
SUBSTITUTE SENATE BILL 6519

State of Washington 58th Legislature 2004 Regular Session

By Senate Committee on Financial Services, Insurance & Housing
(originally sponsored by Senators Benton, Prentice, Winsley and Kline)

READ FIRST TIME 02/04/04.

1 AN ACT Relating to third party utility billings; and adding a new
2 chapter to Title 59 RCW.

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

4 NEW SECTION. **Sec. 1.** (1) This chapter may be known and cited as
5 the "third party utility billing act." The purpose of this chapter is
6 to prevent landlords, either themselves or through a third party
7 billing agent, from billing tenants for master metered or unmetered
8 utility services without proper notice and disclosure of billing
9 practices to tenants, to protect tenants from deceptive or fraudulent
10 billing practices, and to establish uniform statewide standards for
11 third party utility billing.

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.

1 NEW SECTION. **Sec. 2.** The definitions in this section apply

2 throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

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

21 (6) "Multiunit building" means a residential building, group of
22 buildings, or mobile home park, with three or more dwelling units, as
23 defined in RCW 59.18.030, or mobile home lots, as defined in RCW
24 59.20.030, with a master metered utility service or unmetered utility
25 service that is provided to the building or group of buildings as a
26 whole.

27 (7) "Ratio utility billing system" means any method by which the
28 cost of master metered or unmetered utility services provided to
29 tenants and common areas of a multiunit building are apportioned to
30 tenants through the use of a formula that estimates the utility usage
31 of each rental unit in the multiunit building based on the number of
32 occupants in a unit, number of bedrooms in a unit, square footage of a
33 unit, or any similar criterion.

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

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

37 (10) "Billing practices" means the practices of a billing entity
38 that apportions and bills multiunit building tenants for master metered

1 or unmetered utility services provided to the multiunit building as a
2 whole by an apportioning methodology and also means any related
3 practices including but not limited to, collecting, using, or
4 disclosing tenants' personally identifiable information, other than
5 name and address; attempting to collect unpaid amounts from tenants;
6 verifying tenants' credit; and reporting unpaid balances to credit
7 reporting agencies.

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

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

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

16 NEW SECTION. **Sec. 3.** (1) A landlord of a multiunit building shall
17 not bill tenants for utility services separately from rent except as
18 permitted in this chapter.

19 (2) A landlord shall not engage, retain, or authorize a third party
20 billing agent that does not comply with the requirements of this
21 chapter.

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

26 (a) Billing practices may be adopted only upon advance written
27 notice to a tenant as part of a new or renewed rental agreement.
28 Tenants must receive written notice of the billing practices at least
29 thirty days before expiration of their rental agreements, or, in the
30 case of month-to-month tenancies, at least thirty days before the
31 billing practices may become effective. However, if billing practices
32 are already in place on the effective date of this act, written notice
33 must be given within thirty days of the effective date of this act.

34 (b) The notice required under (a) of this subsection shall include
35 a detailed written disclosure of the methodology used by the billing
36 entity to allocate the charges to each tenant, including the

1 methodology used to allocate utility services for common areas of the
2 multiunit building, along with all other terms and conditions of the
3 billing arrangement. If submetering is used, the notice shall also
4 include descriptions of the location of the submeter and any access
5 requirements to tenant dwelling units or mobile home lots for submeter
6 installation, reading, repair, maintenance, or inspections, including
7 removal of the submeter for testing. Access requirements shall be
8 consistent with the provisions of RCW 59.18.150 or 59.20.130 for mobile
9 home parks. An additional written notice must also be given at least
10 thirty days prior to the due date of the next rental payment in order
11 to implement a change in billing agents, apportionment methodology,
12 fees, or other terms and conditions of the billing arrangement.

13 (c) The total of all charges for any utility service included in
14 the bills sent to all units may not cumulatively exceed the amount of
15 the bill sent by the utility to the landlord for the multiunit building
16 or the covered dwelling units or mobile home lots in the multiunit
17 building as a whole, less any late charges, interest, or other
18 penalties owed by the landlord, with the exception of the following,
19 which may be included in each bill covering an individual dwelling unit
20 or mobile home lot:

- 21 (i) A service charge;
- 22 (ii) Late payment charges; and
- 23 (iii) Insufficient funds check charges for dishonored checks.

24 Service charges, late payment charges, and insufficient funds check
25 charges shall be reasonable, and shall be a flat fee, or schedule of
26 fees disclosed in the billing practices notices. No late payment
27 charges may accrue until at least twenty-one days after the date the
28 bill was mailed to the tenant or until twenty-one days after the bill
29 was delivered to the tenant if the bill was not mailed.

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

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

- 37 (i) Include the name, business address, and telephone number of the
38 billing entity;

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

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

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

11 (v) Identify any past due dollar amounts;

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

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

19 (f) If a utility company has billed the landlord using an estimate
20 of utility service consumed, the billing agent may estimate the charges
21 to be billed to tenants until billing based on actual consumption
22 resumes. Upon receipt of a corrected bill showing that the estimated
23 bill overstated charges, the landlord must refund the difference to
24 tenants. Upon receipt of a corrected bill showing that the estimated
25 bill understated charges, the landlord may attempt to recover the
26 underpayment from the tenants that actually incurred the charges during
27 the billing period, but may not attempt to recover an underpayment from
28 a tenant who did not reside in the unit during the billing period in
29 which the charges were incurred. A refund for overpayment or a
30 collection for underpayment may be made as an adjustment in a
31 subsequent bill, provided that the basis for the adjustment and the
32 total adjustment are clearly identified, to the extent that such
33 information is provided to the billing entity by the utility, and the
34 tenant still occupies the multiunit building. Refunds to a tenant who
35 is no longer a building occupant must be forwarded promptly to the
36 tenant.

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

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

8 (3) No dispute resolution provision may require a tenant to pursue
9 a remedy in another state.

10 NEW SECTION. **Sec. 5.** When a billing entity employs a methodology
11 for third party utility billing based on submetering or hot water
12 metering, the individual meters must be accurate and regularly
13 maintained.

14 NEW SECTION. **Sec. 6.** The state of Washington fully occupies and
15 preempts the entire field of residential third party utility billings.
16 Cities, towns, and counties or other municipalities may enact only
17 those laws and ordinances relating to third party utility billings that
18 are consistent with this chapter. Local laws and ordinances that are
19 inconsistent with, more restrictive than, or exceed the requirements of
20 state law may not be enacted and are preempted and repealed, regardless
21 of the nature of the code, charter, or home rule status of the city,
22 town, county, or municipality.

23 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
24 a new chapter in Title 59 RCW.

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