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HOUSE BILL 2551

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State of Washington

55th Legislature

1998 Regular Session

By Representative Crouse

Read first time 01/15/98. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to unrecorded utility liens; amending RCW  
2 35.21.290, 57.08.081, and 87.03.445; and adding a new section to  
3 chapter 35.21 RCW.

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 (1) Cities and towns owning their own waterworks, or electric light  
8 or 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)~~). However, the owner of  
12 the premises or the owner of a delinquent mortgage thereon may give  
13 written notice to the superintendent or other head of such works or  
14 plant to cut off service to such premises accompanied by payment or  
15 tender of payment of the then delinquent and unpaid charges for such  
16 service against the premises together with the cut-off charge,  
17 whereupon the city or town shall have no lien against the premises for  
18 charges for such service thereafter furnished, nor shall the owner of  
19 the premises or the owner of a delinquent mortgage thereon be held for

1 the payment thereof. In addition, the owner of the property or owner  
2 of a delinquent mortgage on the property is not liable for electric  
3 light or power service provided to rental property after the owner  
4 notifies the superintendent or other head of the works or plant that  
5 the tenant has vacated the premises.

6 (2) A city or town owning its own waterworks, or electric light or  
7 power plants may notify three consumer reporting agencies, as defined  
8 in the federal fair credit reporting act (15 U.S.C. Sec. 1681 et seq.)  
9 or state fair credit reporting act, chapter 19.182 RCW, of the name and  
10 social security number of any customer whose utility service has been  
11 disconnected after June 30, 1998, due to a failure to pay for that  
12 service, or who vacated a premise after June 30, 1998, without  
13 notifying and paying the utility for outstanding charges for service.  
14 Providing information as required by this subsection (2) is  
15 insufficient, by itself, to qualify the city or town as a consumer  
16 reporting agency. A city or town shall not disclose a customer's  
17 residential address or residential telephone number to a consumer  
18 reporting agency.

19 NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW  
20 to read as follows:

21 Prior to furnishing utility services, a city or town may require a  
22 deposit to guarantee payment for services. However, failure to require  
23 a deposit does not affect the validity of any lien authorized by RCW  
24 35.21.290 or 35.67.200. A city or town may determine how to apply  
25 partial payments on past due accounts. In addition, a city or town may  
26 provide a landlord with duplicates of tenant utility service bills, or  
27 may notify a landlord that a tenant's utility account is delinquent.

28 Sec. 3. RCW 57.08.081 and 1997 c 447 s 19 are each amended to read  
29 as follows:

30 (1) The commissioners of any district shall provide for revenues by  
31 fixing rates and charges for furnishing sewer and drainage service and  
32 facilities to those to whom service is available or for providing  
33 water, such rates and charges to be fixed as deemed necessary by the  
34 commissioners, so that uniform charges will be made for the same class  
35 of customer or service and facility. Rates and charges may be combined  
36 for the furnishing of more than one type of sewer service and facility,  
37 such as, but not limited to, storm or surface water and sanitary.

1       (2) In classifying customers of such water, sewer, or drainage  
2 system, the board of commissioners may in its discretion consider any  
3 or all of the following factors: The difference in cost to various  
4 customers; the location of the various customers within and without the  
5 district; the difference in cost of maintenance, operation, repair, and  
6 replacement of the various parts of the system; the different character  
7 of the service furnished various customers; the quantity and quality of  
8 the service and facility furnished; the time of its use; the  
9 achievement of water conservation goals and the discouragement of  
10 wasteful practices; capital contributions made to the system including  
11 but not limited to assessments; and any other matters which present a  
12 reasonable difference as a ground for distinction. Rates shall be  
13 established as deemed proper by the commissioners and as fixed by  
14 resolution and shall produce revenues sufficient to take care of the  
15 costs of maintenance and operation, revenue bond and warrant interest  
16 and principal amortization requirements, and all other charges  
17 necessary for efficient and proper operation of the system. Prior to  
18 furnishing services, a district may require a deposit to guarantee  
19 payment for services. However, failure to require a deposit does not  
20 affect the validity of any lien authorized by this section.

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

37       (4) The district may, at any time after the connection charges or  
38 rates and charges for services supplied or available and penalties are  
39 delinquent for a period of ((sixty)) thirty days, bring suit in

1 foreclosure by civil action in the superior court of the county in  
2 which the real property is located. The court may allow, in addition  
3 to the costs and disbursements provided by statute, attorneys' fees,  
4 title search and report costs, and expenses as it adjudges reasonable.  
5 The action shall be in rem, and may be brought in the name of the  
6 district against an individual or against all of those who are  
7 delinquent in one action. The laws and rules of the court shall  
8 control as in other civil actions.

9 (5) In addition to the right to foreclose provided in this section,  
10 the district may also cut off all or part of the service after charges  
11 for water or sewer service supplied or available are delinquent for a  
12 period of (~~sixty~~) thirty days.

13 (6) A district may determine how to apply partial payments on past  
14 due accounts. In addition, a district may provide a landlord with  
15 duplicate bills for service to tenants, or may notify a landlord that  
16 a tenant's service account is delinquent.

17 (7) A district may notify three consumer reporting agencies, as  
18 defined in the federal fair credit reporting act (15 U.S.C. Sec. 1681  
19 et seq.) or state fair credit reporting act, chapter 19.182 RCW, of the  
20 name and social security number of any customer whose service has been  
21 cut off after June 30, 1998, due to a failure to pay for that service,  
22 or who vacated a premise after June 30, 1998, without notifying and  
23 paying the district for outstanding charges for service. Providing  
24 information as required by this subsection (7) is insufficient, by  
25 itself, to qualify the district as a consumer reporting agency. A  
26 district shall not disclose a customer's residential address or  
27 residential telephone number to a consumer reporting agency.

28 **Sec. 4.** RCW 87.03.445 and 1979 ex.s. c 185 s 5 are each amended to  
29 read as follows:

30 (1) The cost and expense of purchasing and acquiring property, and  
31 construction, reconstruction, extension, and betterment of the works  
32 and improvements herein provided for, and the expenses incidental  
33 thereto, and indebtedness to the United States for district lands  
34 assumed by the district, and for the carrying out of the purposes of  
35 this chapter, may be paid for by the board of directors out of the  
36 funds received from bond sales as well as other district funds.

37 (2) For the purpose of defraying the costs and expenses of the  
38 organization of the district, and of the care, operation, management,

1 maintenance, repair, and improvement of the district and its irrigation  
2 water, domestic water, electric power, drainage, or sewer facilities or  
3 of any portion thereof, or for the payment of any indebtedness due the  
4 United States or the state of Washington, or for the payment of  
5 district bonds, the board may either fix rates or tolls and charges,  
6 and collect the same from all persons for whom district service is made  
7 available for irrigation water, domestic water, electric power,  
8 drainage or sewerage, and other purposes, or it may provide for the  
9 payment of said costs and expenses by a levy of assessment therefor, or  
10 by both said rates or tolls and charges and assessment.

11 (3) If the assessment method is utilized, the levy of assessments  
12 shall be made on the completion and equalization of the assessment roll  
13 each year, and the board shall have the same powers and functions for  
14 the purpose of said levy as possessed by it in case of levy to pay  
15 bonds of the district. The procedure for the collection of assessments  
16 by such levy shall in all respects conform with the provisions of this  
17 chapter, relating to the collection of assessments for the payment of  
18 principal and interest of bonds herein provided for, and shall be made  
19 at the same time.

20 (4) If the rates or tolls and charges method is adopted in whole or  
21 in part, the secretary shall deliver to the board of directors, within  
22 the time for filing the assessment roll, a schedule containing the  
23 names of the owners or reputed owners, as shown on the rolls of the  
24 county treasurer as of the first Tuesday in November of each year such  
25 a schedule is filed of the various parcels of land against which rates  
26 or tolls and charges are to be levied, the description of each such  
27 parcel of land and the amount to be charged against each parcel for  
28 irrigation water, domestic water, electric power, drainage, sewerage,  
29 and other district costs and expenses. Said schedule of rates or tolls  
30 and charges shall be equalized pursuant to the same notice, in the same  
31 manner, at the same time and with the same legal effect as in the case  
32 of assessments. Such schedule of rates or tolls and charges for a  
33 given year shall be filed with the proper county treasurer within the  
34 same time as that provided by law for the filing of the annual  
35 assessment roll, and the county treasurer shall collect and receipt for  
36 the payment of said rates or tolls and charges and credit them to the  
37 proper funds of the district. The board may designate the time and  
38 manner of making such collections and shall require the same to be paid  
39 in advance of delivery of water and other service. All tolls and

1 charges levied shall also at once become and constitute an assessment  
2 upon and against the lands for which they are levied, with the same  
3 force and effect, and the same manner of enforcement, and with the same  
4 rate of interest from date of delinquency, in case of nonpayment, as  
5 other district assessments.

6 (5) As an alternative method of imposing, collecting, and enforcing  
7 such rates or tolls and charges, the board may also base such rates or  
8 tolls and charges upon the quantity of irrigation water, domestic  
9 water, or electric power delivered, or drainage or sewage disposed of,  
10 and may fix a minimum rate or toll and charge to be paid by each parcel  
11 of land or use within the district for the delivery or disposal of a  
12 stated quantity of each such service with a graduated charge for  
13 additional quantities of such services delivered or disposed of. If  
14 the board elects to utilize this alternative method of imposing,  
15 collecting, and enforcing such rates or tolls and charges, there shall  
16 be no requirement that the schedule referred to in the preceding  
17 paragraph be prepared, be filed with the board of directors by the  
18 secretary, be equalized, or be filed with a county treasurer. The  
19 board shall enforce collection of such rates or tolls and charges  
20 against property to which and its owners to whom the service is  
21 available, such rates or tolls and charges being deemed charges against  
22 the property to which the service is available. Prior to furnishing  
23 services, a board may require a deposit to guarantee payment for  
24 services. However, failure to require a deposit does not affect the  
25 validity of any lien authorized by this section.

26 (6) The board may provide by resolution that where such rates or  
27 tolls and charges are delinquent for any specified period of time, the  
28 district shall certify the delinquencies to the treasurer of the county  
29 in which the real property is located, and the charges and any  
30 penalties added thereto and interest thereon at the rate not to exceed  
31 twelve percent per annum fixed by resolution shall be a lien against  
32 the property to which the service was available, subject only to the  
33 lien for general taxes. A board may determine how to apply partial  
34 payments on past due accounts. In addition, a board may provide a  
35 landlord with duplicate bills for service to tenants, or may notify a  
36 landlord that a tenant's service account is delinquent. The district  
37 may, at any time after such rates or tolls and charges and penalties  
38 provided for herein are delinquent for a period of one year, bring suit

1 in foreclosure by civil action in the superior court of the county in  
2 which the real property is situated.

3 (7) The court may allow, in addition to the costs and disbursements  
4 provided by statute, such (~~attorney's~~) attorneys' fees as it may  
5 adjudge reasonable. The action shall be in rem against the property,  
6 and in addition may be brought in the name of the district against an  
7 individual, or against all of those who are delinquent, in one action,  
8 and the rules of the court shall control as in other civil actions.  
9 The board may in the same year use the assessment method for part of  
10 the lands in the district and the rates or tolls and charges method for  
11 the remaining lands in the district in such proportion as it may deem  
12 advisable for the best interest of the district.

13 (8) The procedures herein provided for the collection and  
14 enforcement of rates, tolls, and charges also shall be applicable and  
15 available to the districts board of directors for the collection and  
16 enforcement of charges for water imposed by contract entered into or  
17 administered by the district's board of directors.

18 (9) A district may notify three consumer reporting agencies, as  
19 defined in the federal fair credit reporting act (15 U.S.C. Sec. 1681  
20 et seq.) or state fair credit reporting act, chapter 19.182 RCW, of the  
21 name and social security number of any customer whose service has been  
22 terminated after June 30, 1998, due to a failure to pay for that  
23 service, or who vacated a premise after June 30, 1998, without  
24 notifying and paying the district for outstanding charges for service.  
25 Providing information as required by this subsection (9) is  
26 insufficient, by itself, to qualify the district as a consumer  
27 reporting agency. A district shall not disclose a consumer's  
28 residential address or residential telephone number to a consumer  
29 reporting agency.

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