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HOUSE BILL 1778

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State of Washington

62nd Legislature

2011 Regular Session

By Representative Upthegrove

1 AN ACT Relating to utility services for residential multiunit  
2 buildings; adding a new section to chapter 19.27 RCW; adding a new  
3 section to chapter 84.36 RCW; adding a new chapter to Title 59 RCW; and  
4 providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The definitions in this section apply  
7 throughout this chapter unless the context clearly requires otherwise.

8 (1) "Billing entity" means the landlord or third-party billing  
9 agent responsible for billing multiunit building tenants for master  
10 metered or unmetered utility services.

11 (2) "Billing practices" means the practices of a billing entity  
12 that apportions and bills multiunit building tenants for master metered  
13 or unmetered utility services provided to the multiunit building as a  
14 whole by an apportioning methodology.

15 (3) "Landlord" has the same meaning as in RCW 59.18.030, and has  
16 the same meaning as in RCW 59.20.030 with regard to mobile home parks.

17 (4) "Master metered utility services" means utility services  
18 supplied to more than one unit in a multiunit building and measured  
19 through a single, inclusive metering system.

1 (5) "Methodology" means any method, technique, or criterion used to  
2 apportion to tenants charges billed to the landlord by the utility for  
3 master metered or unmetered utility services including, but not limited  
4 to, ratio utility billing systems, submetering systems, and hot water  
5 metering systems.

6 (6) "Multiunit building" means a residential building, group of  
7 buildings, or mobile home park, with three or more dwelling units, as  
8 defined in RCW 59.18.030, or mobile home lots, as defined in RCW  
9 59.20.030, with master metered or unmetered utility services that are  
10 provided to the building or group of buildings as a whole.

11 (7) "Ratio utility billing system" means any method by which the  
12 cost of master metered or unmetered utility services provided to  
13 tenants and common areas of a multiunit building are apportioned to  
14 tenants through the use of a formula that estimates the utility usage  
15 of each rental unit in the multiunit building.

16 (8) "Rental agreement" has the same meaning as in RCW 59.18.030.

17 (9) "Tenant" has the same meaning as in RCW 59.18.030, and has the  
18 same meaning as in RCW 59.20.030 with regard to mobile home parks.

19 (10) "Third-party billing agent" means any entity retained or  
20 authorized by a landlord as a billing entity.

21 (11) "Unmetered utility services" means utilities provided to more  
22 than one unit of a multiunit building, in which the bill from the  
23 utility is based on a method other than a meter and includes, but is  
24 not limited to, sewer and solid waste services.

25 (12) "Utilities" or "utility services" means water, sewer, and  
26 solid waste services.

27 NEW SECTION. **Sec. 2.** (1) A landlord of a multiunit building shall  
28 not bill tenants for utility services separately from rent except as  
29 permitted in this chapter. Utility services for common areas of the  
30 multiunit building may not be included in any separate billing for  
31 utility services under this chapter.

32 (2) This chapter does not prevent a landlord from including a  
33 tenant's cost of master metered or unmetered utility services within  
34 the rent set forth in a rental agreement, and the practice of including  
35 that cost within a tenant's rent is not a billing practice or  
36 methodology affected by this chapter.

1 (3) This chapter does not affect the practices used by public  
2 utilities to bill and collect residential multiunit building owners or  
3 landlords for master metered or unmetered utility services.

4 NEW SECTION. **Sec. 3.** A landlord may, or may authorize a third-  
5 party billing agent to, bill tenants of a multiunit building for master  
6 metered or unmetered utility services provided to the tenants, only if  
7 the following requirements are met:

8 (1) Billing practices may be adopted only upon advance written  
9 notice to a tenant as part of a new or renewed rental agreement.  
10 Tenants must receive written notice of the billing practices at least  
11 thirty days before expiration of their rental agreements or, in the  
12 case of month-to-month tenancies, at least thirty days before the  
13 billing practices become effective. If billing practices are already  
14 in place on the effective date of this section, written notice must be  
15 given within thirty days of the effective date of this section. An  
16 additional written notice must also be given at least thirty days prior  
17 to the due date of the next rental payment in order to implement a  
18 change in billing agents, apportionment methodology, fees, or other  
19 terms and conditions of the billing practices.

20 (2) The notice required under subsection (1) of this section must  
21 include a detailed written disclosure of the methodology used by the  
22 billing entity to allocate the charges to each tenant, along with all  
23 other terms and conditions of the billing arrangement. If submetering  
24 is used, the notice must also include descriptions of the location of  
25 the submeter and any access requirements to tenant dwelling units or  
26 mobile home lots for submeter installation, reading, repair,  
27 maintenance, or inspections, including removal of the submeter for  
28 testing. Access requirements must be consistent with RCW 59.18.150, or  
29 RCW 59.20.130 for mobile home parks.

30 (3) A landlord shall post in a conspicuous location in a common  
31 area of the multiunit building copies of the three most current utility  
32 bills for master metered or unmetered utility services provided to the  
33 building as a whole, with a written description of the methodology used  
34 to allocate the utility service charges to each tenant. Landlords  
35 shall keep records of the utility bills on file in the building for at  
36 least two years and shall make such records available to tenants for  
37 inspection and copying upon request. When it is physically

1 impracticable to keep the records on file in the building, the landlord  
2 may store the records in another location and must make the records  
3 available within five business days upon request.

4 (4)(a) The total of all charges for any utility services included  
5 in the bills sent to all units may not cumulatively exceed the amount  
6 of the bill sent by the utility to the landlord for the multiunit  
7 building or the covered dwelling units or mobile home lots in the  
8 multiunit building as a whole, less any late charges, interest, or  
9 other penalties owed by the landlord, with the exception of the  
10 following, which may be included in each bill covering an individual  
11 dwelling unit or mobile home lot:

- 12 (i) A service charge;
- 13 (ii) Late payment charges; and
- 14 (iii) Insufficient funds check charges for dishonored checks.

15 (b) Service charges, late payment charges, and insufficient funds  
16 check charges must be reasonable, and must be a flat fee or schedule of  
17 fees disclosed in the billing practices notices. Late payment charges  
18 may not accrue until at least twenty-one days after the date the bill  
19 was mailed to the tenant or until twenty-one days after the bill was  
20 delivered to the tenant if the bill was not mailed.

21 (5) Any third-party billing agent must be properly registered and  
22 licensed to do business in this state and must be in compliance with  
23 all applicable state laws and rules, and all applicable state license  
24 identification numbers, if any, must be disclosed upon request.

25 (6) Each billing statement sent to a tenant by a billing entity  
26 must disclose all required information in a clear and conspicuous  
27 manner and at minimum must:

28 (a) Include the name, business address, and telephone number of the  
29 billing entity;

30 (b) Identify the basis for each separate charge, including service  
31 charges and late charges, if any, as a line item, and show the total  
32 amount of the bill;

33 (c) If the building units are submetered, include the current and  
34 previous meter readings, the current read date, and the amount  
35 consumed, or the amount estimated to have been consumed if the utility  
36 has provided the landlord with an estimated bill;

37 (d) Specify the due date, the date upon which the bill becomes

1 overdue, the amount of any late charges or penalties that may apply,  
2 and the date upon which the late charges or penalties may be imposed;

3 (e) Identify any past due dollar amounts;

4 (f) Identify a mailing address and telephone number for billing  
5 inquiries and dispute resolution, identify the entity responsible for  
6 resolving billing inquiries and disputes and its business hours and  
7 days of availability, and describe the process used to resolve disputes  
8 related to bills as set forth in this chapter; and

9 (g) Include a statement to the effect that "this bill is from  
10 (landlord name) and not from (utility company name)."

11 (7) If a utility company has billed the landlord using an estimate  
12 of utility services consumed, the billing agent may estimate the  
13 charges to be billed to tenants until billing based on actual  
14 consumption resumes.

15 (8) If the billing entity uses a ratio utility billing system as  
16 the methodology of allocating utility services to each tenant, each  
17 occupant as listed on the lease must be counted as one occupant. A  
18 ratio utility billing system may not allocate the utilities based on  
19 square footage of the dwelling units.

20 (9) If submetering is used as a way of allocating master metered  
21 utility services to tenants, individual submeters must be accurate and  
22 regularly maintained and must be read on a monthly basis prior to each  
23 billing.

24 (10) A dispute resolution process must be available for a tenant to  
25 contest and resolve billing disputes. No dispute resolution provision  
26 may require a tenant to pursue a remedy in another state.

27 NEW SECTION. **Sec. 4.** A new section is added to chapter 19.27 RCW  
28 to read as follows:

29 (1) By July 1, 2012, the state building code council shall adopt  
30 rules requiring the installation of water submeters in all residential  
31 multiunit buildings that are occupied or are likely to be occupied by  
32 persons who rent or lease individual dwelling units.

33 (2) Rules adopted under this section must:

34 (a) Apply to all new construction of residential multiunit  
35 buildings, existing residential multiunit buildings, and conversions of  
36 buildings to residential multiunit buildings;

1 (b) Require the installation of water submeters in all newly  
2 constructed residential multiunit buildings, and conversions of  
3 buildings to residential multiunit buildings, by January 1, 2014;

4 (c) Require the installation of water submeters in all existing  
5 residential multiunit buildings by January 1, 2018, except as provided  
6 in (d) of this subsection;

7 (d) Require the installation of water submeters in existing  
8 residential multiunit buildings as part of any substantial renovation  
9 or remodel of the building, or as part of a renovation or remodel that  
10 includes the replacement of plumbing fixtures; and

11 (e) Allow the installation of water submeters in complexes with  
12 multiple residential multiunit buildings to occur one building at a  
13 time.

14 (3) For purposes of this section, "residential multiunit building"  
15 means common wall residential buildings or group of buildings that  
16 consists of three or more dwelling units.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 84.36 RCW  
18 to read as follows:

19 (1) Residential rental property meeting the requirements of this  
20 section is exempt from property taxation as specified in subsection (2)  
21 of this section.

22 (2) To qualify for a property tax exemption under this section,  
23 water submetering must be installed throughout the entire residential  
24 rental property between the effective date of this section and January  
25 1, 2018. Residential real property meeting the requirements of this  
26 section is exempt from one hundred percent of real property taxes  
27 payable in the year following the year in which the water submetering  
28 is fully installed.

29 (3) A property owner seeking an exemption must submit an  
30 application to the county assessor on forms prescribed by the  
31 department and provided by the county assessor. A property owner must  
32 submit the application to the county assessor by December 31st for  
33 taxes payable in the following year. A property owner may not submit  
34 an application until the installation of all water submetering is  
35 complete, and the application must be submitted in the same year the  
36 water submetering installation is completed.

37 (4) As used in this section:

1 (a) "Residential multiunit building" means common wall residential  
2 buildings or group of buildings that consists of three or more dwelling  
3 units.

4 (b) "Residential rental property" means a residential multiunit  
5 building or buildings on a contiguous parcel of land that constitutes  
6 a single rental complex and includes the land upon which the dwelling  
7 unit or units stand.

8 (c) "Water submetering" means a system that allows a property owner  
9 of residential multiunit buildings to bill tenants for individual  
10 measured water usage.

11 NEW SECTION. **Sec. 6.** Section 5 of this act takes effect January  
12 1, 2013.

13 NEW SECTION. **Sec. 7.** Sections 1 through 3 of this act constitute  
14 a new chapter in Title 59 RCW.

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