
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
2 35.21.290, 57.08.081, and 87.03.445; and adding a new section to
3 chapter 35.21 RCW.

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

5 **Sec. 1.** RCW 35.21.290 and 1965 c 7 s 35.21.290 are each amended to
6 read as follows:

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

1 the premises or the owner of a delinquent mortgage thereon be held for
2 the payment thereof.

3 (2) A city or town owning its own waterworks, or electric light or
4 power plants may notify one or more consumer reporting agencies, as
5 defined in the federal fair credit reporting act (15 U.S.C. Sec. 1681
6 et seq.) or state fair credit reporting act, chapter 19.182 RCW, of the
7 name and social security number of any customer who vacated a premise
8 after June 30, 1998, without notifying and paying the utility for
9 outstanding charges for service. Providing information as allowed by
10 this subsection (2) is insufficient, by itself, to qualify the city or
11 town as a consumer reporting agency. A city or town shall not disclose
12 a customer's residential address or residential telephone number to a
13 consumer reporting agency.

14 NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW
15 to read as follows:

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

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

36 **Sec. 3.** RCW 57.08.081 and 1997 c 447 s 19 are each amended to read
37 as follows:

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

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

29 (3) The commissioners shall enforce collection of connection
30 charges, and rates and charges for water supplied against property
31 owners connecting with the system or receiving such water, and for
32 sewer and drainage services charged against property to which and its
33 owners to whom the service is available, such charges being deemed
34 charges against the property served, by addition of penalties of not
35 more than ten percent thereof in case of failure to pay the charges at
36 times fixed by resolution. The commissioners may provide by resolution
37 that where either connection charges or rates and charges for services
38 supplied are delinquent for any specified period of time, the district
39 shall certify the delinquencies to the treasurer of the county in which

1 the real property is located, and the charges and any penalties added
2 thereto and interest thereon at the rate of not more than the prime
3 lending rate of the district's bank plus four percentage points per
4 year shall be a lien against the property upon which the service was
5 received, subject only to the lien for general taxes.

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

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

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

23 (7) A district may provide a real property owner or the owner's
24 designee with duplicate bills for service to tenants, or may notify an
25 owner or the owner's designee that a tenant's service account is
26 delinquent. However, if an owner or the owner's designee notifies the
27 district in writing that a property served by the district is a rental
28 property, asks to be notified of a tenant's delinquency, and has
29 provided, in writing, a complete and accurate mailing address, the
30 district shall notify the owner or the owner's designee of a tenant's
31 delinquency in the same manner and at the same time the district
32 notifies the tenant of the tenant's delinquency. After January 1,
33 1999, if a district fails to notify the owner of a tenant's delinquency
34 after receiving a written request to do so and after receiving the
35 other information required by this subsection (7), the district shall
36 have no lien against the premises for the tenant's delinquent and
37 unpaid charges.

38 (8) A district may notify one or more consumer reporting agencies,
39 as defined in the federal fair credit reporting act (15 U.S.C. Sec.

1 1681 et seq.) or state fair credit reporting act, chapter 19.182 RCW,
2 of the name and social security number of any customer who vacated a
3 premise after June 30, 1998, without notifying and paying the district
4 for outstanding charges for service. Providing information as allowed
5 by this subsection (8) is insufficient, by itself, to qualify the
6 district as a consumer reporting agency. A district shall not disclose
7 a customer's residential address or residential telephone number to a
8 consumer reporting agency.

9 **Sec. 4.** RCW 87.03.445 and 1979 ex.s. c 185 s 5 are each amended to
10 read as follows:

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

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

30 (3) If the assessment method is utilized, the levy of assessments
31 shall be made on the completion and equalization of the assessment roll
32 each year, and the board shall have the same powers and functions for
33 the purpose of said levy as possessed by it in case of levy to pay
34 bonds of the district. The procedure for the collection of assessments
35 by such levy shall in all respects conform with the provisions of this
36 chapter, relating to the collection of assessments for the payment of
37 principal and interest of bonds herein provided for, and shall be made
38 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 in the same manner and at the same time the board notifies
30 the tenant of the tenant's delinquency. After January 1, 1999, if a
31 board fails to notify the owner of a tenant's delinquency after
32 receiving a written request to do so and after receiving the other
33 information required by this subsection (8), the board shall have no
34 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.

12 (11) A district may notify one or more consumer reporting agencies,
13 as defined in the federal fair credit reporting act (15 U.S.C. Sec.
14 1681 et seq.) or state fair credit reporting act, chapter 19.182 RCW,
15 of the name and social security number of any customer who vacated a
16 premise after June 30, 1998, without notifying and paying the district
17 for outstanding charges for service. Providing information as allowed
18 by this subsection (11) is insufficient, by itself, to qualify the
19 district as a consumer reporting agency. A district shall not disclose
20 a consumer's residential address or residential telephone number to a
21 consumer reporting agency.

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