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HOUSE BILL 1347

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State of Washington

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By Representatives Crouse, Carrell, Smith, Sheldon, Sterk, Sheahan,  
D. Sommers, Mulliken, Mielke, Sherstad and Dunn

Read first time 01/22/97. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to payment responsibility for utility service; and  
2 amending RCW 35.21.290, 35.67.200, 36.94.150, 57.08.081, and 80.28.010.

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:

6 Cities and towns owning their own waterworks, or electric light or  
7 power plants shall have a lien against the premises to which water,  
8 electric light, or power services were furnished for four months  
9 charges therefor due or to become due, but not for any charges more  
10 than four months past due: PROVIDED, That the owner of the premises or  
11 the owner of a delinquent mortgage thereon may give written notice to  
12 the superintendent or other head of such works or plant to cut off  
13 service to such premises accompanied by payment or tender of payment of  
14 the then delinquent and unpaid charges for such service against the  
15 premises together with the cut-off charge, whereupon the city or town  
16 shall have no lien against the premises for charges for such service  
17 thereafter furnished, nor shall the owner of the premises or the owner  
18 of a delinquent mortgage thereon be held for the payment thereof.

1 All charges made for utility services shall be charged to the  
2 customer who contracts for the services. In cases where the service  
3 contract is with the tenant of a property, collection of charges shall  
4 be made from the tenant and liens against the property owner are  
5 prohibited. A city or town may not refuse to provide service to a  
6 residential customer who is a tenant based on the nonpayment for  
7 services by the prior customer. The city or town may refuse to provide  
8 service if the prior nonpaying customer continues to reside in the  
9 premises.

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

12 Cities and towns owning their own sewer systems shall have a lien  
13 for delinquent and unpaid rates and charges for sewer service,  
14 penalties levied pursuant to RCW 35.67.190, and connection charges,  
15 including interest thereon, against the premises to which such service  
16 has been furnished or is available, which lien shall be superior to all  
17 other liens and encumbrances except general taxes and local and special  
18 assessments. The city or town by ordinance may provide that delinquent  
19 charges shall bear interest at not exceeding eight percent per annum  
20 computed on a monthly basis: PROVIDED, That a city or town using the  
21 property tax system for utility billing may, by resolution or  
22 ordinance, adopt the alternative lien procedure as set forth in RCW  
23 35.67.215.

24 All charges made for utility services shall be charged to the  
25 customer who contracts for the services. In cases where the service  
26 contract is with the tenant of a property, collection of charges shall  
27 be made from the tenant and liens against the property owner are  
28 prohibited. A city or town may not refuse to provide service to a  
29 residential customer who is a tenant based on the nonpayment for  
30 services by the prior customer. The city or town may refuse to provide  
31 service if the prior nonpaying customer continues to reside in the  
32 premises.

33 **Sec. 3.** RCW 36.94.150 and 1975 1st ex.s. c 188 s 3 are each  
34 amended to read as follows:

35 All counties operating a system of sewerage and/or water shall have  
36 a lien for delinquent connection charges and charges for the  
37 availability of sewerage and/or water service, together with interest

1 fixed by resolution at eight percent per annum from the date due until  
2 paid. Penalties of not more than ten percent of the amount due may be  
3 imposed in case of failure to pay the charges at times fixed by  
4 resolution. The lien shall be for all charges, interest, and penalties  
5 and shall attach to the premises to which the services were available.  
6 The lien shall be superior to all other liens and encumbrances, except  
7 general taxes and local and special assessments of the county.

8 The county department established in RCW 36.94.120 shall certify  
9 periodically the delinquencies to the treasurer of the county at which  
10 time the lien shall attach.

11 Upon the expiration of sixty days after the attachment of the lien,  
12 the county may bring suit in foreclosure by civil action in the  
13 superior court of the county where the property is located. In  
14 addition to the costs and disbursements provided by statute, the court  
15 may allow the county a reasonable attorney's fee. The lien shall be  
16 foreclosed in the same manner as the foreclosure of real property tax  
17 liens.

18 All charges made for utility services shall be charged to the  
19 customer who contracts for the services. In cases where the service  
20 contract is with the tenant of a property, collection of charges shall  
21 be made from the tenant and liens against the property owner are  
22 prohibited. A county may not refuse to provide service to a  
23 residential customer who is a tenant based on the nonpayment for  
24 services by the prior customer. The county may refuse to provide  
25 service if the prior nonpaying customer continues to reside in the  
26 premises.

27 **Sec. 4.** RCW 57.08.081 and 1996 c 230 s 314 are each amended to  
28 read as follows:

29 The commissioners of any district shall provide for revenues by  
30 fixing rates and charges for furnishing sewer and drainage service to  
31 those to whom service is available or for providing water, such rates  
32 and charges to be fixed as deemed necessary by the commissioners, so  
33 that uniform charges will be made for the same class of customer or  
34 service. Rates and charges may be combined for the furnishing of more  
35 than one type of sewer service, such as but not limited to storm or  
36 surface water and sanitary.

37 In classifying customers of such water, sewer, or drainage system,  
38 the board of commissioners may in its discretion consider any or all of

1 the following factors: The difference in cost of service to various  
2 customers; the location of the various customers within and without the  
3 district; the difference in cost of maintenance, operation, repair, and  
4 replacement of the various parts of the system; the different character  
5 of the service furnished various customers; the quantity and quality of  
6 the service furnished; the time of its use; the achievement of water  
7 conservation goals and the discouragement of wasteful practices;  
8 capital contributions made to the system including but not limited to  
9 assessments; and any other matters which present a reasonable  
10 difference as a ground for distinction. Rates shall be established as  
11 deemed proper by the commissioners and as fixed by resolution and shall  
12 produce revenues sufficient to take care of the costs of maintenance  
13 and operation, revenue bond and warrant interest and principal  
14 amortization requirements, and all other charges necessary for  
15 efficient and proper operation of the system.

16 The commissioners shall enforce collection of connection charges,  
17 and rates and charges for water supplied against property owners  
18 connecting with the system or receiving such water, and for sewer and  
19 drainage services charged against property to which and its owners to  
20 whom the service is available, such charges being deemed charges  
21 against the property served, by addition of penalties of not more than  
22 ten percent thereof in case of failure to pay the charges at times  
23 fixed by resolution. The commissioners may provide by resolution that  
24 where either connection charges or rates and charges for services  
25 supplied are delinquent for any specified period of time, the district  
26 shall certify the delinquencies to the treasurer of the county in which  
27 the real property is located, and the charges and any penalties added  
28 thereto and interest thereon at the rate of not more than the prime  
29 lending rate of the district's bank plus four percentage points per  
30 year shall be a lien against the property upon which the service was  
31 received, subject only to the lien for general taxes.

32 All charges made for utility services shall be charged to the  
33 customer who contracts for the services. In cases where the service  
34 contract is with the tenant of a property, collection of charges shall  
35 be made from the tenant and liens against the property owner are  
36 prohibited. A district may not refuse to provide service to a  
37 residential customer who is a tenant based on the nonpayment for  
38 services by the prior customer. The district may refuse to provide

1 service if the prior nonpaying customer continues to reside in the  
2 premises.

3 The district may, at any time after the connection charges or rates  
4 and charges for services supplied or available and penalties are  
5 delinquent for a period of sixty days, bring suit in foreclosure by  
6 civil action in the superior court of the county in which the real  
7 property is located. The court may allow, in addition to the costs and  
8 disbursements provided by statute, attorneys' fees, title search and  
9 report costs, and expenses as it adjudges reasonable. The action shall  
10 be in rem, and may be brought in the name of the district against an  
11 individual or against all of those who are delinquent in one action.  
12 The laws and rules of the court shall control as in other civil  
13 actions.

14 In addition to the right to foreclose provided in this section, the  
15 district may also cut off all or part of the service after charges for  
16 water or sewer service supplied or available are delinquent for a  
17 period of sixty days.

18 **Sec. 5.** RCW 80.28.010 and 1995 c 399 s 211 are each amended to  
19 read as follows:

20 (1) All charges made, demanded or received by any gas company,  
21 electrical company or water company for gas, electricity or water, or  
22 for any service rendered or to be rendered in connection therewith,  
23 shall be just, fair, reasonable and sufficient. To meet the  
24 requirements of this subsection, all charges made for utility services  
25 shall be charged to the customer who contracts for the services. In  
26 cases where the service contract is with the tenant of a property,  
27 collection of charges shall be made from the tenant and liens against  
28 the property owner are prohibited.

29 (2) Every gas company, electrical company and water company shall  
30 furnish and supply such service, instrumentalities and facilities as  
31 shall be safe, adequate and efficient, and in all respects just and  
32 reasonable.

33 (3) All rules and regulations issued by any gas company, electrical  
34 company or water company, affecting or pertaining to the sale or  
35 distribution of its product, shall be just and reasonable.

36 (4) Utility service for residential space heating shall not be  
37 terminated between November 15 through March 15 if the customer:

1 (a) Notifies the utility of the inability to pay the bill,  
2 including a security deposit. This notice should be provided within  
3 five business days of receiving a payment overdue notice unless there  
4 are extenuating circumstances. If the customer fails to notify the  
5 utility within five business days and service is terminated, the  
6 customer can, by paying reconnection charges, if any, and fulfilling  
7 the requirements of this section, receive the protections of this  
8 chapter;

9 (b) Provides self-certification of household income for the prior  
10 twelve months to a grantee of the department of community, trade, and  
11 economic development which administers federally funded energy  
12 assistance programs. The grantee shall determine that the household  
13 income does not exceed the maximum allowed for eligibility under the  
14 state's plan for low-income energy assistance under 42 U.S.C. 8624 and  
15 shall provide a dollar figure that is seven percent of household  
16 income. The grantee may verify information provided in the self-  
17 certification;

18 (c) Has applied for home heating assistance from applicable  
19 government and private sector organizations and certifies that any  
20 assistance received will be applied to the current bill and future  
21 utility bills;

22 (d) Has applied for low-income weatherization assistance to the  
23 utility or other appropriate agency if such assistance is available for  
24 the dwelling;

25 (e) Agrees to a payment plan and agrees to maintain the payment  
26 plan. The plan will be designed both to pay the past due bill by the  
27 following October 15 and to pay for continued utility service. If the  
28 past due bill is not paid by the following October 15, the customer  
29 shall not be eligible for protections under this chapter until the past  
30 due bill is paid. The plan shall not require monthly payments in  
31 excess of seven percent of the customer's monthly income plus one-  
32 twelfth of any arrearage accrued from the date application is made and  
33 thereafter during November 15 through March 15. A customer may agree  
34 to pay a higher percentage during this period, but shall not be in  
35 default unless payment during this period is less than seven percent of  
36 monthly income plus one-twelfth of any arrearage accrued from the date  
37 application is made and thereafter. If assistance payments are  
38 received by the customer subsequent to implementation of the plan, the  
39 customer shall contact the utility to reformulate the plan; and

1 (f) Agrees to pay the moneys owed even if he or she moves.

2 (5) The utility shall:

3 (a) Include in any notice that an account is delinquent and that  
4 service may be subject to termination, a description of the customer's  
5 duties in this section;

6 (b) Assist the customer in fulfilling the requirements under this  
7 section;

8 (c) Be authorized to transfer an account to a new residence when a  
9 customer who has established a plan under this section moves from one  
10 residence to another within the same utility service area;

11 (d) Be permitted to disconnect service if the customer fails to  
12 honor the payment program. Utilities may continue to disconnect  
13 service for those practices authorized by law other than for nonpayment  
14 as provided for in this subsection. Customers who qualify for payment  
15 plans under this section who default on their payment plans and are  
16 disconnected can be reconnected and maintain the protections afforded  
17 under this chapter by paying reconnection charges, if any, and by  
18 paying all amounts that would have been due and owing under the terms  
19 of the applicable payment plan, absent default, on the date on which  
20 service is reconnected; and

21 (e) Advise the customer in writing at the time it disconnects  
22 service that it will restore service if the customer contacts the  
23 utility and fulfills the other requirements of this section.

24 (6) A payment plan implemented under this section (~~(is)~~) shall be  
25 consistent with RCW 80.28.080.

26 (7) Every gas company and electrical company shall offer  
27 residential customers the option of a budget billing or equal payment  
28 plan. The budget billing or equal payment plan shall be offered low-  
29 income customers eligible under the state's plan for low-income energy  
30 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without  
31 limiting availability to certain months of the year, without regard to  
32 the length of time the customer has occupied the premises, and without  
33 regard to whether the customer is the tenant or owner of the premises  
34 occupied.

35 (8) A gas company, electric company, or water company may not  
36 refuse to provide service to a residential customer who is a tenant  
37 based on the nonpayment for services by the prior customer. The  
38 company may refuse to provide service if the prior nonpaying customer  
39 continues to reside in the premises.

1        (9) Every gas company, electrical company and water company shall  
2 construct and maintain such facilities in connection with the  
3 manufacture and distribution of its product as will be efficient and  
4 safe to its employees and the public.

5        (~~(9)~~) (10) An agreement between the customer and the utility,  
6 whether oral or written, shall not waive the protections afforded under  
7 this chapter.

8        (~~(10)~~) (11) In establishing rates or charges for water service,  
9 water companies as defined in RCW 80.04.010 may consider the  
10 achievement of water conservation goals and the discouragement of  
11 wasteful water use practices.

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