

# HOUSE BILL REPORT

## HB 1421

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**As Reported by House Committee On:**  
Housing, Human Services & Veterans

**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 and Barkis.

**Brief History:**

**Committee Activity:**

Housing, Human Services & Veterans: 2/9/21, 2/11/21 [DPS].

**Brief Summary of Substitute Bill**

- Prohibits, with limited exception, a city or town from collecting delinquent residential utility charges from a property owner or having a lien on the property if the account was listed in a tenant's name.
- Requires a city to collect unpaid utility charges from a tenant within 12 months of the expiration of Governor's Proclamation 20-23.14 et seq. and to waive any remaining charges after the 12-month collection period is over.

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**HOUSE COMMITTEE ON HOUSING, HUMAN SERVICES & VETERANS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Peterson, Chair; Taylor, Vice Chair; Caldier, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Barkis, Bateman, Chopp, Leavitt and Thai.

**Staff:** Dawn Eychaner (786-7135).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

Cities and towns may operate municipal utilities that provide services such as water, sewer, electricity, and power, among others. Cities and towns have the authority to place a lien against properties to which they provide services if the utility charges are not paid. A "lien" is a legal claim against the property. When a property is being sold, a lien must be satisfied or paid as part of the transaction.

A property owner is responsible for municipal utility charges, regardless of whether the utility account is in the owner's name or the tenant's name. A property owner may request to be notified by a municipal utility of a tenant's account delinquency. If this request has been made by the property owner, a municipal utility may only collect delinquent charges for electric light or power services from the property owner for up to four months of charges. If the municipal utility does not notify the owner of a tenant's delinquent charges, the provider has no lien on the property and is prohibited from collecting these delinquent charges from the property owner.

If the account is in a tenant's name, the property owner must notify the municipal utility provider in writing within 14 days of the rental agreement's termination and the vacation of the premises. If the property owner does not provide this written notice, and if the municipal utility has given the property owner notifications of account delinquencies as requested, the municipal utility is no longer limited to collecting four months of delinquent charges.

Generally, if a multi-unit rental property receives utility service through a single utility account, and the billing address is different than the service address or if the city or town has been informed that a tenant lives at the service address, a municipal utility must provide written notice to the service address of pending disconnection of electric power and light, or water service due to nonpayment at least seven days before disconnection. If requested, the city or town must provide continued electric power and light, or water services to an affected tenant on the same terms and conditions as other residential utility customers, without requiring that the tenant pay delinquent amounts for services billed to the property owner or previous tenant. In these cases, a tenant may deduct from the rent due all reasonable charges paid by the tenant to the municipal utility, and the property owner may not take retaliatory action against a tenant who deducts from their rent paid for these purposes. A municipal utility retains the right to collect any delinquent amounts due for services previously provided from the property owner, previous tenant, or both.

**Governor's Emergency Order.**

In March 2020 the Governor issued Proclamation 20-23 (Proclamation) related to Ratepayer Assistance and Preservation of Essential Services, which has subsequently been amended and extended. The Proclamation was extended in January 2021 by the Legislature and will be allowed to remain in place until the termination of the COVID-19 State of Emergency or until rescinded by gubernatorial or legislative action. The current Proclamation, 20-23.14,

is set to expire on April 30, 2021, and prohibits all energy, telecommunications, and water providers in the state from conducting the following activities:

- disconnecting any residential customer from energy, telecommunications, or water service due to nonpayment on an active account, except at the request of the customer;
- refusing to reconnect any residential customer who has been disconnected due to nonpayment;
- charging fees for late payment or reconnection of energy, telecommunications, or water service; and
- disconnecting service to any residential customer who has contacted the utility to request assistance from the utility's COVID-19 Customer Support Program.

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

When a city or town provides residential utility services to someone other than the property owner, the city or town is prohibited from collecting delinquent utility charges from the owner if the account was listed in a tenant's name. A city or town may only collect past due utility charges from the customer whose name is listed on the utility account.

"Utility or service" is defined to mean electricity, garbage collection and disposal, Internet, sewer, storm and surface water collection and disposal, and water.

A property owner is no longer required to notify a municipal utility of the termination of a rental agreement and vacation of a rental premises unless requested to do so by the city or town utility. If requested by the utility, the owner must provide the utility with notice of the tenant's vacation of the premises within 14 days of actual knowledge of the vacation. If this request has been made by the utility and the owner fails to provide notice, the utility may collect from the owner only the delinquent charges that were incurred after the tenant vacated the property.

A city or town may not have a lien against the premises of the property owner for a residential tenant's delinquent and unpaid utility charges when the utility account is in the tenant's name.

A city or town may not refuse to open an account in the name of a residential tenant seeking utility services based on the fact that the individual is a residential tenant and not the property owner, nor due to unpaid utility charges that were accrued by the tenant during the time the Proclamation was in effect. The city or town may charge the tenant seeking utility services a reasonable deposit. Upon the expiration or termination of the Proclamation, a city or town may implement a repayment plan to collect from a residential tenant any unpaid utility charges that were incurred by the tenant during the time the Proclamation was in effect. The city or town must collect the unpaid charges within 12 months of the expiration or termination of the Proclamation. Any unpaid utility charges remaining after

the 12-month collection period is over must be waived.

A city or town is prohibited from collecting delinquent utility charges connected to a property from a new residential utility customer. A "new utility customer" does not include a person who lived on the property with the delinquent account holder.

For a multi-unit residence that receives utility service through a single utility account that is pending disconnection due to nonpayment, a municipal utility may, rather than must, provide continued electric power and light or water services to an affected tenant upon request without requiring that the tenant pay delinquent amounts for services billed to the property owner or previous tenant.

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

The substitute bill:

- prohibits a city or town from refusing to open a utility account in the name of a residential tenant based on either the fact that the individual is a tenant and not the property owner, or based on the tenant's unpaid utility charges that accrued during the time the Proclamation was in effect;
- allows a city or town to implement a repayment plan to collect from a residential tenant any unpaid utility charges incurred by the tenant during the time the Proclamation was in effect. The unpaid charges must be collected within 12 months of the expiration or termination of the proclamation and any remaining charges after the 12-month collection period is over must be waived; and
- amends the definition of "utility or service" to remove natural or liquid propane gas, oil, hot water, heat, and public services. Storm and surface water collection and disposal and Internet are added to the definition.

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**Appropriation:** None.

**Fiscal Note:** Available.

**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) A similar version to this bill was unanimously passed out of the Civil Rights and Judiciary Committee last year. Under current law a city is allowed to charge a property owner or a new tenant for a bill the previous tenant incurred. Most cities do not do this and it is a very small number of cities that do use this authority. This bill only applies to residential properties, not commercial or industrial properties. The eviction moratorium has been in effect for 11 months now and nonpayment of rent and utilities is a serious concern

for the state. Approximately 64 percent of renters have experienced some loss of income during the pandemic and about 25 percent of tenants and owners have used a credit card to pay their mortgage and rent. During this time, housing providers have been required to dip into their savings to maintain housing. More rental assistance is coming from the state and the federal government, but even that is not enough. This bill is a small solution to help housing providers during this time. Housing providers are not bill collectors and should not be responsible for tenants who are negligent on their utilities.

(Opposed) The utility rates that cities charge are based on their actual costs. Landlords should have some responsibility for the utility bill; either by collecting the funds or working out a compromise with the tenant. This bill would prohibit cities from having policies around who is billed for the utilities, which is a significant change in cities' current authority to decide who their business relationship is with, and no longer allows them to have a relationship with the property owner. Past due utilities are normally handled by shutting off the water, but during the pandemic utilities cannot shut off the water or charge late fees. To recoup past due fees under this bill would require a citywide rate increase. The expanded definition of utilities is concerning and the rationale for expanding the definition is unclear. Cities appreciated the efforts of past years to come up with compromise language, however there are sections in the current version of the bill that are different from last year that are concerning. Utilities are rate based and not subsidized with tax dollars. Garbage disposal liens are called out separately in statute and are given first place in line over other liens. Under the current Proclamation, cities cannot use shut off tools and late fee tools they typically use. Some cities are concerned they may never recoup those lost fees. Cities' lien authority is a last-resort tool for collections and is not commonly used.

**Persons Testifying:** (In support) Representative Dufault, prime sponsor; Patricia Hoendermis, Yakima Valley Landlords Association; and Brett Waller, Washington Multi-Family Housing Association.

(Opposed) Scott Hugill, Mountlake Terrace City Manager; Doug Levy, City of Renton and City of Fife; and Candice Bock, Association of Washington Cities.

**Persons Signed In To Testify But Not Testifying:** None.