedings are not to begin until the bill is at least 60 days delinquent.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (original bill) This bill is a baby step in the right direction. The bill should be amended so that a utility will lose its lien if it fails to notify a landlord that a tenant's account is delinquent. Fairness to all ratepayers requires that each property be responsible for its own services; it is unfair to other landlords if a utility has to absorb the costs of a tenant's failure to pay a bill. Many large water-sewer districts provide duplicate bill; however, some small districts have only one meter reader and bookkeeper. The Legislature should add an incentive to conserve electricity or water. The lien authority is infrequently used, but should be available. Some services cannot be shut off, and sometimes cannot be sub-metered. The reporting to credit bureaus should be permissive, not mandatory.

Testimony Against: None.

Testified: Eric Mewhinney, Washington Apartment Association (pro); Steve Lindstrom, Sno-King Water District Coalition (pro/concerns); Maija Mueller, IREM/Wesbild

(pro/concerns); Linda Dukelow, Washington Apartment Association (pro/with changes); Tom Sante, Building Owners & Managers Association (pro/with changes); Mark Barbieri, Building Owners & Managers (pro/with changes); Bennie Barnes, Association of Washington Cities (pro/with amendments); Mary Meier, Seattle City Light (pro/with comments); Larry Southwick, City of Bellevue (pro/with comments); Joe Daniels, Washington Association of Sewer/Water Districts (pro/with comments); and Tim Seth, Olympia Rental Association (pro/with concerns).