
HOUSE BILL 1424

State of Washington 59th Legislature 2005 Regular Session

By Representatives O'Brien, Schindler and Miloscia

Read first time 01/24/2005. Referred to Committee on Housing.

1 AN ACT Relating to filing a claim of lien for utility services
2 against the owner of a manufactured housing community; and amending RCW
3 35.21.290, 35.67.200, 36.94.150, 57.08.081, 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 Cities and towns owning their own waterworks, or electric light or
8 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 If a tenant in a manufactured housing community, as defined under
2 RCW 59.20.030, fails to pay for services and a claim of lien is filed
3 against the premises, then execution of the lien is the exclusive
4 remedy and assignment of the outstanding service charges to a
5 collection agency is prohibited.

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

8 Cities and towns owning their own sewer systems shall have a lien
9 for delinquent and unpaid rates and charges for sewer service,
10 penalties levied pursuant to RCW 35.67.190, and connection charges,
11 including interest thereon, against the premises to which such service
12 has been furnished or is available, which lien shall be superior to all
13 other liens and encumbrances except general taxes and local and special
14 assessments. The city or town by ordinance may provide that delinquent
15 charges shall bear interest at not exceeding eight percent per annum
16 computed on a monthly basis: PROVIDED, That a city or town using the
17 property tax system for utility billing may, by resolution or
18 ordinance, adopt the alternative lien procedure as set forth in RCW
19 35.67.215.

20 If a tenant in a manufactured housing community, as defined under
21 RCW 59.20.030, fails to pay for services and a claim of lien is filed
22 against the premises, then execution of the lien is the exclusive
23 remedy and assignment of the outstanding service charges to a
24 collection agency is prohibited.

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

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

1 The county department established in RCW 36.94.120 shall certify
2 periodically the delinquencies to the auditor of the county at which
3 time the lien shall attach.

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

13 If a tenant in a manufactured housing community, as defined under
14 RCW 59.20.030, fails to pay for services and a claim of lien is filed
15 against the premises, then execution of the lien is the exclusive
16 remedy and assignment of the outstanding service charges to a
17 collection agency is prohibited.

18 **Sec. 4.** RCW 57.08.081 and 2003 c 394 s 6 are each amended to read
19 as follows:

20 (1) Subject to RCW 57.08.005(6), the commissioners of any district
21 shall provide for revenues by fixing rates and charges for furnishing
22 sewer and drainage service and facilities to those to whom service is
23 available or for providing water, such rates and charges to be fixed as
24 deemed necessary by the commissioners, so that uniform charges will be
25 made for the same class of customer or service and facility. Rates and
26 charges may be combined for the furnishing of more than one type of
27 sewer or drainage service and facilities.

28 (2) In classifying customers of such water, sewer, or drainage
29 system, the board of commissioners may in its discretion consider any
30 or all of the following factors: The difference in cost to various
31 customers; the location of the various customers within and without the
32 district; the difference in cost of maintenance, operation, repair, and
33 replacement of the various parts of the system; the different character
34 of the service furnished various customers; the quantity and quality of
35 the service and facility furnished; the time of its use; the
36 achievement of water conservation goals and the discouragement of
37 wasteful practices; capital contributions made to the system including

1 but not limited to assessments; and any other matters which present a
2 reasonable difference as a ground for distinction. Rates shall be
3 established as deemed proper by the commissioners and as fixed by
4 resolution and shall produce revenues sufficient to take care of the
5 costs of maintenance and operation, revenue bond and warrant interest
6 and principal amortization requirements, and all other charges
7 necessary for efficient and proper operation of the system. Prior to
8 furnishing services, a district may require a deposit to guarantee
9 payment for services. However, failure to require a deposit does not
10 affect the validity of any lien authorized by this section.

11 (3) The commissioners shall enforce collection of connection
12 charges, and rates and charges for water supplied against property
13 owners connecting with the system or receiving such water, and for
14 sewer and drainage services charged against property to which and its
15 owners to whom the service is available, such charges being deemed
16 charges against the property served, by addition of penalties of not
17 more than ten percent thereof in case of failure to pay the charges at
18 times fixed by resolution. The commissioners may provide by resolution
19 that where either connection charges or rates and charges for services
20 supplied are delinquent for any specified period of time, the district
21 shall certify the delinquencies to the auditor of the county in which
22 the real property is located, and the charges and any penalties added
23 thereto and interest thereon at the rate of not more than the prime
24 lending rate of the district's bank plus four percentage points per
25 year shall be a lien against the property upon which the service was
26 received, subject only to the lien for general taxes.

27 (4) The district may, at any time after the connection charges or
28 rates and charges for services supplied or available and penalties are
29 delinquent for a period of sixty days, bring suit in foreclosure by
30 civil action in the superior court of the county in which the real
31 property is located. The court may allow, in addition to the costs and
32 disbursements provided by statute, attorneys' fees, title search and
33 report costs, and expenses as it adjudges reasonable. The action shall
34 be in rem, and may be brought in the name of the district against an
35 individual or against all of those who are delinquent in one action.
36 The laws and rules of the court shall control as in other civil
37 actions.

1 (5) In addition to the right to foreclose provided in this section,
2 the district may also cut off all or part of the service after charges
3 for water or sewer service supplied or available are delinquent for a
4 period of thirty days.

5 (6) A district may determine how to apply partial payments on past
6 due accounts.

7 (7) A district may provide a real property owner or the owner's
8 designee with duplicate bills for service to tenants, or may notify an
9 owner or the owner's designee that a tenant's service account is
10 delinquent. However, if an owner or the owner's designee notifies the
11 district in writing that a property served by the district is a rental
12 property, asks to be notified of a tenant's delinquency, and has
13 provided, in writing, a complete and accurate mailing address, the
14 district shall notify the owner or the owner's designee of a tenant's
15 delinquency at the same time and in the same manner the district
16 notifies the tenant of the tenant's delinquency or by mail. When a
17 district provides a real property owner or the owner's designee with
18 duplicates of tenant utility service bills or notice that a tenant's
19 utility account is delinquent, the district shall notify the tenant
20 that it is providing the duplicate bills or delinquency notice to the
21 owner or the owner's designee. After January 1, 1999, if a district
22 fails to notify the owner of a tenant's delinquency after receiving a
23 written request to do so and after receiving the other information
24 required by this subsection (7), the district shall have no lien
25 against the premises for the tenant's delinquent and unpaid charges.

26 (8) If a tenant in a manufactured housing community, as defined
27 under RCW 59.20.030, fails to pay for services and a claim of lien is
28 filed against the premises, then execution of the lien is the exclusive
29 remedy and assignment of the outstanding service charges to a
30 collection agency is prohibited.

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

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

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

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

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

10 (a) Notifies the utility of the inability to pay the bill,
11 including a security deposit. This notice should be provided within
12 five business days of receiving a payment overdue notice unless there
13 are extenuating circumstances. If the customer fails to notify the
14 utility within five business days and service is terminated, the
15 customer can, by paying reconnection charges, if any, and fulfilling
16 the requirements of this section, receive the protections of this
17 chapter;

18 (b) Provides self-certification of household income for the prior
19 twelve months to a grantee of the department of community, trade, and
20 economic development which administers federally funded energy
21 assistance programs. The grantee shall determine that the household
22 income does not exceed the maximum allowed for eligibility under the
23 state's plan for low-income energy assistance under 42 U.S.C. 8624 and
24 shall provide a dollar figure that is seven percent of household
25 income. The grantee may verify information provided in the self-
26 certification;

27 (c) Has applied for home heating assistance from applicable
28 government and private sector organizations and certifies that any
29 assistance received will be applied to the current bill and future
30 utility bills;

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

34 (e) Agrees to a payment plan and agrees to maintain the payment
35 plan. The plan will be designed both to pay the past due bill by the
36 following October 15 and to pay for continued utility service. If the
37 past due bill is not paid by the following October 15, the customer
38 shall not be eligible for protections under this chapter until the past

1 due bill is paid. The plan shall not require monthly payments in
2 excess of seven percent of the customer's monthly income plus one-
3 twelfth of any arrearage accrued from the date application is made and
4 thereafter during November 15 through March 15. A customer may agree
5 to pay a higher percentage during this period, but shall not be in
6 default unless payment during this period is less than seven percent of
7 monthly income plus one-twelfth of any arrearage accrued from the date
8 application is made and thereafter. If assistance payments are
9 received by the customer subsequent to implementation of the plan, the
10 customer shall contact the utility to reformulate the plan; and

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

12 (5) The utility shall:

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

16 (b) Assist the customer in fulfilling the requirements under this
17 section;

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

21 (d) Be permitted to disconnect service if the customer fails to
22 honor the payment program. Utilities may continue to disconnect
23 service for those practices authorized by law other than for nonpayment
24 as provided for in this subsection. Customers who qualify for payment
25 plans under this section who default on their payment plans and are
26 disconnected can be reconnected and maintain the protections afforded
27 under this chapter by paying reconnection charges, if any, and by
28 paying all amounts that would have been due and owing under the terms
29 of the applicable payment plan, absent default, on the date on which
30 service is reconnected; and

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

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

36 (7) Every gas company and electrical company shall offer
37 residential customers the option of a budget billing or equal payment
38 plan. The budget billing or equal payment plan shall be offered low-

1 income customers eligible under the state's plan for low-income energy
2 assistance prepared in accordance with 42 U.S.C. 8624(C)(1) without
3 limiting availability to certain months of the year, without regard to
4 the length of time the customer has occupied the premises, and without
5 regard to whether the customer is the tenant or owner of the premises
6 occupied.

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

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

14 (10) In establishing rates or charges for water service, water
15 companies as defined in RCW 80.04.010 may consider the achievement of
16 water conservation goals and the discouragement of wasteful water use
17 practices.

18 (11) If a tenant in a manufactured housing community, as defined
19 under RCW 59.20.030, fails to pay for services and a claim of lien is
20 filed against the premises, then execution of the lien is the exclusive
21 remedy and assignment of the outstanding service charges to a
22 collection agency is prohibited.

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