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HOUSE BILL 1293

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State of Washington

57th Legislature

2001 Regular Session

By Representatives Dunn, Fromhold, Mielke, Hunt, Benson, Miloscia, Roach, Doumit, Schindler, Kagi, Haigh and Esser

Read first time 01/23/2001. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to real property owners receiving notices from  
2 utilities of tenant delinquencies; and amending RCW 35.21.290,  
3 35.67.200, 36.94.150, and 80.28.010.

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 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       (2) A city or town may provide a real property owner or the owner's  
2 designee with duplicate bills for service to tenants, or may notify an  
3 owner or the owner's designee that a tenant's service account is  
4 delinquent. However, if an owner or the owner's designee notifies the  
5 city or town in writing that a property served by the city or town is  
6 a rental property, asks to be notified of a tenant's delinquency, and  
7 has provided, in writing, a complete and accurate mailing address, the  
8 city or town shall notify the owner or the owner's designee of a  
9 tenant's delinquency at the same time and in the same manner the city  
10 or town notifies the tenant of the tenant's delinquency or by mail.  
11 When a city or town provides a real property owner or the owner's  
12 designee with duplicates of tenant utility service bills or notice that  
13 a tenant's utility account is delinquent, the city or town shall notify  
14 the tenant that it is providing the duplicate bills or delinquency  
15 notice to the owner or the owner's designee. After January 1, 2002, if  
16 a city or town fails to notify the owner of a tenant's delinquency  
17 after receiving a written request to do so and after receiving the  
18 other information required by this subsection, the city or town shall  
19 have no lien against the premises for the tenant's delinquent and  
20 unpaid charges.

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

23       (1) Cities and towns owning their own sewer systems shall have a  
24 lien for delinquent and unpaid rates and charges for sewer service,  
25 penalties levied pursuant to RCW 35.67.190, and connection charges,  
26 including interest thereon, against the premises to which such service  
27 has been furnished or is available, which lien shall be superior to all  
28 other liens and encumbrances except general taxes and local and special  
29 assessments. The city or town by ordinance may provide that delinquent  
30 charges shall bear interest at not exceeding eight percent per annum  
31 computed on a monthly basis: PROVIDED, That a city or town using the  
32 property tax system for utility billing may, by resolution or  
33 ordinance, adopt the alternative lien procedure as set forth in RCW  
34 35.67.215.

35       (2) A city or town may provide a real property owner or the owner's  
36 designee with duplicate bills for service to tenants, or may notify an  
37 owner or the owner's designee that a tenant's service account is  
38 delinquent. However, if an owner or the owner's designee notifies the

1 city or town in writing that a property served by the city or town is  
2 a rental property, asks to be notified of a tenant's delinquency, and  
3 has provided, in writing, a complete and accurate mailing address, the  
4 city or town shall notify the owner or the owner's designee of a  
5 tenant's delinquency at the same time and in the same manner the city  
6 or town notifies the tenant of the tenant's delinquency or by mail.  
7 When a city or town provides a real property owner or the owner's  
8 designee with duplicates of tenant utility service bills or notice that  
9 a tenant's utility account is delinquent, the city or town shall notify  
10 the tenant that it is providing the duplicate bills or delinquency  
11 notice to the owner or the owner's designee. After January 1, 2002, if  
12 a city or town fails to notify the owner of a tenant's delinquency  
13 after receiving a written request to do so and after receiving the  
14 other information required by this subsection, the city or town shall  
15 have no lien against the premises for the tenant's delinquent and  
16 unpaid charges.

17       **Sec. 3.** RCW 36.94.150 and 1997 c 393 s 9 are each amended to read  
18 as follows:

19       (1) All counties operating a system of sewerage and/or water shall  
20 have a lien for delinquent connection charges and charges for the  
21 availability of sewerage and/or water service, together with interest  
22 fixed by resolution at eight percent per annum from the date due until  
23 paid. Penalties of not more than ten percent of the amount due may be  
24 imposed in case of failure to pay the charges at times fixed by  
25 resolution. The lien shall be for all charges, interest, and penalties  
26 and shall attach to the premises to which the services were available.  
27 The lien shall be superior to all other liens and encumbrances, except  
28 general taxes and local and special assessments of the county.

29       (2) The county department established in RCW 36.94.120 shall  
30 certify periodically the delinquencies to the auditor of the county at  
31 which time the lien shall attach.

32       (3) Upon the expiration of sixty days after the attachment of the  
33 lien, the county may bring suit in foreclosure by civil action in the  
34 superior court of the county where the property is located. Costs  
35 associated with the foreclosure of the lien, including but not limited  
36 to advertising, title report, and personnel costs, shall be added to  
37 the lien upon filing of the foreclosure action. In addition to the  
38 costs and disbursements provided by statute, the court may allow the

1 county a reasonable attorney's fee. The lien shall be foreclosed in  
2 the same manner as the foreclosure of real property tax liens.

3 (4) A county may provide a real property owner or the owner's  
4 designee with duplicate bills for service to tenants, or may notify an  
5 owner or the owner's designee that a tenant's service account is  
6 delinquent. However, if an owner or the owner's designee notifies the  
7 county in writing that a property served by the county is a rental  
8 property, asks to be notified of a tenant's delinquency, and has  
9 provided, in writing, a complete and accurate mailing address, the  
10 county shall notify the owner or the owner's designee of a tenant's  
11 delinquency at the same time and in the same manner the county notifies  
12 the tenant of the tenant's delinquency or by mail. When a county  
13 provides a real property owner or the owner's designee with duplicates  
14 of tenant utility service bills or notice that a tenant's utility  
15 account is delinquent, the county shall notify the tenant that it is  
16 providing the duplicate bills or delinquency notice to the owner or the  
17 owner's designee. After January 1, 2002, if a county fails to notify  
18 the owner of a tenant's delinquency after receiving a written request  
19 to do so and after receiving the other information required by this  
20 subsection, the county shall have no lien against the premises for the  
21 tenant's delinquent and unpaid charges.

22 **Sec. 4.** RCW 80.28.010 and 1995 c 399 s 211 are each amended to  
23 read as follows:

24 (1) All charges made, demanded or received by any gas company,  
25 electrical company or water company for gas, electricity or water, or  
26 for any service rendered or to be rendered in connection therewith,  
27 shall be just, fair, reasonable and sufficient.

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

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

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

37 (a) Notifies the utility of the inability to pay the bill,  
38 including a security deposit. This notice should be provided within

1 five business days of receiving a payment overdue notice unless there  
2 are extenuating circumstances. If the customer fails to notify the  
3 utility within five business days and service is terminated, the  
4 customer can, by paying reconnection charges, if any, and fulfilling  
5 the requirements of this section, receive the protections of this  
6 chapter;

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

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

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

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

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

39 (5) The utility shall:

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

4 (b) Assist the customer in fulfilling the requirements under this  
5 section;

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

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

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

22 (6) A payment plan implemented under this section is consistent  
23 with RCW 80.28.080.

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

33 (8) Every gas company, electrical company and water company shall  
34 construct and maintain such facilities in connection with the  
35 manufacture and distribution of its product as will be efficient and  
36 safe to its employees and the public.

37 (9) An agreement between the customer and the utility, whether oral  
38 or written, shall not waive the protections afforded under this  
39 chapter.

1 (10) In establishing rates or charges for water service, water  
2 companies as defined in RCW 80.04.010 may consider the achievement of  
3 water conservation goals and the discouragement of wasteful water use  
4 practices.

5 (11) Every gas company, electrical company, and water company may  
6 provide a real property owner or the owner's designee with duplicate  
7 bills for service to tenants, or may notify an owner or the owner's  
8 designee that a tenant's service account is delinquent. However, if an  
9 owner or the owner's designee notifies the gas company, electric  
10 company, and water company in writing that a property served by the gas  
11 company, electric company, and water company is a rental property, asks  
12 to be notified of a tenant's delinquency, and has provided, in writing,  
13 a complete and accurate mailing address, the gas company, electric  
14 company, and water company shall notify the owner or the owner's  
15 designee of a tenant's delinquency at the same time and in the same  
16 manner the gas company, electric company, and water company notifies  
17 the tenant of the tenant's delinquency or by mail. When a gas company,  
18 electric company, and water company provides a real property owner or  
19 the owner's designee with duplicates of tenant utility service bills or  
20 notice that a tenant's utility account is delinquent, the gas company,  
21 electric company, and water company shall notify the tenant that it is  
22 providing the duplicate bills or delinquency notice to the owner or the  
23 owner's designee. After January 1, 2002, if a gas company, electric  
24 company, and water company fails to notify the owner of a tenant's  
25 delinquency after receiving a written request to do so and after  
26 receiving the other information required by this subsection, the gas  
27 company, electric company, and water company shall have no lien against  
28 the premises for the tenant's delinquent and unpaid charges.

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