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SENATE BILL 6819

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State of Washington

59th Legislature

2006 Regular Session

By Senators Benton, McCaslin, Hargrove, Roach and Sheldon

Read first time 01/25/2006. Referred to Committee on Water, Energy & Environment.

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)~~). However, the owner of  
11 the premises or the owner of a delinquent mortgage thereon may give  
12 written notice to the superintendent or other head of such works or  
13 plant to cut off service to such premises accompanied by payment or  
14 tender of payment of the then delinquent and unpaid charges for such  
15 service against the premises together with the cut-off charge(~~(7~~  
16 ~~whereupon)~~). Consequently, the city or town shall have no lien against  
17 the premises for charges for such service thereafter furnished, nor  
18 shall the owner of the premises or the owner of a delinquent mortgage  
19 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)~~) under RCW 35.67.190, and connection  
15 charges, including interest thereon, against the premises to which such  
16 service has been furnished or is available, which lien shall be  
17 superior to all other liens and encumbrances except general taxes and  
18 local and special assessments. The city or town by ordinance may  
19 provide that delinquent charges shall bear interest at (~~not~~  
20 ~~exceeding~~) no more than eight percent per annum computed on a monthly  
21 basis(~~(: PROVIDED, That)~~). However, a city or town using the property  
22 tax system for utility billing may, by resolution or ordinance, adopt  
23 the alternative lien procedure as set forth in RCW 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, or  
36 both, shall have a lien for delinquent connection charges and charges

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

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

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

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

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

33 (1) Subject to RCW 57.08.005(6), the commissioners of any district  
34 shall provide for revenues by fixing rates and charges for furnishing  
35 sewer and drainage service and facilities to those to whom service is  
36 available or for providing water, such rates and charges to be fixed as  
37 deemed necessary by the commissioners, so that uniform charges will be

1 made for the same class of customer or service and facility. Rates and  
2 charges may be combined (~~(for the furnishing of)~~) to furnish more than  
3 one type of sewer or drainage service 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))~~  
24 under this section, the district may also cut off all or part of the  
25 service after charges for water or sewer service supplied or available  
26 are delinquent 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~~) under this subsection. Customers who qualify  
10 for payment plans under this section who default on their payment plans  
11 and are disconnected can be reconnected and maintain the protections  
12 afforded under this chapter by paying reconnection charges, if any, and  
13 by paying all amounts that would have been due and owing under the  
14 terms of the applicable payment plan, absent default, on the date on  
15 which 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 to  
24 low-income customers eligible under the state's plan for low-income  
25 energy assistance prepared in accordance with 42 U.S.C. 8624(C)(1)  
26 without limiting availability to certain months of the year, without  
27 regard to the length of time the customer has occupied the premises,  
28 and without regard to whether the customer is the tenant or owner of  
29 the premises 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. Either  
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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