
ENGROSSED SUBSTITUTE HOUSE BILL 2551

State of Washington

55th Legislature

1998 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representative Crouse)

Read first time 02/03/98. Referred to Committee on .

1 AN ACT Relating to unrecorded utility liens; amending RCW 57.08.081
2 and 87.03.445; and adding a new section to chapter 35.21 RCW.

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

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

6 (1) Prior to furnishing utility services, a city or town may
7 require a deposit to guarantee payment for services. However, failure
8 to require a deposit does not affect the validity of any lien
9 authorized by RCW 35.21.290 or 35.67.200. A city or town may determine
10 how to apply partial payments on past due accounts.

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

1 or town notifies the tenant of the tenant's delinquency or by mail.
2 After January 1, 1999, if a city or town fails to notify the owner of
3 a tenant's delinquency after receiving a written request to do so and
4 after receiving the other information required by this subsection, the
5 city or town shall have no lien against the premises for the tenant's
6 delinquent and unpaid charges.

7 **Sec. 2.** RCW 57.08.081 and 1997 c 447 s 19 are each amended to read
8 as follows:

9 (1) The commissioners of any district shall provide for revenues by
10 fixing rates and charges for furnishing sewer and drainage service and
11 facilities to those to whom service is available or for providing
12 water, such rates and charges to be fixed as deemed necessary by the
13 commissioners, so that uniform charges will be made for the same class
14 of customer or service and facility. Rates and charges may be combined
15 for the furnishing of more than one type of sewer service and facility,
16 such as, but not limited to, storm or surface water and sanitary.

17 (2) In classifying customers of such water, sewer, or drainage
18 system, the board of commissioners may in its discretion consider any
19 or all of the following factors: The difference in cost to various
20 customers; the location of the various customers within and without the
21 district; the difference in cost of maintenance, operation, repair, and
22 replacement of the various parts of the system; the different character
23 of the service furnished various customers; the quantity and quality of
24 the service and facility furnished; the time of its use; the
25 achievement of water conservation goals and the discouragement of
26 wasteful practices; capital contributions made to the system including
27 but not limited to assessments; and any other matters which present a
28 reasonable difference as a ground for distinction. Rates shall be
29 established as deemed proper by the commissioners and as fixed by
30 resolution and shall produce revenues sufficient to take care of the
31 costs of maintenance and operation, revenue bond and warrant interest
32 and principal amortization requirements, and all other charges
33 necessary for efficient and proper operation of the system. Prior to
34 furnishing services, a district may require a deposit to guarantee
35 payment for services. However, failure to require a deposit does not
36 affect the validity of any lien authorized by this section.

37 (3) The commissioners shall enforce collection of connection
38 charges, and rates and charges for water supplied against property

1 owners connecting with the system or receiving such water, and for
2 sewer and drainage services charged against property to which and its
3 owners to whom the service is available, such charges being deemed
4 charges against the property served, by addition of penalties of not
5 more than ten percent thereof in case of failure to pay the charges at
6 times fixed by resolution. The commissioners may provide by resolution
7 that where either connection charges or rates and charges for services
8 supplied are delinquent for any specified period of time, the district
9 shall certify the delinquencies to the treasurer of the county in which
10 the real property is located, and the charges and any penalties added
11 thereto and interest thereon at the rate of not more than the prime
12 lending rate of the district's bank plus four percentage points per
13 year shall be a lien against the property upon which the service was
14 received, subject only to the lien for general taxes.

15 (4) The district may, at any time after the connection charges or
16 rates and charges for services supplied or available and penalties are
17 delinquent for a period of sixty days, bring suit in foreclosure by
18 civil action in the superior court of the county in which the real
19 property is located. The court may allow, in addition to the costs and
20 disbursements provided by statute, attorneys' fees, title search and
21 report costs, and expenses as it adjudges reasonable. The action shall
22 be in rem, and may be brought in the name of the district against an
23 individual or against all of those who are delinquent in one action.
24 The laws and rules of the court shall control as in other civil
25 actions.

26 (5) In addition to the right to foreclose provided in this section,
27 the district may also cut off all or part of the service after charges
28 for water or sewer service supplied or available are delinquent for a
29 period of (~~sixty~~) thirty days.

30 (6) A district may determine how to apply partial payments on past
31 due accounts.

32 (7) A district may provide a real property owner or the owner's
33 designee with duplicate bills for service to tenants, or may notify an
34 owner or the owner's designee that a tenant's service account is
35 delinquent. However, if an owner or the owner's designee notifies the
36 district in writing that a property served by the district is a rental
37 property, asks to be notified of a tenant's delinquency, and has
38 provided, in writing, a complete and accurate mailing address, the
39 district shall notify the owner or the owner's designee of a tenant's

1 delinquency at the same time and in the same manner the district
2 notifies the tenant of the tenant's delinquency or by mail. After
3 January 1, 1999, if a district fails to notify the owner of a tenant's
4 delinquency after receiving a written request to do so and after
5 receiving the other information required by this subsection (7), the
6 district shall have no lien against the premises for the tenant's
7 delinquent and unpaid charges.

8 **Sec. 3.** RCW 87.03.445 and 1979 ex.s. c 185 s 5 are each amended to
9 read as follows:

10 (1) The cost and expense of purchasing and acquiring property, and
11 construction, reconstruction, extension, and betterment of the works
12 and improvements herein provided for, and the expenses incidental
13 thereto, and indebtedness to the United States for district lands
14 assumed by the district, and for the carrying out of the purposes of
15 this chapter, may be paid for by the board of directors out of the
16 funds received from bond sales as well as other district funds.

17 (2) For the purpose of defraying the costs and expenses of the
18 organization of the district, and of the care, operation, management,
19 maintenance, repair, and improvement of the district and its irrigation
20 water, domestic water, electric power, drainage, or sewer facilities or
21 of any portion thereof, or for the payment of any indebtedness due the
22 United States or the state of Washington, or for the payment of
23 district bonds, the board may either fix rates or tolls and charges,
24 and collect the same from all persons for whom district service is made
25 available for irrigation water, domestic water, electric power,
26 drainage or sewerage, and other purposes, or it may provide for the
27 payment of said costs and expenses by a levy of assessment therefor, or
28 by both said rates or tolls and charges and assessment.

29 (3) If the assessment method is utilized, the levy of assessments
30 shall be made on the completion and equalization of the assessment roll
31 each year, and the board shall have the same powers and functions for
32 the purpose of said levy as possessed by it in case of levy to pay
33 bonds of the district. The procedure for the collection of assessments
34 by such levy shall in all respects conform with the provisions of this
35 chapter, relating to the collection of assessments for the payment of
36 principal and interest of bonds herein provided for, and shall be made
37 at the same time.

1 (4) If the rates or tolls and charges method is adopted in whole or
2 in part, the secretary shall deliver to the board of directors, within
3 the time for filing the assessment roll, a schedule containing the
4 names of the owners or reputed owners, as shown on the rolls of the
5 county treasurer as of the first Tuesday in November of each year such
6 a schedule is filed of the various parcels of land against which rates
7 or tolls and charges are to be levied, the description of each such
8 parcel of land and the amount to be charged against each parcel for
9 irrigation water, domestic water, electric power, drainage, sewerage,
10 and other district costs and expenses. Said schedule of rates or tolls
11 and charges shall be equalized pursuant to the same notice, in the same
12 manner, at the same time and with the same legal effect as in the case
13 of assessments. Such schedule of rates or tolls and charges for a
14 given year shall be filed with the proper county treasurer within the
15 same time as that provided by law for the filing of the annual
16 assessment roll, and the county treasurer shall collect and receipt for
17 the payment of said rates or tolls and charges and credit them to the
18 proper funds of the district. The board may designate the time and
19 manner of making such collections and shall require the same to be paid
20 in advance of delivery of water and other service. All tolls and
21 charges levied shall also at once become and constitute an assessment
22 upon and against the lands for which they are levied, with the same
23 force and effect, and the same manner of enforcement, and with the same
24 rate of interest from date of delinquency, in case of nonpayment, as
25 other district assessments.

26 (5) As an alternative method of imposing, collecting, and enforcing
27 such rates or tolls and charges, the board may also base such rates or
28 tolls and charges upon the quantity of irrigation water, domestic
29 water, or electric power delivered, or drainage or sewage disposed of,
30 and may fix a minimum rate or toll and charge to be paid by each parcel
31 of land or use within the district for the delivery or disposal of a
32 stated quantity of each such service with a graduated charge for
33 additional quantities of such services delivered or disposed of. If
34 the board elects to utilize this alternative method of imposing,
35 collecting, and enforcing such rates or tolls and charges, there shall
36 be no requirement that the schedule referred to in the preceding
37 paragraph be prepared, be filed with the board of directors by the
38 secretary, be equalized, or be filed with a county treasurer. The
39 board shall enforce collection of such rates or tolls and charges

1 against property to which and its owners to whom the service is
2 available, such rates or tolls and charges being deemed charges against
3 the property to which the service is available. Prior to furnishing
4 services, a board may require a deposit to guarantee payment for
5 services. However, failure to require a deposit does not affect the
6 validity of any lien authorized by this section.

7 (6) The board may provide by resolution that where such rates or
8 tolls and charges are delinquent for any specified period of time, the
9 district shall certify the delinquencies to the treasurer of the county
10 in which the real property is located, and the charges and any
11 penalties added thereto and interest thereon at the rate not to exceed
12 twelve percent per annum fixed by resolution shall be a lien against
13 the property to which the service was available, subject only to the
14 lien for general taxes. The district may, at any time after such rates
15 or tolls and charges and penalties provided for herein are delinquent
16 for a period of one year, bring suit in foreclosure by civil action in
17 the superior court of the county in which the real property is
18 situated.

19 (7) A board may determine how to apply partial payments on past due
20 accounts.

21 (8) A board may provide a real property owner or the owner's
22 designee with duplicate bills for service to tenants, or may notify an
23 owner or the owner's designee that a tenant's service account is
24 delinquent. However, if an owner or the owner's designee notifies the
25 board in writing that a property served by the board is a rental
26 property, asks to be notified of a tenant's delinquency, and has
27 provided, in writing, a complete and accurate mailing address, the
28 board shall notify the owner or the owner's designee of a tenant's
29 delinquency at the same time and in the same manner the board notifies
30 the tenant of the tenant's delinquency or by mail. After January 1,
31 1999, if a board fails to notify the owner of a tenant's delinquency
32 after receiving a written request to do so and after receiving the
33 other information required by this subsection (8), the board shall have
34 no lien against the premises for the tenant's delinquent and unpaid
35 charges.

36 (9) The court may allow, in addition to the costs and disbursements
37 provided by statute, such ((attorney's)) attorneys' fees as it may
38 adjudge reasonable. The action shall be in rem against the property,
39 and in addition may be brought in the name of the district against an

1 individual, or against all of those who are delinquent, in one action,
2 and the rules of the court shall control as in other civil actions.
3 The board may in the same year use the assessment method for part of
4 the lands in the district and the rates or tolls and charges method for
5 the remaining lands in the district in such proportion as it may deem
6 advisable for the best interest of the district.

7 (10) The procedures herein provided for the collection and
8 enforcement of rates, tolls, and charges also shall be applicable and
9 available to the districts board of directors for the collection and
10 enforcement of charges for water imposed by contract entered into or
11 administered by the district's board of directors.

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