
HOUSE BILL 1089

State of Washington

56th Legislature

1999 Regular Session

By Representative Dunn

Read first time 01/14/1999. Referred to Committee on Technology,
Telecommunications & Energy.

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

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 Cities and towns owning their own waterworks, or electric light or
8 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 the owner of the premises or
12 the owner of a delinquent mortgage thereon may give written notice to
13 the superintendent or other head of such works or plant to cut off
14 service to such premises accompanied by payment or tender of payment of
15 the then delinquent and unpaid charges for such service against the
16 premises together with the cut-off charge, whereupon the city or town
17 shall have no lien against the premises for charges for such service
18 thereafter furnished, nor shall the owner of the premises or the owner
19 of a delinquent mortgage thereon be held for the payment thereof.

1 All charges made for utility services must 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 must
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 must 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 must
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 1997 c 393 s 9 are each amended to read
34 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 auditor 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. Costs
14 associated with the foreclosure of the lien, including but not limited
15 to advertising, title report, and personnel costs, shall be added to
16 the lien upon filing of the foreclosure action. In addition to the
17 costs and disbursements provided by statute, the court may allow the
18 county a reasonable attorney's fee. The lien shall be foreclosed in
19 the same manner as the foreclosure of real property tax liens.

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

29 **Sec. 4.** RCW 57.08.081 and 1998 c 285 s 2 and 1998 c 106 s 9 are
30 each reenacted and amended to read as follows:

31 (1) The commissioners of any district shall provide for revenues by
32 fixing rates and charges for furnishing sewer and drainage service and
33 facilities to those to whom service is available or for providing
34 water, such rates and charges to be fixed as deemed necessary by the
35 commissioners, so that uniform charges will be made for the same class
36 of customer or service and facility. Rates and charges may be combined
37 for the furnishing of more than one type of sewer or drainage service
38 and facilities.

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

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

37 (4) All charges made for utility services must be charged to the
38 customer who contracts for the services. In cases where the service
39 contract is with the tenant of a property, collection of charges must

1 be made from the tenant, and liens against the property owner are
2 prohibited. A district may not refuse to provide service to a
3 residential customer who is a tenant based on the nonpayment for
4 services by the prior customer. The district may refuse to provide
5 service if the prior nonpaying customer continues to reside in the
6 premises.

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

18 ((+5)) (6) In addition to the right to foreclose provided in this
19 section, the district may also cut off all or part of the service after
20 charges for water or sewer service supplied or available are delinquent
21 for a period of thirty days.

22 ((+6)) (7) A district may determine how to apply partial payments
23 on past due accounts.

24 ((+7)) (8) A district may provide a real property owner or the
25 owner's designee with duplicate bills for service to tenants, or may
26 notify an owner or the owner's designee that a tenant's service account
27 is delinquent. However, if an owner or the owner's designee notifies
28 the district in writing that a property served by the district is a
29 rental property, asks to be notified of a tenant's delinquency, and has
30 provided, in writing, a complete and accurate mailing address, the
31 district shall notify the owner or the owner's designee of a tenant's
32 delinquency at the same time and in the same manner the district
33 notifies the tenant of the tenant's delinquency or by mail. When a
34 district provides a real property owner or the owner's designee with
35 duplicates of tenant utility service bills or notice that a tenant's
36 utility account is delinquent, the district shall notify the tenant
37 that it is providing the duplicate bills or delinquency notice to the
38 owner or the owner's designee. After January 1, 1999, if a district
39 fails to notify the owner of a tenant's delinquency after receiving a

1 written request to do so and after receiving the other information
2 required by this subsection (~~((7))~~) (8), the district shall have no
3 lien against the premises for the tenant's delinquent and unpaid
4 charges.

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

7 (1) All charges made, demanded or received by any gas company,
8 electrical company or water company for gas, electricity or water, or
9 for any service rendered or to be rendered in connection therewith,
10 shall be just, fair, reasonable and sufficient. To meet the
11 requirements of this subsection, all charges made for utility services
12 must be charged to the customer who contracts for the services. In
13 cases where the service contract is with the tenant of a property,
14 collection of charges must be made from the tenant, and liens against
15 the property owner are prohibited.

16 (2) Every gas company, electrical company and water company shall
17 furnish and supply such service, instrumentalities and facilities as
18 shall be safe, adequate and efficient, and in all respects just and
19 reasonable.

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

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

25 (a) Notifies the utility of the inability to pay the bill,
26 including a security deposit. This notice should be provided within
27 five business days of receiving a payment overdue notice unless there
28 are extenuating circumstances. If the customer fails to notify the
29 utility within five business days and service is terminated, the
30 customer can, by paying reconnection charges, if any, and fulfilling
31 the requirements of this section, receive the protections of this
32 chapter;

33 (b) Provides self-certification of household income for the prior
34 twelve months to a grantee of the department of community, trade, and
35 economic development which administers federally funded energy
36 assistance programs. The grantee shall determine that the household
37 income does not exceed the maximum allowed for eligibility under the
38 state's plan for low-income energy assistance under 42 U.S.C. 8624 and

1 shall provide a dollar figure that is seven percent of household
2 income. The grantee may verify information provided in the self-
3 certification;

4 (c) Has applied for home heating assistance from applicable
5 government and private sector organizations and certifies that any
6 assistance received will be applied to the current bill and future
7 utility bills;

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

11 (e) Agrees to a payment plan and agrees to maintain the payment
12 plan. The plan will be designed both to pay the past due bill by the
13 following October 15 and to pay for continued utility service. If the
14 past due bill is not paid by the following October 15, the customer
15 shall not be eligible for protections under this chapter until the past
16 due bill is paid. The plan shall not require monthly payments in
17 excess of seven percent of the customer's monthly income plus one-
18 twelfth of any arrearage accrued from the date application is made and
19 thereafter during November 15 through March 15. A customer may agree
20 to pay a higher percentage during this period, but shall not be in
21 default unless payment during this period is less than seven percent of
22 monthly income plus one-twelfth of any arrearage accrued from the date
23 application is made and thereafter. If assistance payments are
24 received by the customer subsequent to implementation of the plan, the
25 customer shall contact the utility to reformulate the plan; and

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

27 (5) The utility shall:

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

31 (b) Assist the customer in fulfilling the requirements under this
32 section;

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

36 (d) Be permitted to disconnect service if the customer fails to
37 honor the payment program. Utilities may continue to disconnect
38 service for those practices authorized by law other than for nonpayment
39 as provided for in this subsection. Customers who qualify for payment

1 plans under this section who default on their payment plans and are
2 disconnected can be reconnected and maintain the protections afforded
3 under this chapter by paying reconnection charges, if any, and by
4 paying all amounts that would have been due and owing under the terms
5 of the applicable payment plan, absent default, on the date on which
6 service is reconnected; and

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

10 (6) A payment plan implemented under this section (~~(is)~~) must be
11 consistent with RCW 80.28.080.

12 (7) Every gas company and electrical company shall offer
13 residential customers the option of a budget billing or equal payment
14 plan. The budget billing or equal payment plan shall be offered low-
15 income customers eligible under the state's plan for low-income energy
16 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without
17 limiting availability to certain months of the year, without regard to
18 the length of time the customer has occupied the premises, and without
19 regard to whether the customer is the tenant or owner of the premises
20 occupied.

21 (8) A gas company, electric company, or water company may not
22 refuse to provide service to a residential customer who is a tenant
23 based on the nonpayment for services by the prior customer. The
24 company may refuse to provide service if the prior nonpaying customer
25 continues to reside in the premises.

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

30 (~~(9)~~) (10) An agreement between the customer and the utility,
31 whether oral or written, shall not waive the protections afforded under
32 this chapter.

33 (~~(10)~~) (11) In establishing rates or charges for water service,
34 water companies as defined in RCW 80.04.010 may consider the
35 achievement of water conservation goals and the discouragement of
36 wasteful water use practices.

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