

# HOUSE BILL REPORT

## HB 2069

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### As Reported by House Committee On: Civil Rights & Judiciary

**Title:** An act relating to a property owner's or tenant's liability for delinquent and unpaid utility service charges.

**Brief Description:** Concerning a property owner's or tenant's liability for delinquent and unpaid utility service charges.

**Sponsors:** Representatives Dufault, Springer, Santos, Dent, Reeves, DeBolt, Kirby, Harris, Walen, Caldier, Jinkins, Steele, Pollet, Paul, Barkis, Irwin, Lovick, Eslick, Van Werven, Walsh, Fey, Frame, Callan, Shewmake, Valdez, Peterson, Senn and Leavitt.

### Brief History:

#### Committee Activity:

Civil Rights & Judiciary: 2/15/19 [DPS], 1/24/20, 2/7/20 [DPS].

#### Brief Summary of Substitute Bill

- Prohibits a municipal utility provider from collecting delinquent charges from a rental property owner or new tenant or placing a lien on a property due to a tenant's delinquent account when the utility account is in the tenant's name.

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### HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Kilduff, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kirby, Klippert, Orwall, Peterson, Rude, Valdez, Walen and Ybarra.

**Staff:** Ingrid Lewis (786-7289).

### Background:

Municipal utility companies are operated by cities and towns and include garbage, water, sewer, and electric light and power services. Municipal utility providers are authorized to place a lien for charges due but not paid against a property to which utilities are provided. A

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property owner is responsible for utility charges even if the utility account is in another person's name, such as a tenant.

A utility account may be opened under a rental property owner or tenant's name. A rental property owner may request to be notified in the event of a tenant's delinquency, and a municipal utility provider is required to notify the rental property owner and the tenant of the delinquency concurrently. If a request for notification has been properly made, municipal electric light and power utilities may only collect delinquent charges from a rental property owner for up to four months of charges. If a municipal utility provider fails to notify a rental property owner of a tenant's delinquent charges, the provider has no lien on the property and is prohibited from collecting delinquent charges for electric light or power services from the rental property owner.

If a municipal utility account is in a tenant's name, upon termination of a rental agreement and vacation of the property, the rental property owner or the owner's designee must notify the municipal utility provider. The notification must be submitted in writing within 14 days of the termination of the rental agreement and vacation of the property. If the rental property owner fails to comply with this requirement, and if the provider has complied with its notification requirements, the provider is no longer limited to collecting delinquent charges for only four months.

A utility provider shall make a good faith effort to notify tenants in a multiple residential rental unit that receives utility services through a single utility account of a pending disconnection due to a property owner's delinquent account. With certain exceptions, if requested, a municipal utility provider must provide water and electric light and power services to an affected tenant on the same terms and conditions as other utility customers, without requiring that the tenant pay delinquent amounts for services billed directly to the rental property owner or previous tenant. In these cases the tenant may deduct from the rent due all reasonable charges paid by the tenant to the municipal utility provider for such services, and a rental property owner may not take reprisals or retaliatory action against a tenant who deducts from their rent payments for these purposes. A municipal utility provider retains the right to collect any delinquent amounts due for services previously provided from the rental property owner, previous tenant, or both.

#### Sale of a Property.

When a property is being sold, a lien must be satisfied or paid as a part of the sale process.

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#### **Summary of Substitute Bill:**

A municipal utility provider is prohibited from collecting delinquent charges from a rental property owner or placing a lien on a property due to a tenant's delinquent account when the utility account is in the tenant's name.

A municipal utility provider is prohibited from collecting delinquent charges from a new residential tenant utility customer, provided that the new customer is not a person who lived

on the property or premises with the residential utility customer listed on the delinquent account.

A municipal utility provider may only collect payment on delinquent charges from the customer listed on the utility account.

A property owner must notify a utility service provider of a tenant's vacation of the property within 14 days of the owner's actual knowledge of the vacation, if requested by the service provider. If a service provider makes the request and the property owner fails to provide notice, the service provider may collect a tenant's delinquent charges from the owner but only for charges incurred after the tenant vacated the property.

The requirement that a service provider establish an account in a tenant's name, if requested, in the event of a pending disconnection due to a property owner's delinquent account in a multiple residential rental unit that receives utility services through a single utility account is removed, and the provision becomes discretionary.

Provisions related to requests between a municipal service provider and a property owner of notification of a tenant's delinquency are removed. Provisions do not apply to property zoned for commercial or industrial use. Commercial use does not include any form of residential property.

#### **Substitute Bill Compared to Original Bill:**

The second substitute bill restores the statute repealed in the underlying bill, including the provision related to multiple residential rental units that receive services through a single utility account; exempts properties zoned for commercial or industrial use; and clarifies that cities continue to have lien authority when the delinquency is incurred by either the property owner or a commercial tenant. In addition, the second substitute bill requires a property owner to notify a utility service provider of a tenant's vacation of the property within 14 days of the owner's actual knowledge of the vacation, if requested by the service provider. If a service provider made the request and the property owner fails to provide notice, the service provider may collect a tenant's delinquent charges from the owner but only for charges incurred after the tenant vacated the property. Finally, the second substitute bill makes various nonsubstantive technical changes, including updating cross referenced sections of the Revised Code of Washington.

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**Appropriation:** None.

**Fiscal Note:** Available (for HB 1705, which is identical to HB 2069 except for the title).

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill has broad bipartisan support. Both tenants and the property owners support this bill. The bill stops cities from forcing property owners or tenants to pay the utility bill of an outgoing tenant. If an outgoing tenant has a delinquent utility bill, when the new tenant moves in they cannot turn on utility until the delinquent charges are paid.

Most cities in the state do not adhere to this practice because it is fundamentally unfair, but some cities do.

Commercial properties are excluded from this bill. This will only be for residential properties.

Cities will still have utility lien authority for owners who have a delinquent account to their name.

This is a small drop in the bucket for many cities, but for individual property owners or a new tenant, this will have a big impact.

(Opposed) This bill eliminates a city's ability to use lien authority if it is the result of a debt on a tenant account. City utilities are not subsidized by the State General Fund. When there is bad debt that the city is not able to collect, it impacts all rate payers, and that is not appropriate. Rates will increase if cities are forced to subsidize the debts. Cities will start increasing deposits on people signing up for utilities or will require all property owners to keep the accounts in the owner's name.

Landlords have an obligation in the relationship between their tenant and the utility and have a responsibility to make sure that a debt is satisfied. They can collect a deposit and pay any outstanding debt out of that deposit.

The version of the bill that is being heard does not expressly exclude commercial property.

In 2018 a city collected \$3.43 million through the escrow lien process. It would be significant to socialize those costs among other rate payers, particularly because it is difficult to collect on companies that may be limited liability corporations. The repeal of RCW 35.21.217 is concerning. The statute includes provisions for when the utility account is in a tenant's name. Under current law, owners or their designee are required to notify utilities within 14 days of terminations of the rental agreement or a vacation of the property.

Removing this provision creates a loophole. New owners would be able to leave a utility account in a tenant's name until a new tenant comes in.

**Persons Testifying:** (In support) Representative Dufault, prime sponsor; Xochitl Maykovich, Washington Community Action Network; and Michele Thomas, Washington Low Income Housing Alliance.

(Opposed) Candice Bock, Association of Washington Cities; and John Hoffman, Tacoma Public Utilities.

**Persons Signed In To Testify But Not Testifying:** Chester Baldwin, Washington Landlord Association; Richard Benton, Washington Apartment Owners; Don Cassad; Jason Clifford, National Association for Rights Protection and Advocacy; Mike Slevin, City of Tacoma; Paul Lombardi, Yakima Valley Landlords Association; and Brenda Rumball.