

FINAL BILL REPORT

HB 1317

C 41 L 15
Synopsis as Enacted

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

Sponsors: Representatives Zeiger, Kilduff, Kirby, Wylie and Sawyer.

House Committee on Local Government
Senate Committee on Government Operations & Security

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 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.

The county may file a foreclosure action in the superior court where the property is located 60 days after attachment of the lien. 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.

City and Town Liens for Delinquent Sewer and Water Bills.

Cities and towns that operate sewer systems have a 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. Penalties for failure to connect may be in an amount equal to the charge that would be made for sewer service if the property was connected to the system. Delinquent charges may bear interest in an amount up to 8 percent per annum, computed on a monthly basis, as provided by city or town ordinance.

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.

The 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.

Without any writing or recording of the sewerage lien with the county auditor, it 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 a prescribed form and recorded in the same manner for recording of mechanics' liens.

Alternative Lien Procedure - Cities and Towns.

A city or town may by ordinance or resolution adopt an alternative lien procedure. Under the alternative lien procedure, a city or town may establish that, without writing or recording a sewerage lien with the county auditor, the sewerage lien is effective for a period of up to one year's delinquent service charges.

As an additional means of enforcing sewerage liens, cities and towns may provide by ordinance for enforcement of the sewerage lien by cutting off water service from the 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 subject 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 a prescribed form.

Unless the claim of lien is filed within a 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:

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

In lieu of standard sewerage lien procedures, counties are authorized to adopt by ordinance or resolution alternative lien procedures available to cities and towns. Under the alternative lien procedures:

- A county may establish that, without 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 a prescribed, and recorded in the same manner provided by law for recording of mechanics' liens.
- The county may establish that, without writing or recording a sewerage lien with the county auditor, the sewerage lien is effective for a period of up to one year's delinquent service charges.
- The county may 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.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 24, 2015