

SHB 1012 - S AMD TO FSIH COMM AMD (S-4960.1/04) 801  
By Senator Benton

1 On page 4, after line 3 of the amendment, insert the following:

2 NEW SECTION. **Sec. 2.** (1) This chapter may be known and cited as  
3 the "third party utility billing act." The purpose of this chapter is  
4 to prevent landlords, either themselves or through a third party  
5 billing agent, from billing tenants for master metered or unmetered  
6 utility services without proper notice and disclosure of billing  
7 practices to tenants, to protect tenants from deceptive or fraudulent  
8 billing practices, and to establish uniform statewide standards for  
9 third party utility billing that do not permit the adoption of  
10 inconsistent or more restrictive standards by any city, code city, or  
11 county.

12 (2) This chapter does not prevent a landlord from including a  
13 tenant's cost of master metered or unmetered utility services within  
14 the rent set forth in a rental agreement, and the practice of including  
15 that cost within a tenant's rent is not a billing practice or  
16 methodology affected by this chapter.

17 (3) This chapter does not affect the practices used by public  
18 utilities to bill and collect residential multiunit building owners or  
19 landlords for master metered or unmetered utility services.

20 NEW SECTION. **Sec. 3.** The definitions in this section apply  
21 throughout this chapter unless the context clearly requires otherwise.

22 (1) "Billing entity" means the landlord or third party billing  
23 agent responsible for billing multiunit building tenants for master  
24 metered or unmetered utility services.

25 (2) "Disclosure" means providing tenants with complete and accurate  
26 written information in a clear, concise, and understandable manner in  
27 all notices required under this chapter and on each bill presented from  
28 the billing entity to tenants.

29 (3) "Landlord" has the meaning provided in RCW 59.18.030.

1 (4) "Master metered utility service" means a utility service  
2 supplied to more than one unit in a multiunit building and measured  
3 through a single inclusive metering system.

4 (5) "Methodology" means any method, technique, or criterion used to  
5 apportion to tenants charges billed to the landlord by the utility for  
6 master metered or unmetered utility services, including but not limited  
7 to, ratio utility billing systems, submetering systems, and hot water  
8 metering systems.

9 (6) "Multiunit building" means a residential building, or group of  
10 buildings with three or more dwelling units, as defined in RCW  
11 59.18.030 with a master metered utility service or unmetered utility  
12 service that is provided to the building or group of buildings as a  
13 whole.

14 (7) "Ratio utility billing system" means any method by which the  
15 cost of master metered or unmetered utility services provided to  
16 tenants and common areas of a multiunit building are apportioned to  
17 tenants through the use of a formula that estimates the utility usage  
18 of each rental unit in the multiunit building based on the number of  
19 occupants in a unit, number of bedrooms in a unit, square footage of a  
20 unit, or any similar criterion.

21 (8) "Rental agreement" has the meaning provided in RCW 59.18.030.

22 (9) "Tenant" has the meaning provided in RCW 59.18.030.

23 (10) "Billing practices" means the practices of a billing entity  
24 that apportions and bills multiunit building tenants for master metered  
25 or unmetered utility services provided to the multiunit building as a  
26 whole by an apportioning methodology and also means any related  
27 practices including but not limited to, collecting, using, or  
28 disclosing tenants' personally identifiable information, other than  
29 name, address, and number of occupants. Only such information may be  
30 conveyed to third parties.

31 (11) "Third party billing agent" means any entity retained or  
32 authorized by a landlord as a billing entity.

33 (12) "Unmetered" or "unmetered utility services" means utilities  
34 provided to more than one unit of a multiunit building, in which the  
35 bill from the utility is based on a method other than a meter and  
36 includes, but is not limited to, sewer and solid waste services.

37 (13) "Utilities" or "utility services" means water, sewer,  
38 electric, and solid waste services.

1        NEW SECTION.    **Sec. 4.**    A landlord of a multiunit building may only  
2 bill tenants for utility services separately from rent if the city,  
3 town, county, or other municipality where the multiunit building is  
4 located has implemented laws and ordinances relating to third-party  
5 utility billings that are consistent with this chapter.

6        NEW SECTION.    **Sec. 5.**    (1) A landlord may or may authorize a third  
7 party billing agent to bill tenants of a multiunit building for master  
8 metered or unmetered utility services provided to the tenants, only if  
9 the following requirements are met:

10        (a) Billing practices may be adopted only upon advance written  
11 notice to a tenant as part of a new or renewed rental agreement.  
12 Tenants must receive written notice of the billing practices at least  
13 thirty days before expiration of their rental agreements, or, in the  
14 case of month-to-month tenancies, at least thirty days before the  
15 billing practices may become effective. However, if billing practices  
16 are already in place on the effective date of this act, written notice  
17 must be given within thirty days of the effective date of this act.

18        (b) The notice required under (a) of this subsection shall include  
19 a detailed written disclosure of the methodology used by the billing  
20 entity to allocate the charges to each tenant, including the  
21 methodology used to allocate utility services for common areas of the  
22 multiunit building, along with all other terms and conditions of the  
23 billing arrangement. If submetering is used, the notice shall also  
24 include descriptions of the location of the submeter and any access  
25 requirements to tenant dwelling units for submeter installation,  
26 reading, repair, maintenance, or inspections, including removal of the  
27 submeter for testing. Access requirements shall be consistent with the  
28 provisions of RCW 59.18.150. An additional written notice must also be  
29 given at least thirty days prior to the due date of the next rental  
30 payment in order to implement a change in billing agents, apportionment  
31 methodology, fees, or other terms and conditions of the billing  
32 arrangement.

33        (c) The total of all charges for any utility service included in  
34 the bills sent to all units may not cumulatively exceed the amount of  
35 the bill sent by the utility to the landlord for the multiunit building  
36 or the covered dwelling units in the multiunit building as a whole,  
37 less any late charges, interest, or other penalties owed by the

1 landlord, with the exception of the following, which may be included in  
2 each bill covering an individual dwelling unit:

3 (i) A service charge of no more than two dollars per utility per  
4 month, not to exceed a cumulative service charge of five dollars per  
5 month for all the utilities included in the bill;

6 (ii) Late payment charges of no more than five dollars per month  
7 plus interest at a rate not to exceed one percent per month;

8 (iii) Insufficient funds check charges for dishonored checks, not  
9 to exceed thirty-one dollars per dishonored check; and

10 (iv) A one-time account activation fee of five dollars.

11 The charges under this subsection may be adjusted and increased on  
12 an annual basis by an amount not to exceed the greater of the consumer  
13 price index or three percent.

14 Service charges, late payment charges, and insufficient funds check  
15 charges shall be reasonable, and shall be a flat fee, or schedule of  
16 fees disclosed in the billing practices notices. No late payment  
17 charges may accrue until at least twenty-one days after the date the  
18 bill was mailed to the tenant or until twenty-one days after the bill  
19 was delivered to the tenant if the bill was not mailed.

20 (d) Any third party billing agent must be properly registered and  
21 licensed to do business in this state and must be in compliance with  
22 all applicable state laws and rules, and all applicable state license  
23 identification numbers, if any, must be disclosed upon request.

24 (e) Each billing statement sent to a tenant by a billing entity  
25 must disclose all required information in a clear and conspicuous  
26 manner and at minimum must:

27 (i) Include the name, business address, and telephone number of the  
28 billing entity;

29 (ii) Identify and show the basis for each separate charge,  
30 including service charges and late charges, if any, as a line item, and  
31 show the total amount of the bill;

32 (iii) If the building units are submetered, include:

33 (A) The current and previous submeter readings, the current read  
34 dates, and the amount concerned; and

35 (B) If the landlord was provided with an estimated bill from the  
36 serving utility, whether the tenant billing is also an estimated  
37 billing or whether it was prepared on the basis of factual submetered  
38 usage consistent with normal serving utility service charges;

1 (iv) Specify the due date, the date upon which the bill becomes  
2 overdue, the amount of any late charges or penalties that may apply,  
3 and the date upon which the late charges or penalties may be imposed;

4 (v) Identify any past due dollar amounts;

5 (vi) Identify a mailing address and telephone number for billing  
6 inquiries and disputes, identify the entity responsible for resolving  
7 billing inquiries and disputes and its business hours and days of  
8 availability, and describe the process used to resolve disputes related  
9 to bills as set forth in this chapter; and

10 (vii) Include a statement to the effect that "this bill is from  
11 (landlord name) and not from (utility company name)."

12 (f) If a utility company has billed the landlord using an estimate  
13 of utility service consumed, the billing agent may estimate the charges  
14 to be billed to tenants until billing based on actual consumption  
15 resumes.

16 (g) Submetering is permitted as a way of allocating master metered  
17 utility services to tenants.

18 (2) This section does not prevent a landlord from addressing  
19 billing of master metered or other unmetered utility services in a  
20 written addendum to a lease. A lease addendum may be used to give the  
21 notice required under subsection (1)(a) of this section, so long as the  
22 lease addendum is provided to the tenant with the notice required under  
23 that subsection, and so long as all other requirements of this chapter  
24 are satisfied.

25 (3) No dispute resolution provision may require a tenant to pursue  
26 a remedy in another state. In addition, for disputes arising under  
27 this chapter, mandatory dispute resolution shall be in accordance with  
28 the existing residential landlord-tenant act.

29 (4) The state of Washington fully occupies and preempts the entire  
30 field of residential third party utility billings. Cities, towns, and  
31 counties or other municipalities may enact only those laws and  
32 ordinances relating to third party utility billings that are consistent  
33 with this chapter. Local laws and ordinances that are inconsistent  
34 with, more restrictive than, or exceed the requirements of state law  
35 may not be enacted and are preempted and repealed, regardless of the  
36 nature of the code, charter, or home rule status of the city, town,  
37 county, or municipality.

1        NEW SECTION.   **Sec. 6.**   When a billing entity employs a methodology  
2   for third party utility billing based on submetering or hot water  
3   metering, the individual meters must be accurate and regularly  
4   maintained.

5        NEW SECTION.   **Sec. 7.**   Sections 2 through 6 of this act constitute  
6   a new chapter in Title 59 RCW."

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7        On page 4, line 4 of the title amendment, after "relationships;"  
8   strike the remainder of the title amendment and insert "amending RCW  
9   59.18.060; and adding a new chapter to Title 59 RCW."

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