
HOUSE BILL 2552

State of Washington 55th Legislature 1998 Regular Session

By Representative Crouse

Read first time 01/15/98. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to satisfaction of unrecorded utility liens at the
2 time of sale of real property; amending RCW 60.80.005, 60.80.010, and
3 60.80.020; and adding a new section to chapter 60.80 RCW.

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

5 **Sec. 1.** RCW 60.80.005 and 1996 c 43 s 1 are each amended to read
6 as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter:

9 (1) Except as otherwise provided in this subsection (1), "charges"
10 include: (a) All lawful charges assessed by a utility operated under
11 chapter 35.21, 35.67, 36.36, 36.89, 36.94, (~~56.167~~) 57.08, or 87.03
12 RCW, but not evidenced by a recorded lien, recorded covenant, recorded
13 agreement, or special assessment roll filed with the city or county
14 treasurer or assessor, and not billed and collected with property
15 taxes; and (b) penalties and interest, and reasonable attorneys' fees
16 and other costs of foreclosure if foreclosure proceedings have been
17 commenced.

18 (2) "Closing agent" means an escrow agent as defined in RCW
19 18.44.010(4) or a person exempt from licensing and registration

1 requirements under RCW 18.44.020, handling the escrow on the sale of
2 the real property.

3 (3) "Real estate agent" means a real estate broker, real estate
4 salesperson, associate real estate broker, or person as defined in RCW
5 18.85.010 (1) through (4).

6 (4) "Business day" means a day the offices of the county or
7 counties in which the utility in question provides service are open for
8 business.

9 **Sec. 2.** RCW 60.80.010 and 1996 c 43 s 2 are each amended to read
10 as follows:

11 (1) Unless otherwise stated and acknowledged in writing by the
12 purchaser, the seller of a fee interest in real property is responsible
13 for satisfying, upon closing, any lien provided for by RCW 35.21.290,
14 35.67.200, 36.36.045, 36.89.090, 36.94.150, (~~56.16.100, 57.08.080~~)
15 57.08.081, or 87.03.445.

16 (2) No closing agent may refuse a written request by the seller or
17 purchaser of a fee interest in real property to administer the
18 disbursement of closing funds necessary to satisfy unpaid charges as
19 charges are defined in RCW 60.80.005. Except as otherwise provided in
20 this subsection (2), a closing agent who refuses such a written request
21 is liable to the purchaser for unpaid charges for utility services
22 covered by the request. A closing agent is not liable if the closing
23 agent's refusal is based on the seller's inaccurate or incomplete
24 identification of utilities providing service to the property, or if a
25 utility fails to provide an estimated or actual final billing, or
26 written extension of the per diem rate, as required by RCW 60.80.020,
27 or if disbursement of closing funds necessary to satisfy the unpaid
28 charges would violate RCW 18.44.070.

29 (3) A closing agent may charge a fee for performing the services
30 required of the closing agent by this chapter, which fee may be in
31 addition to other fees or settlement charges collected in the course of
32 ordinary settlement practices.

33 **Sec. 3.** RCW 60.80.020 and 1996 c 43 s 3 are each amended to read
34 as follows:

35 (1) Unless the seller and purchaser waive, in writing, the services
36 of a closing agent in administering the disbursement of closing funds
37 necessary to satisfy unpaid charges as charges are defined in RCW

1 60.80.005, the seller shall, as a provision in a written agreement for
 2 the purchase and sale of real ((estate)) property, inform the closing
 3 agent for the sale of the names and addresses of all utilities,
 4 including special districts, providing service to the property under
 5 chapter 35.21, 35.67, 36.36, 36.89, 36.94, ((56.16,)) 57.08, or 87.03
 6 RCW. The provision of the information in a written agreement for the
 7 purchase and sale of real ((estate)) property constitutes a written
 8 request to the closing agent to administer disbursement of closing
 9 funds necessary to satisfy unpaid charges. After December 31, 1998, to
 10 constitute such a request, the written agreement for the purchase and
 11 sale of real property must provide the necessary information in
 12 substantially the following form:

13 **Governmental Utilities:** Pursuant to chapter 60.80 RCW, Buyer and
 14 Seller " do request, " do not request, the closing agent to administer
 15 the disbursement of closing funds necessary to satisfy unpaid utility
 16 charges for services provided by governmental utilities that have lien
 17 rights against the property. If neither box is checked, the closing
 18 agent shall administer the disbursement of closing funds to satisfy the
 19 unpaid utility charges. Seller represents that the property, located
 20 at (insert address of the property), is served by the
 21 following utilities operated by a city or town, county, water-sewer
 22 district, or irrigation district. The Parties authorize the Listing
 23 Agent or the Selling Agent to insert the names and addresses of those
 24 utility service providers.

	<u>Name of Provider</u>	<u>Address</u>	<u>Account</u>
			<u>Number</u>
27	<u>" Electricity</u>	<u>.</u>	<u>.</u>
28	<u>" Water</u>	<u>.</u>	<u>.</u>
29	<u>" Sewer</u>	<u>.</u>	<u>.</u>
30	<u>" Storm Water</u>		
31	<u>Drainage</u>	<u>.</u>	<u>.</u>
32	<u>" Irrigation</u>	<u>.</u>	<u>.</u>
33	<u>" Special Districts (Local Improvement Districts and Utility Local</u>		
34	<u>Improvement Districts)</u>		
35	<u>.</u>	<u>.</u>	<u>.</u>

36 SELLER'S INITIALS (. . .) (. . .) BUYER'S INITIALS (. . .)(. . .)

37 Unless the seller and purchaser have waived the services of a
 38 closing agent as provided in this subsection, the closing agent shall

1 submit a written request for a final billing to each utility identified
2 by the seller as providing service to the property under chapter 35.21,
3 35.67, 36.36, 36.89, 36.94, ((56.16,)) 57.08, or 87.03 RCW. Either the
4 seller or purchaser may submit a written request for a final billing to
5 each utility identified by the seller as providing service to the
6 property under chapter 35.21, 35.67, 36.36, 36.89, 36.94, ((56.16,))
7 57.08, or 87.03 RCW.

8 The written request must identify the property by both legal
9 description and address. The closing agent, seller, or purchaser may
10 submit a written request to a utility by facsimile. In requesting
11 final billings for utility services, the closing agent may rely upon
12 information provided by the seller, and a closing agent or a real
13 estate agent who is not the seller is not liable for inaccurate or
14 incomplete information.

15 (2) After receiving a written request for a final billing for
16 utility services to real property to be sold, a utility operated under
17 chapter 35.21, 35.67, 36.36, 36.89, 36.94, ((56.16,)) 57.08, or 87.03
18 RCW shall provide the requesting party with a written estimated or
19 actual final billing as provided in this section. If the utility is
20 unable to provide a written estimated or actual final billing or
21 written extension of the per diem rate, due to insufficient information
22 to identify the account, the utility shall notify the requesting party
23 in writing that the information is insufficient to identify the
24 account.

25 The utility shall provide the written estimated or actual final
26 billing, or statement that the information in the request is
27 insufficient to identify the account, to the requesting party within
28 seven business days of receipt of the written request if the request
29 was mailed to the utility, or within three business days if the request
30 was sent to the utility by facsimile or delivered to the utility by
31 messenger. A utility may provide a written estimated or actual final
32 billing to the requesting party by facsimile.

33 (a) The final billing must include all outstanding charges and, in
34 addition to the estimated or actual final amount owing as of the stated
35 closing date, must state the average per diem rate for the utility or
36 utilities involved, including taxes and other charges, which shall
37 apply for up to thirty days beyond the stated closing date if the
38 closing date is delayed.

1 (b) If closing is delayed beyond thirty days, a new estimated or
2 actual final billing must be requested in writing. In lieu of
3 furnishing a written revised final billing, the utility may extend, in
4 writing, the number of days for which the per diem charge applies. The
5 utility shall respond within seven business days of receipt of the
6 written request for a new estimated or actual final billing if the
7 request was mailed to the utility, or within three business days if the
8 request was sent to the utility by facsimile or delivered to the
9 utility by messenger.

10 (c) If a utility fails to provide a written estimated or actual
11 final billing, written extension of the per diem rate, or statement
12 that the information in the request is insufficient to identify the
13 account, within seven business days of receipt of a written request if
14 the request was mailed to the utility, or within three business days if
15 the request was sent to the utility by facsimile or delivered to the
16 utility by messenger, an unrecorded lien provided for by RCW 35.21.290,
17 35.67.200, 36.36.045, 36.89.090, 36.94.150, (~~56.16.100, 57.08.080~~)
18 57.08.081, or 87.03.445 for charges incurred prior to the closing date
19 is extinguished, and the utility may not recover the charges from the
20 purchaser of the property.

21 (d) A closing agent shall inform the seller and purchaser of all
22 applicable estimated and actual final billings furnished by utilities.

23 In performing his or her duties under this chapter, a closing agent
24 may rely upon information provided by utilities and is not liable if
25 information provided by utilities is inaccurate or incomplete.

26 (3) If closing occurs no later than the last date for which per
27 diem charges may be applied, full payment of the estimated or actual
28 final billing plus per diem charges extinguishes a lien of the utility
29 provided for by RCW 35.21.290, 35.67.200, 36.36.045, 36.89.090,
30 36.94.150, (~~56.16.100, 57.08.080~~) 57.08.081, or 87.03.445 for charges
31 incurred prior to the closing date.

32 (4)(a) Except as otherwise provided in this subsection (4)(a), this
33 section does not limit the right of a utility to recover from the
34 purchaser of the property unpaid utility charges incurred prior to
35 closing, if the utility did not receive a written request for a final
36 billing or if the utility complied with subsection (2) of this section.

37 A utility may not recover from a purchaser unpaid utility charges
38 incurred prior to closing in excess of an estimated final billing.

1 (b) This section does not limit the right of a utility to recover
2 unpaid utility charges incurred prior to closing, including unpaid
3 utility charges in excess of an estimated final billing, from the
4 seller of the property, or from the person or persons who incurred the
5 charges.

6 (c) If an estimated final billing is in excess of the actual final
7 billing, unless otherwise directed in writing by the seller and
8 purchaser, a utility shall refund any overcharge to the seller of the
9 property, rather than to the closing agent, by sending the refund in
10 the seller's name to the last address provided by the seller. A
11 utility shall refund the overcharge within fourteen business days of
12 the date the utility receives payment for the final billing, unless a
13 county or city treasurer or finance department acts in an ex officio
14 capacity as the treasurer of a utility, in which case the utility shall
15 refund the overcharge within thirty business days of the date the
16 utility receives payment for the final billing.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 60.80 RCW
18 to read as follows:

19 RCW 60.80.010 and 60.80.020 do not apply to the refinancing of real
20 property or to the refinancing of interests in real property.

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