
SENATE BILL 5866

State of Washington 58th Legislature 2003 Regular Session

By Senators Mulliken, Benton, Esser, Shin, Schmidt and T. Sheldon

Read first time 02/18/2003. Referred to Committee on Natural Resources, Energy & Water.

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

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

4 **Sec. 1.** RCW 35.21.290 and 1965 c 7 s 35.21.290 are each amended to
5 read as follows:

6 Cities and towns owning their own waterworks, or electric light or
7 power plants shall have a lien against the premises to which water,
8 electric light, or power services were furnished for four months
9 charges therefor due or to become due, but not for any charges more
10 than four months past due: PROVIDED, That the owner of the premises or
11 the owner of a delinquent mortgage thereon may give written notice to
12 the superintendent or other head of such works or plant to cut off
13 service to such premises accompanied by payment or tender of payment of
14 the then delinquent and unpaid charges for such service against the
15 premises together with the cut-off charge, whereupon the city or town
16 shall have no lien against the premises for charges for such service
17 thereafter furnished, nor shall the owner of the premises or the owner
18 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

1 availability of sewerage and/or water service, together with interest
2 fixed by resolution at eight percent per annum from the date due until
3 paid. Penalties of not more than ten percent of the amount due may be
4 imposed in case of failure to pay the charges at times fixed by
5 resolution. The lien shall be for all charges, interest, and penalties
6 and shall attach to the premises to which the services were available.
7 The lien shall be superior to all other liens and encumbrances, except
8 general taxes and local and special assessments of the county.

9 The county department established in RCW 36.94.120 shall certify
10 periodically the delinquencies to the auditor of the county at which
11 time the lien shall attach.

12 Upon the expiration of sixty days after the attachment of the lien,
13 the county may bring suit in foreclosure by civil action in the
14 superior court of the county where the property is located. Costs
15 associated with the foreclosure of the lien, including but not limited
16 to advertising, title report, and personnel costs, shall be added to
17 the lien upon filing of the foreclosure action. In addition to the
18 costs and disbursements provided by statute, the court may allow the
19 county a reasonable attorney's fee. The lien shall be foreclosed in
20 the same manner as the foreclosure of real property tax liens.

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

30 **Sec. 4.** RCW 57.08.081 and 1999 c 153 s 11 are each amended to read
31 as follows:

32 (1) The commissioners of any district shall provide for revenues by
33 fixing rates and charges for furnishing sewer and drainage service and
34 facilities to those to whom service is available or for providing
35 water, such rates and charges to be fixed as deemed necessary by the
36 commissioners, so that uniform charges will be made for the same class

1 of customer or service and facility. Rates and charges may be combined
2 for the furnishing of more than one type of sewer or drainage service
3 and facilities.

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

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

1 year shall be a lien against the property upon which the service was
2 received, subject only to the lien for general taxes.

3 (4) All charges made for utility services must be charged to the
4 customer who contracts for the services. In cases where the service
5 contract is with the tenant of a property, collection of charges must
6 be made from the tenant, and liens against the property owner are
7 prohibited. A district may not refuse to provide service to a
8 residential customer who is a tenant based on the nonpayment for
9 services by the prior customer. The district may refuse to provide
10 service if the prior nonpaying customer continues to reside in the
11 premises.

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

23 ~~((+5))~~ (6) In addition to the right to foreclose provided in this
24 section, the district may also cut off all or part of the service after
25 charges for water or sewer service supplied or available are delinquent
26 for a period of thirty days.

27 ~~((+6))~~ (7) A district may determine how to apply partial payments
28 on past due accounts.

29 ~~((+7))~~ (8) A district may provide a real property owner or the
30 owner's designee with duplicate bills for service to tenants, or may
31 notify an owner or the owner's designee that a tenant's service account
32 is delinquent. However, if an owner or the owner's designee notifies
33 the district in writing that a property served by the district is a
34 rental property, asks to be notified of a tenant's delinquency, and has
35 provided, in writing, a complete and accurate mailing address, the
36 district shall notify the owner or the owner's designee of a tenant's
37 delinquency at the same time and in the same manner the district
38 notifies the tenant of the tenant's delinquency or by mail. When a

1 district provides a real property owner or the owner's designee with
2 duplicates of tenant utility service bills or notice that a tenant's
3 utility account is delinquent, the district shall notify the tenant
4 that it is providing the duplicate bills or delinquency notice to the
5 owner or the owner's designee. After January 1, 1999, if a district
6 fails to notify the owner of a tenant's delinquency after receiving a
7 written request to do so and after receiving the other information
8 required by this subsection (~~((7))~~) (8), the district shall have no
9 lien against the premises for the tenant's delinquent and unpaid
10 charges.

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

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

22 (2) Every gas company, electrical company and water company shall
23 furnish and supply such service, instrumentalities and facilities as
24 shall be safe, adequate and efficient, and in all respects just and
25 reasonable.

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

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

31 (a) Notifies the utility of the inability to pay the bill,
32 including a security deposit. This notice should be provided within
33 five business days of receiving a payment overdue notice unless there
34 are extenuating circumstances. If the customer fails to notify the
35 utility within five business days and service is terminated, the
36 customer can, by paying reconnection charges, if any, and fulfilling

1 the requirements of this section, receive the protections of this
2 chapter;

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

12 (c) Has applied for home heating assistance from applicable
13 government and private sector organizations and certifies that any
14 assistance received will be applied to the current bill and future
15 utility bills;

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

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

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

35 (5) The utility shall:

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

1 (b) Assist the customer in fulfilling the requirements under this
2 section;

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

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

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

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

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

30 (8) A gas company, electric company, or water company may not
31 refuse to provide service to a residential customer who is a tenant
32 based on the nonpayment for services by the prior customer. The
33 company may refuse to provide service if the prior nonpaying customer
34 continues to reside in the premises.

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

1 (~~(9)~~) (10) An agreement between the customer and the utility,
2 whether oral or written, shall not waive the protections afforded under
3 this chapter.

4 (~~(10)~~) (11) In establishing rates or charges for water service,
5 water companies as defined in RCW 80.04.010 may consider the
6 achievement of water conservation goals and the discouragement of
7 wasteful water use practices.

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