
Local Government Committee

SB 5172

Brief Description: Revising the lien for collection of sewer charges by counties.

Sponsors: Senators Dammeier, Roach and Conway.

Brief Summary of Bill

- Provides counties that operate sewerage, water, or sewerage and water systems with an alternative sewerage lien procedure for delinquent sewer utility charges by authorizing counties to use lien attachment and enforcement procedures currently available to cities and towns.

Hearing Date: 3/11/15

Staff: Michaela Murdock (786-7289).

Background:

County Liens for Delinquent Sewer and Water Bills.

Counties operating a sewerage, water, or sewerage and water system have a lien against property for delinquent connection charges, service charges, interest, and penalties. Interest may be fixed by resolution at 8 percent per annum from the date due until paid. Penalties of not more than 10 percent of the amount due on unpaid charges may also be imposed.

Delinquent charges are certified to the county auditor periodically, and at that time, the county lien attaches to the premises to which services were available. The lien is for all charges, interest, and penalties, and is superior to all other liens and encumbrances, except general taxes and local and special assessments of the county.

After a period of 60 days from attachment of the lien, the county may file a foreclosure action in the superior court where the property is located. The lien is foreclosed in the same manner as real property tax liens. Costs associated with the foreclosure action may be added to the lien.

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

City and Town Liens for Delinquent Sewer and Water Bills.

Cities and towns operating sewer systems have a sewerage lien against property for delinquent and unpaid: sewer service rates and charges; connection charges; penalties imposed for failure to connect private drains and sewers with those of the city or town; and interest. Delinquent charges may bear interest in an amount of up to 8 percent per annum, computed on a monthly basis, as provided by city or town ordinance.

The city or town sewerage lien is against the premises to which service was furnished or is available. It is superior to all other liens and encumbrances, except general taxes and local and special assessments.

Absent any writing or recording of a sewerage lien with the county auditor, the lien is effective for up to six months of delinquent charges. After a period of six months following the furnishing of sewerage service for which payment is not received, a city or town may commence an action to foreclose a sewerage lien at any time.

In addition, a sewerage lien may be effective for more than six months of charges by filing a sewerage lien notice with the county auditor. The notice must be substantially in the form prescribed by statute, and recorded in the same manner provided by law for the recording of mechanics' liens. An action to foreclose a sewerage lien for which a sewerage lien notice has been filed must be commenced within two years.

An action to foreclose a city or town sewerage lien must be conducted in the same manner as a foreclosure of a real property mortgage. Costs, disbursements, and attorneys' fee associated with the foreclosure action may be added to any judgment entered in the foreclosure action.

Alternative Lien Procedure—Cities and Towns.

A city or town may by ordinance or resolution adopt an alternative lien procedure in accordance with statute. Under the alternative lien procedure, a city or town may establish that, without writing or recording a sewerage lien with the county auditor, a sewerage lien is effective for up to one year of delinquent service charges, instead of effective for only six months of delinquent service charges.

As an additional means of enforcing sewerage liens, cities and towns may provide by ordinance for enforcement of a sewerage lien by cutting off water service from property for which service charges are delinquent and unpaid.

Mechanics' Liens - Recording.

For mechanics' liens, a notice of claim of lien must be filed for recording in the county where the affected property is located not later than 90 days after the person has ceased to furnish services. The notice of claim of lien must be in the form prescribed by statute.

The 90-day period is a statute of limitations. Unless the claim of lien is filed within the 90-day period, no action to foreclose the lien will be maintained. The claim of lien must be provided to the property owner by certified mail, registered mail, or personal service within 14 days of recording the claim of lien.

Summary of Bill:

In addition to all delinquent charges, interest, and penalties, county sewer and water liens include lien recording and release fees.

In lieu of using existing county sewerage lien procedures, counties are authorized to adopt by ordinance or resolution lien procedures available to cities and towns. Under the lien procedure, a county may:

- establish that, absent any writing or recording of a sewerage lien with the county auditor, the lien is effective for up to six months of delinquent charges. The lien may be effective for more than six months of charges by filing a sewerage lien notice with the county auditor. The notice must be substantially in the form prescribed by statute, and recorded in the same manner provided by law for recording of mechanics' liens;
- establish that, absent writing or recording a sewerage lien with the county auditor, the lien is effective for up to one year of delinquent service charges, rather than only effective for up to six months of charges; and
- provide for enforcement of the sewerage lien by cutting off water service from the property to which service was furnished and charges are delinquent and unpaid.

Appropriation: None.

Fiscal Note: Not requested.

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