Starting on June 7, 2018, water and sewer districts will have to pay an additional $65 to record liens for delinquent utility payments. This will also apply to the recording of lien satisfactions.

In 2005, the Washington state legislature passed the homeless housing and assistance act. Since the legislation passed, the state has succeeded in housing over 556,000 people experiencing homelessness. RCW 36.22.179 imposes a $40 surcharge on recorded documents for local homeless housing and assistance. RCW 36.22.179(1). 2% of the surcharge is retained by the county auditor, 60% of the surcharge is deposited in a fund for use by the county and its cities and towns for the purpose of the county’s local homeless housing plan, and the remaining percentage is remitted to the state treasurer for deposit in the home security fund account.

The homeless housing and assistance act included several exceptions to the surcharge. Specifically, the surcharge does not apply to (a) assignments or substitutions of previously recorded deeds of trust, (b) documents recording a birth, marriage, divorce, or death, (c) any recorded documents otherwise exempted from a recording fee or additional surcharges under state law, (d) marriage licenses issued by the county auditor, (e) documents recording a state, county, or city lien or satisfaction of lien, or (f) documents recording a water-sewer district lien or satisfaction of a lien for delinquent utility payments. RCW 36.22.179(2).

On March 16, 2018, Engrossed Second Substitute House Bill 1570 was passed into law. The new law eliminates section (f), which applies to “documents recording a water-sewer district lien or satisfaction of a lien for delinquent utility payments.” ESSHB 1570, 65th Leg., Reg. Sess., Sec. 2 (Wash. 2018). As a result, water and sewer districts will now have to pay the $40 surcharge on documents recorded for a water–sewer district lien or lien satisfaction. The bill also increased the surcharge from $40 to $62. The exemption remains for documents recording a state, county, or city lien or satisfaction of lien.

Similarly, in 2002, the Washington state legislature passed an act related to low-income housing projects. As a result of the act, an “affordable housing for all surcharge” is imposed on recorded documents. The surcharge is currently $10. RCW 36.22.178.

On March 16, 2018, Engrossed Second Substitute House Bill 2578 was passed into law. Beginning on June 7, 2018, the “affordable housing for all surcharge” will raise from $10 to $13. ESSHB 2578, 65th Leg., Reg. Sess., Sec. 5 (Wash. 2018).

Due to the newly passed laws, water and sewer districts can expect to pay an increase of $65 every time a lien document is recorded. Often a water or sewer district will charge an account the entire amount to both record the lien and lien satisfaction. This will result in an increase of $130 for district customers that are delinquent. Water and sewer districts are advised to keep the new surcharge rate increase in mind when an account is charged the recording fees.

About the Author
Chris is an associate attorney at Inslee Best. His practice focuses on commercial litigation, business planning, formations and transactions, and governmental. Chris is currently serving as president of the East King County Bar Association. During law school, Chris was on the National Moot Court team, and was a member of the Moot Court Honor Council. He also worked as an extern at the United States Attorneys’ Office. He was a board member and vice-president of the Student Bar Association. Chris was also active with the Phi Alpha Delta legal fraternity, Connelly chapter, and served as its president. Chris can be reached directly at (425) 450-4221 or cpirnke@insleebest.com.