



2013 ASSEMBLY BILL 725

February 4, 2014 - Introduced by Representatives JACQUE, THIESFELDT, KAHL, STEINEKE, KULP, SANFELIPPO, BALLWEG, VRUWINK, TITTL, BIES, STRACHOTA, PRIDEMORE, MURTHA, JAGLER and KRUG, cosponsored by Senators LASEE, SCHULTZ, OLSEN, GROTHMAN and L. TAYLOR. Referred to Committee on Housing and Real Estate.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to repeal** 62.69 (2) (g); **to renumber** 71.935 (2); **to renumber and**
2 **amend** 66.0809 (3), 66.0809 (5) (b) 1. and 71.935 (1) (a); **to consolidate,**
3 **renumber and amend** 66.0809 (5) (b) (intro.) and 2.; **to amend** 66.0809 (5) (c),
4 66.0809 (5) (d), 71.93 (3) (a) 6., 71.935 (1) (b), 71.935 (3) (a), 71.935 (3) (b) and
5 71.935 (4); and **to create** 66.0809 (3m), 66.0809 (5) (ag), 66.0809 (5) (bm),
6 66.0809 (7), 66.0809 (8), 66.0809 (9), 66.0809 (10), 71.935 (1) (a) 2., 71.935 (2)
7 (b), 73.03 (72) and 196.37 (5) of the statutes; **relating to:** collection of certain
8 utility arrearages by a municipal utility and the provision of municipal utility
9 service to tenants.

Analysis by the Legislative Reference Bureau

Under current law, if a municipal utility provides utility service to a property and payment for the service is in arrears, the utility has a lien on the property and may have arrearages inserted as a tax on the property if the following procedure is followed. On October 15, the utility or county treasurer must provide the owner or occupant of the property with a written notice of payment due. The notice must specify the amount of the arrearage and any penalty and must state that: 1) if payment is not received by November 1, an additional penalty will be assessed; and

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2) if payment is not received by November 15, the arrearage amount and any penalties will become a lien on the property that will be collected as a tax on the property. On November 16, the utility or treasurer must certify and file with the county clerk a list of all properties for which a notice of arrears was given and for which arrears remain unpaid. The delinquent amount then becomes a lien upon the property and the clerk must insert the delinquent amount and any penalties as a tax against the property.

This bill provides that, if the municipal utility uses the arrearage collection procedure for a rental dwelling unit and provides a notice of arrearage to the owner, the municipality has a lien on the property of a tenant who is responsible for the arrearage. The utility or treasurer must then certify and file with the clerk of courts a list of those tenants. Also under this bill, if the owner pays the arrearage, the municipality must transfer the lien to the owner.

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit and the owner of the rental property provides the utility with certain information, including the name and address of the tenant who is responsible for paying for utility service, the utility may use the arrearage collection procedure described above only if the utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due.

This bill allows an owner of a rental unit to request that a municipal utility terminate electric service to a rental dwelling unit if the tenant's utility charges are past due and the tenant has received certain notices.

This bill also permits or requires certain actions of a municipal utility, including the following:

1) A municipal utility must refuse to establish electric utility service at a rental dwelling unit rented by a tenant if the tenant has outstanding past-due charges for utility service from the municipal utility, and must inform the owner of the rental unit of the past-due charges upon the owner's request.

2) A municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement.

3) A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer is an owner or a lessee of the property receiving utility service where the possibility exists for unpaid bills of a tenant to become a lien.

Under current law, if any person owes a debt of at least \$20 to a county or municipality, and if the debt has been reduced to a judgment or the county or municipality has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt, the county or municipality may certify the debt to the Department of Revenue (DOR) so that DOR may collect the debt by subtracting the debt amount from any tax refund owed to the debtor. Under current law, for purposes of certifying debt to DOR, a "municipality" means any city, village, or town, and includes any entity providing consolidated services among cities, villages, and towns.

Under the bill, if a municipality or owner of a rental dwelling unit has a lien against a tenant for unpaid utility services, the municipality or property owner may

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certify that debt to DOR so that DOR may collect the debt by subtracting the lien amount from any tax refund owed to the tenant.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 1 **SECTION 1.** 62.69 (2) (g) of the statutes is repealed.
- 2 **SECTION 2.** 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and
3 amended to read:
- 4 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each
5 year notice shall be given to the owner or occupant of all the lots or parcels of real
6 estate to which utility service has been furnished prior to October 1 by a public utility
7 operated by a town, city, or village and payment for which is owing and in arrears at
8 the time of giving the notice. The department in charge of the utility shall furnish
9 the treasurer with a list of the lots or parcels of real estate for which utility service
10 charges are in arrears, and the notice shall be given by the treasurer, unless the
11 governing body of the city, village, or town authorizes notice to be given directly by
12 the department. The notice shall be in writing and shall state the amount of arrears,
13 including any penalty assessed pursuant to the rules of the utility; that unless the
14 amount is paid by November 1 a penalty of 10 percent of the amount of arrears will
15 be added; and that unless the arrears, with any added penalty, are paid by November
16 15, the arrears and penalty will be levied as a tax against the lot or parcel of real
17 estate to which utility service was furnished and for which payment is delinquent.
18 The notice may be served by delivery to either the owner or occupant personally, or
19 by letter addressed to the owner or occupant at the post-office address of the lot or
20 parcel of real estate.

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1 **(b)** On November 16, the officer or department issuing the notice shall certify
2 and file with the clerk a list of all lots or parcels of real estate, giving the legal
3 description, for which notice of arrears was given under par. (a) and for which arrears
4 remain unpaid, stating the amount of arrears and penalty. Each delinquent amount,
5 including the penalty, becomes a lien upon the lot or parcel of real estate to which the
6 utility service was furnished and payment for which is delinquent, and the clerk
7 shall insert the delinquent amount and penalty as a tax against the lot or parcel of
8 real estate.

9 **(c)** All proceedings in relation to the collection of general property taxes and to
10 the return and sale of property for delinquent taxes apply to the tax under par. (b)
11 if it is not paid within the time required by law for payment of taxes upon real estate.

12 **(d)** Under this subsection, if an arrearage is for utility service furnished and
13 metered by the utility directly to a manufactured home or mobile home unit in a
14 licensed manufactured and mobile home community, the notice shall be given to the
15 owner of the manufactured home or mobile home unit and the delinquent amount
16 becomes a lien on the manufactured home or mobile home unit rather than a lien on
17 the parcel of real estate on which the manufactured home or mobile home unit is
18 located. A lien on a manufactured home or mobile home unit may be enforced using
19 the procedures under s. 779.48 (2).

20 **(e)** This subsection does not apply to arrearages collected using the procedure
21 under s. 66.0627.

22 **(f)** In this subsection, “metered” means the use of any method to ascertain the
23 amount of service used or the use of a flat rate billing method.

24 **SECTION 3.** 66.0809 (3m) of the statutes is created to read:

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1 66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
2 given or past-due charges are certified to the comptroller under s. 62.69 (2) (f), on the
3 date the notice of arrears is given, or the past-due charges are certified under s. 62.69
4 (2) (f), the officer or department shall certify and file with the clerk of courts a list of
5 tenants of rental dwelling units responsible for arrears. The municipality has a lien
6 upon the assets of each tenant listed under this paragraph in the amount of the
7 arrears for which the tenant is responsible.

8 (b) If par. (a) applies and the owner of the rental dwelling unit has paid the
9 municipality the amount provided in the notice of arrears given under sub. (3) (a),
10 or certified to the comptroller under s. 62.69 (2) (f), or the amount placed as tax
11 against the real estate under sub. (3) (b) or s. 62.69 (2) (f), the municipality shall
12 transfer the lien under par. (a) to the owner.

13 (c) Within 7 days after a lien established under this subsection is satisfied, the
14 lienholder shall file with the clerk of courts a notice of lien satisfaction.

15 **SECTION 4.** 66.0809 (5) (ag) of the statutes is created to read:

16 66.0809 (5) (ag) The owner of a rental dwelling unit shall provide to each tenant
17 to whom this subsection applies the information provided to the owner under s. 73.03
18 (72).

19 **SECTION 5.** 66.0809 (5) (b) (intro.) and 2. of the statutes are consolidated,
20 renumbered 66.0809 (5) (b) and amended to read:

21 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
22 sub. (3) ~~or, if s. 62.69 applies, s. 62.69 (2) (f),~~ to collect arrearages incurred after the
23 owner of a rental dwelling unit has provided the utility with written notice under par.
24 (a) ~~only if the municipality complies with at least one of the following: 2. In order to~~
25 ~~comply with this subdivision, if a customer who is a tenant has charges for water or~~

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1 electric service provided by the utility that are past due, the municipal public utility
2 shall ~~serve~~ serve notice of the past-due charges on the owner of the rental dwelling
3 unit within 14 days of the date on which the tenant's charges became past due. The
4 municipal public utility shall serve notice in the manner provided in s. 801.14 (2).

5 **SECTION 6.** 66.0809 (5) (b) 1. of the statutes is renumbered 66.0809 (5) (am) and
6 amended to read:

7 66.0809 (5) (am) ~~In order to comply with this subdivision, a~~ A municipal public
8 utility shall send bills for water or electric service to a customer who is a tenant in
9 the tenant's own name. ~~Each time that a municipal public utility notifies a customer~~
10 ~~who is a tenant that charges for water or electric service provided by the utility to~~
11 ~~the customer are past due for more than one billing cycle, the utility shall also serve~~
12 ~~a copy of the notice on the owner of the rental dwelling unit in the manner provided~~
13 ~~in s. 801.14 (2).~~ If a customer who is a tenant vacates his or her rental dwelling unit,
14 and the owner of the rental dwelling unit provides the municipal public utility, no
15 later than 21 days after the date on which the tenant vacates the rental dwelling
16 unit, with a written notice that contains a forwarding address for the tenant and the
17 date that the tenant vacated the rental dwelling unit, the utility shall continue to
18 send past-due notices to the customer at his or her forwarding address until the
19 past-due charges are paid or until notice has been provided under sub. (3) (a) or the
20 past-due charges have been certified to the comptroller under s. 62.69 (2) (f).

21 **SECTION 7.** 66.0809 (5) (bm) of the statutes is created to read:

22 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
23 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit
24 may request that the municipal public utility terminate electric service to the rental
25 dwelling unit.

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1 2. Upon receipt of a request under subd. 1., the municipal public utility shall
2 serve notice on the tenant that unless all past-due charges are paid within 10 days,
3 electric service to the rental dwelling unit will be terminated. The municipal public
4 utility shall serve notice in the manner provided in s. 801.14 (2).

5 3. Except as provided under rules of the public service commission prohibiting
6 disconnections during certain periods and subject to the procedural requirements
7 under those rules, unless all past-due charges are paid, the municipal utility shall
8 terminate electric service to the rental dwelling unit within 14 days after serving the
9 notice under subd. 2.

10 **SECTION 8.** 66.0809 (5) (c) of the statutes is amended to read:

11 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
12 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
13 notice by U.S. mail or, if the person receiving the notice has consented to receive
14 notice in an electronic format, by providing evidence of having sent the notice in an
15 electronic format.

16 **SECTION 9.** 66.0809 (5) (d) of the statutes is amended to read:

17 66.0809 (5) (d) If this subsection applies and a municipal public utility is
18 permitted to collect arrearages under sub. (3) or s. 62.69 (2) (f), the municipal public
19 utility shall provide all notices under sub. (3) or s. 62.69 (2) (f) to the tenant and to
20 the owner of the property or a person designated by the owner.

21 **SECTION 10.** 66.0809 (7) of the statutes is created to read:

22 66.0809 (7) A municipal utility may require a prospective customer to submit
23 an application for water or electric service.

24 **SECTION 11.** 66.0809 (8) of the statutes is created to read:

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1 66.0809 (8) (a) A municipal public utility shall disclose to the owner of a rental
2 dwelling unit, upon the owner's request, whether a new or prospective tenant has
3 outstanding past-due charges for utility service to that municipal public utility in
4 that tenant's name at a different address.

5 (b) A municipal public utility shall refuse to establish electric utility service to
6 a rental dwelling unit leased by a tenant unless any outstanding past-due charges
7 for utility service in the tenant's name to that municipal public utility are paid.

8 **SECTION 12.** 66.0809 (9) of the statutes is created to read:

9 66.0809 (9) A municipal utility is not required to offer a customer who is a
10 tenant at a rental dwelling unit a deferred payment agreement.

11 **SECTION 13.** 66.0809 (10) of the statutes is created to read:

12 66.0809 (10) A municipal utility may adopt application, deposit, disconnection,
13 or collection rules and practices that distinguish between customers based upon
14 whether the customer owns or leases the property that is receiving utility service
15 where the possibility exists for any unpaid bills of a tenant to become a lien on the
16 property that is receiving utility service.

17 **SECTION 14.** 71.93 (3) (a) 6. of the statutes, as created by 2013 Wisconsin Act
18 20, is amended to read:

19 71.93 (3) (a) 6. Debt certified under s. 71.935 (2) (a) and then s. 71.935 (2) (b).

20 **SECTION 15.** 71.935 (1) (a) of the statutes is renumbered 71.935 (1) (a) (intro.)
21 and amended to read:

22 71.935 (1) (a) (intro.) "Debt" means ~~a~~ the following:

23 1. A parking citation of at least \$20 that is unpaid and for which there has been
24 no court appearance by the date specified in the citation or, if no date is specified, that
25 is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least

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1 \$20; and any other debt that is at least \$20, including debt related to property taxes,
2 if the debt has been reduced to a judgment or the municipality or county to which the
3 debt is owed has provided the debtor reasonable notice and an opportunity to be
4 heard with regard to the debt.

5 **SECTION 16.** 71.935 (1) (a) 2. of the statutes is created to read:

6 71.935 (1) (a) 2. A lien under s. 66.0809 (3m).

7 **SECTION 17.** 71.935 (1) (b) of the statutes is amended to read:

8 71.935 (1) (b) “Debtor” means a person who owes a debt to a municipality or
9 county or to the owner of a rental dwelling unit for arrears, as described under s.
10 66.0809 (3m).

11 **SECTION 18.** 71.935 (2) of the statutes is renumbered 71.935 (2) (a).

12 **SECTION 19.** 71.935 (2) (b) of the statutes is created to read:

13 71.935 (2) (b) If a municipality or property owner has a lien against a tenant
14 under s. 66.0809 (3m), the municipality shall, or property owner may, certify that
15 debt to the department so that the department may set off the debt against any
16 refund owed to the tenant. The municipality shall certify the debt to the department
17 as provided in par. (a). The property owner shall certify the debt to the department
18 in the manner prescribed by the department.

19 **SECTION 20.** 71.935 (3) (a) of the statutes is amended to read:

20 71.935 (3) (a) If the debt remains uncollected and, in the case of a parking
21 citation, if the debtor has not contested the citation within 20 days after the notice
22 under sub. (2), the department shall set off the debt against any refund that is owed
23 to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall
24 be brought against the municipality ~~or~~, county, or property owner that certified the
25 debt under sub. (2).

ASSEMBLY BILL 725**SECTION 21**

1 **SECTION 21.** 71.935 (3) (b) of the statutes is amended to read:

2 71.935 (3) (b) The department shall provide the information obtained under
3 sub. (2) to the department of administration. Before reducing any disbursement as
4 provided under this paragraph, the department of administration shall contact the
5 department to verify whether a certified debt that is the basis of the reduction has
6 been collected by other means and, in the case of a parking citation, whether the
7 debtor has contested the citation within 20 days after the notice under sub. (2). If
8 the certified debt remains uncollected and, in the case of a parking citation, the
9 citation has not been contested within 20 days after the notice under sub. (2), the
10 department of administration shall, after any reduction under s. 71.93, reduce the
11 disbursement by the amount of the debtor's certified debt under sub. (2), notify the
12 department of such reduction and disbursement, and remit the amount of the
13 reduction to the department in the manner prescribed by the department. If more
14 than one debt certified under sub. (2) exists for any debtor, the disbursement shall
15 be reduced first by the earliest debt certified. Any legal action contesting a reduction
16 under this paragraph shall be brought against the municipality ~~or~~, county, or
17 property owner that certified the debt under sub. (2).

18 **SECTION 22.** 71.935 (4) of the statutes is amended to read:

19 71.935 (4) Within 30 days after the end of each calendar quarter, the
20 department shall settle with each municipality ~~and~~, county, and property owner for
21 the amounts set off or reduced against certified debts for the municipality ~~or~~, county,
22 or property owner during that calendar quarter.

23 **SECTION 23.** 73.03 (72) of the statutes is created to read:

