

SSB 6519 - S AMD 658

By Senators Benton, Berkey, Prentice

ADOPTED 02/13/2004

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

21 NEW SECTION. **Sec. 2.** The definitions in this section apply  
22 throughout this chapter unless the context clearly requires otherwise.

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

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

1 (3) "Landlord" has the meaning provided in RCW 59.18.030 and also  
2 has the meaning provided in RCW 59.20.030 with regard to mobile home  
3 parks.

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

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

12 (6) "Multiunit building" means a residential building, group of  
13 buildings, or mobile home park, with three or more dwelling units, as  
14 defined in RCW 59.18.030, or mobile home lots, as defined in RCW  
15 59.20.030, with a master metered utility service or unmetered utility  
16 service that is provided to the building or group of buildings as a  
17 whole.

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

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

26 (9) "Tenant" has the meaning provided in RCW 59.18.030 and also  
27 means a tenant of a mobile home park as defined in RCW 59.20.030.

28 (10) "Billing practices" means the practices of a billing entity  
29 that apportions and bills multiunit building tenants for master metered  
30 or unmetered utility services provided to the multiunit building as a  
31 whole by an apportioning methodology and also means any related  
32 practices including but not limited to, collecting, using, or  
33 disclosing tenants' personally identifiable information, other than  
34 name and address; attempting to collect unpaid amounts from tenants;  
35 verifying tenants' credit; and reporting unpaid balances to credit  
36 reporting agencies.

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

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

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

9 NEW SECTION. **Sec. 3.** A landlord of a multiunit building shall not  
10 bill tenants for utility services separately from rent except as  
11 permitted in this chapter.

12 NEW SECTION. **Sec. 4.** (1) A landlord may or may authorize a third  
13 party billing agent to bill tenants of a multiunit building for master  
14 metered or unmetered utility services provided to the tenants, only if  
15 the following requirements are met:

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

24 (b) The notice required under (a) of this subsection shall include  
25 a detailed written disclosure of the methodology used by the billing  
26 entity to allocate the charges to each tenant, including the  
27 methodology used to allocate utility services for common areas of the  
28 multiunit building, along with all other terms and conditions of the  
29 billing arrangement. If submetering is used, the notice shall also  
30 include descriptions of the location of the submeter and any access  
31 requirements to tenant dwelling units or mobile home lots for submeter  
32 installation, reading, repair, maintenance, or inspections, including  
33 removal of the submeter for testing. Access requirements shall be  
34 consistent with the provisions of RCW 59.18.150 or 59.20.130 for mobile  
35 home parks. An additional written notice must also be given at least

1 thirty days prior to the due date of the next rental payment in order  
2 to implement a change in billing agents, apportionment methodology,  
3 fees, or other terms and conditions of the billing arrangement.

4 (c) The total of all charges for any utility service included in  
5 the bills sent to all units may not cumulatively exceed the amount of  
6 the bill sent by the utility to the landlord for the multiunit building  
7 or the covered dwelling units or mobile home lots in the multiunit  
8 building as a whole, less any late charges, interest, or other  
9 penalties owed by the landlord, with the exception of the following,  
10 which may be included in each bill covering an individual dwelling unit  
11 or mobile home lot:

12 (i) A service charge;

13 (ii) Late payment charges; and

14 (iii) Insufficient funds check charges for dishonored checks.

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

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

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

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

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

33 (iii) If the building units are submetered, include the current and  
34 previous meter readings, the current read date, and the amount  
35 consumed, or estimated to have been consumed if the utility has  
36 provided the landlord with an estimated bill;

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.

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

1        NEW SECTION.    **Sec. 5.**    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. 6.**    Sections 1 through 5 of this act constitute  
6    a new chapter in Title 59 RCW."

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7        On page 1, line 1 of the title, after "billings;" strike the  
8    remainder of the title and insert "and adding a new chapter to Title 59  
9    RCW."

EFFECT:    Incorporates the preemption clause into the body of the  
bill, strikes requirements on who a landlord may hire to do third party  
billing while retaining the requirements on the third party billing  
companies, and strikes language related to estimated billings.

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