



State of Wisconsin  
2011 - 2012 LEGISLATURE



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**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 2011 ASSEMBLY BILL 182**

December 27, 2011 – Offered by Representative JACQUE.

1     **AN ACT** *to renumber and amend* 66.0809 (3); *to amend* 66.0809 (5) (b) 1.,  
2           66.0809 (5) (d) and 565.30 (5r) (b); and *to create* 66.0809 (3) (c), 66.0809 (6) and  
3           800.09 (1m) of the statutes; **relating to:** assignment of income, prizes, and  
4           earnings to pay a municipal court judgment and the collection and reporting by  
5           municipal electric or water utilities of certain utility arrearages on rental  
6           properties.

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***Analysis by the Legislative Reference Bureau***

Under current law, if a person fails to pay a judgment ordered by a municipal court, the court may do any of the following:

1. Defer any payment of the judgment for a period of time.
2. Allow the person to pay the judgment by making installment payments.
3. Order the person to perform community service work in lieu of paying the judgment.
4. Suspend the person's driving privileges until the judgment is paid, including taking possession of the person's license to drive.

This substitute amendment provides the court with another option by allowing the court to issue an order assigning not more than 25 percent of the person's

earnings, worker's compensation, pension, and other money due to the person, but not including lottery prizes, to pay an unpaid judgment.

Under current law, a municipal utility may collect arrearages for utility service provided to lots or parcels of real estate by providing, on October 15, a written notice of payment due to the owner or occupant of the real estate. The notice must specify the amount of the arrearage and any penalty and must state the following: 1) that, if payment is not received by November 1, an additional penalty will be assessed; and 2) that, 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.

Also under current law, if a municipal utility provides electric or water service to a rental dwelling unit, the municipal utility may use the arrearage collection procedure described above only if the municipal utility follows certain additional procedures for notifying both the owner and the tenant about any payments that are past due. In addition, the municipal utility may use the arrearage collection procedure only if the owner of the rental property provides the municipal utility with written notification of the name and address of the owner, as well as of the tenant who is responsible for paying for the service. Finally, if requested by the municipal utility, the owner must provide the municipal utility with a copy of the rental or lease agreement in which the tenant assumes responsibility for payment of utility charges.

This substitute amendment provides that, if the municipal utility uses the arrearage collection procedure on a rental dwelling unit, the utility must report the arrearage and the name and last-known address of the tenant who incurred the past-due amounts on the consolidated court automation program case management system when the past-due amounts become a lien on the rental property. Under the substitute amendment, the owner of the rental property may commence an action in municipal court to collect the past-due amount from the tenant.

The substitute amendment also permits a municipal utility that provides service to a tenant of a rental dwelling unit to collect an advance payment from the tenant as a condition of receiving utility service. The municipal utility must deposit the advance in an interest-bearing account and must return the advance payment and any accrued interest (less any deduction for unpaid utility bills) within 21 days after service is terminated.

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

1           **SECTION 1.** 66.0809 (3) of the statutes is renumbered 66.0809 (3) (a) and  
2 amended to read:

3           66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each  
4 year notice shall be given to the owner or occupant of all lots or parcels of real estate

1 to which utility service has been furnished prior to October 1 by a public utility  
2 operated by a town, city or village and payment for which is owing and in arrears at  
3 the time of giving the notice. The department in charge of the utility shall furnish  
4 the treasurer with a list of the lots or parcels of real estate for which utility service  
5 charges are in arrears, and the notice shall be given by the treasurer, unless the  
6 governing body of the city, village or town authorizes notice to be given directly by  
7 the department. The notice shall be in writing and shall state the amount of arrears,  
8 including any penalty assessed pursuant to the rules of the utility; that unless the  
9 amount is paid by November 1 a penalty of 10 percent of the amount of arrears will  
10 be added; and that unless the arrears, with any added penalty, are paid by November  
11 15, the arrears and penalty will be levied as a tax against the lot or parcel of real  
12 estate to which utility service was furnished and for which payment is delinquent.  
13 The notice may be served by delivery to either the owner or occupant personally, or  
14 by letter addressed to the owner or occupant at the post-office address of the lot or  
15 parcel of real estate. On November 16 the officer or department issuing the notice  
16 shall certify and file with the clerk a list of all lots or parcels of real estate, giving the  
17 legal description, for which notice of arrears was given and for which arrears remain  
18 unpaid, stating the amount of arrears and penalty. Each delinquent amount,  
19 including the penalty, becomes a lien upon the lot or parcel of real estate to which the  
20 utility service was furnished and payment for which is delinquent, and the clerk  
21 shall insert the delinquent amount and penalty as a tax against the lot or parcel of  
22 real estate. All proceedings in relation to the collection of general property taxes and  
23 to the return and sale of property for delinquent taxes apply to the tax if it is not paid  
24 within the time required by law for payment of taxes upon real estate. Under

1           **(b)** Under this subsection, if an arrearage is for utility service furnished and  
2 metered by the utility directly to a manufactured home or mobile home unit in a  
3 licensed manufactured and mobile home community, the notice shall be given to the  
4 owner of the manufactured home or mobile home unit and the delinquent amount  
5 becomes a lien on the manufactured home or mobile home unit rather than a lien on  
6 the parcel of real estate on which the manufactured home or mobile home unit is  
7 located. A lien on a manufactured home or mobile home unit may be enforced using  
8 the procedures under s. 779.48 (2). ~~This~~ In this paragraph, “metered” means the use  
9 of any method to ascertain the amount of service used or the use of a flat rate billing  
10 method.

11           **(d)** This subsection does not apply to arrearages collected using the procedure  
12 under s. 66.0627. ~~In this subsection, “metered” means the use of any method to~~  
13 ~~ascertain the amount of service used or the use of a flat rate billing method.~~

14           **SECTION 2.** 66.0809 (3) (c) of the statutes is created to read:

15           **66.0809 (3) (c) 1.** Under this subsection, if an arrearage is for utility service  
16 furnished to a rental dwelling unit and the utility is required to follow the procedures  
17 under sub. (5) (b) 1., the municipal public utility shall, when a county within which  
18 the dwelling unit is located maintains a case management system, report the  
19 arrearage and the name and the last-known address of the tenant who incurred the  
20 delinquent amounts on the consolidated court automation program case  
21 management system maintained by the director of state courts at the time the  
22 delinquent amount becomes a lien upon the lot or parcel of real estate to which the  
23 utility service was furnished.

24           2. The owner of the lot or parcel of real estate to which a lien is attached under  
25 subd. 1. may commence an action in municipal court to collect the delinquent

1 amounts from the tenant who incurred the delinquent amounts using the procedures  
2 in ch. 800.

3 **SECTION 3.** 66.0809 (5) (b) 1. of the statutes is amended to read:

4 66.0809 (5) (b) 1. In order to comply with this subdivision, a municipal public  
5 utility shall send bills for water or electric service to a customer who is a tenant in  
6 the tenant's own name. Each time that a municipal public utility notifies a customer  
7 who is a tenant that charges for water or electric service provided by the utility to  
8 the customer are past due for more than one billing cycle, the utility shall also serve  
9 a copy of the notice on the owner of the rental dwelling unit in the manner provided  
10 in s. 801.14 (2). If a customer who is a tenant vacates his or her rental dwelling unit,  
11 and the owner of the rental dwelling unit provides the municipal public utility, no  
12 later than 21 days after the date on which the tenant vacates the rental dwelling  
13 unit, with a written notice that contains a forwarding address for the tenant and the  
14 date that the tenant vacated the rental dwelling unit, the utility shall continue to  
15 send past-due notices to the customer at his or her forwarding address until the  
16 past-due charges are paid or until notice has been provided under sub. (3) (a).

17 **SECTION 4.** 66.0809 (5) (d) of the statutes is amended to read:

18 66.0809 (5) (d) If this subsection applies and a municipal public utility is  
19 permitted to collect arrearages under sub. (3), the municipal public utility shall  
20 provide all notices under sub. (3) (a) to the owner of the property.

21 **SECTION 5.** 66.0809 (6) of the statutes is created to read:

22 66.0809 (6) A municipal utility that provides water or electric service to a  
23 customer who is a tenant of a rental dwelling unit may require the customer to pay  
24 an advance as a condition of receiving the service. A municipal utility shall deposit  
25 any advance received under this subsection into an interest-bearing account. When

1 the customer terminates water or electric service to the rental dwelling unit, the  
2 municipal utility shall return the advance and accrued interest, less any deduction  
3 for unpaid water or electric utility bills, to the customer within 21 days after the date  
4 that service is terminated to the dwelling unit.

5 **SECTION 6.** 565.30 (5r) (b) of the statutes is amended to read:

6 565.30 (**5r**) (b) Subject to par. (c), if the administrator receives a notice under  
7 s. 778.30 (2) (a), ~~800.09 (1) (e)~~, or 973.05 (5) (a) of the assignment of lottery prizes  
8 under s. 778.30 (1) (c), ~~800.09 (1) (e)~~, or 973.05 (4) (c) and determines that the person  
9 subject to the assignment is a winner or assignee of a lottery prize that is payable in  
10 installments, the administrator shall withhold the amount of the judgment that is  
11 the basis of the assignment from the next installment payment. The administrator  
12 shall submit the withheld amount to the court that issued the assignment. At the  
13 time of the submittal, the administrator shall charge the administrative expenses  
14 related to that withholding and submittal to the winner or assignee of the lottery  
15 prize and withhold those expenses from the balance of the installment payment. The  
16 administrator shall notify the winner or assignee of the reason that the amount is  
17 withheld from the installment payment. If the initial installment payment is  
18 insufficient to pay the judgment and administrative expenses, the administrator  
19 shall withhold and submit to the court an amount from any additional installment  
20 payments until the judgment and administrative expenses are paid in full and the  
21 assignment is no longer in effect. The administrative expenses received by the  
22 department shall be credited to the appropriation under s. 20.566 (1) (h).

23 **SECTION 7.** 800.09 (1m) of the statutes is created to read:

24 800.09 (**1m**) (a) In this subsection, “employer” includes the state and the  
25 political subdivisions of the state.

1 (b) The court may issue an order assigning not more than 25 percent of the  
2 defendant's commissions, earnings, salaries, wages, pension benefits, benefits under  
3 ch. 102, and other money due or to be due in the future, but not including lottery  
4 prizes, to the municipal court for payment of the unpaid restitution, forfeiture, costs,  
5 fees, or surcharges.

6 (c) Upon entry of the assignment under par. (b), unless the court finds that  
7 income withholding is likely to cause the defendant irreparable harm, the court shall  
8 provide notice of the assignment by regular mail to the last-known address of the  
9 person from whom the defendant receives or will receive money. If the municipal  
10 court does not receive the money from the person notified, the court shall provide  
11 notice of the assignment to any other person from whom the defendant receives or  
12 will receive money. Notice of an assignment under par. (b) shall inform the intended  
13 recipient that, if a prior assignment under par. (b) or s. 778.30 (1) or 973.05 (4) has  
14 been received relating to the same defendant, the recipient is required to notify the  
15 municipal court that sent the subsequent notice of assignment that another  
16 assignment has already been received. A notice of assignment shall include a form  
17 permitting the recipient to designate on the form that another assignment has  
18 already been received.

19 (d) Notice under this subsection may be a notice of the court, a copy of the  
20 executed assignment or a copy of that part of the court order that directs payment.

21 (e) For each payment made under the assignment under par. (b), the person  
22 from whom the defendant under the order receives money shall receive an amount  
23 equal to the person's necessary disbursements, not to exceed \$3, which shall be  
24 deducted from the money to be paid to the defendant.

1 (f) A person who receives notice of the assignment under this subsection shall  
2 withhold the amount specified in the notice from any money that person pays to the  
3 defendant later than one week after receipt of the notice of assignment. Within 5  
4 days after the day on which the person pays money to the defendant, the person shall  
5 send the amount withheld to the municipal court of the jurisdiction providing notice.  
6 If the person has already received a notice of an assignment under this subsection  
7 or s. 778.30 (2) or 973.05 (5), the person shall retain the later assignment and  
8 withhold the amount specified in that assignment after the last of any prior  
9 assignments is paid in full. Within 10 days of receipt of the later notice, the person  
10 shall notify the municipal court that sent the notice that the person has received a  
11 prior notice of an assignment under par. (b). Section 241.09 does not apply to  
12 assignments under this subsection.

13 (g) If after receipt of notice of assignment under this subsection the person from  
14 whom the defendant receives money fails to withhold the money or send the money  
15 to the municipal court as provided in this subsection, the person may be proceeded  
16 against under the principal action under s. 800.12 for contempt of court or may be  
17 proceeded against under ch. 778 and be required to forfeit not less than \$50 nor more  
18 than an amount, if the amount exceeds \$50, that is equal to 1 percent of the amount  
19 not withheld or sent.

20 (h) If an employer who receives notice of an assignment under this subsection  
21 fails to notify the municipal court within 10 days after an employee is terminated or  
22 otherwise temporarily or permanently leaves the employer's employment, the  
23 employer may be proceeded against under the principal action under s. 800.12 for  
24 contempt of court.



1 (i) Compliance by the person from whom the defendant receives money with  
2 the order operates as a discharge of the person's liability to the defendant as to that  
3 portion of the defendant's commissions, earnings, salaries, wages, benefits, or other  
4 money so affected.

5 (j) No employer may use an assignment under par. (b) as a basis for the denial  
6 of employment to a defendant, the discharge of an employee, or any disciplinary  
7 action against an employee. An employer who denies employment or discharges or  
8 disciplines an employee in violation of this paragraph may be subject to a forfeiture  
9 of not more than \$500 and may be required to make full restitution to the aggrieved  
10 person, including reinstatement and back pay. Restitution shall be in accordance  
11 with s. 973.20. An aggrieved person may apply to the district attorney or to the  
12 department of workforce development for enforcement of this paragraph.

13 (k) 1. In this paragraph, "payroll period" has the meaning given in s. 71.63 (5).

14 2. If after an assignment is in effect the defendant's employer changes its  
15 payroll period, or the defendant changes employers and the new employer's payroll  
16 period is different from the former employer's payroll period, the municipal court  
17 may amend the withholding assignment or order so that the withholding frequency  
18 corresponds to the new payroll period and the amounts to be withheld reflect the  
19 adjustment to the withholding frequency.

20 (L) The municipal court shall provide notice of the amended withholding  
21 assignment or order under par. (k) by regular mail to the defendant's employer and  
22 to the defendant.

### 23 **SECTION 8. Initial applicability.**

24 (1) The treatment of section 66.0809 (5) (b) 1., (d), and (e) of the statutes, the  
25 renumbering and amendment of section 66.0809 (3) of the statutes, and the creation

1 of section 66.0809 (3) (c) of the statutes first apply to arrearages incurred on the  
2 effective date of this subsection.

3 (2) The treatment of section 66.0809 (6) of the statutes first applies to a  
4 customer who requests water or electric service on the first day of the 2nd month  
5 beginning after publication.

6 (3) The treatment of sections 565.30 (5r) (b) and 800.09 (1m) of the statutes first  
7 applies to judgments entered on the effective date of this subsection.

8 **SECTION 9. Effective dates.** This act takes effect on the day after publication,  
9 except as follows:

10 (1) The treatment of sections 565.30 (5r) (b) and 800.09 (1m) of the statutes and  
11 SECTION 8 (3) of this act take effect on the first day of the 4th month beginning after  
12 publication.

13 (END)