



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0303/1
EVM&JK:sac:rs

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 725**

February 13, 2014 – Offered by Representative JACQUE.

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

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

7 **SECTION 1.** 62.69 (2) (g) of the statutes is repealed.

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

10 66.0809 (3) (a) Except as provided in subs. (4) and (5), on October 15 in each year
11 notice shall be given to the owner or occupant of all the 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.

16 (b) On November 16, the officer or department issuing the notice shall certify
17 and file with the clerk a list of all lots or parcels of real estate, giving the legal
18 description, for which notice of arrears was given under par. (a) and for which arrears
19 remain unpaid, stating the amount of arrears and penalty. Each delinquent amount,
20 including the penalty, becomes a lien upon the lot or parcel of real estate to which the
21 utility service was furnished and payment for which is delinquent, and the clerk
22 shall insert the delinquent amount and penalty as a tax against the lot or parcel of
23 real estate.

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

4 (d) Under this subsection, if an arrearage is for utility service furnished and
5 metered by the utility directly to a manufactured home or mobile home unit in a
6 licensed manufactured and mobile home community, the notice shall be given to the
7 owner of the manufactured home or mobile home unit and the delinquent amount
8 becomes a lien on the manufactured home or mobile home unit rather than a lien on
9 the parcel of real estate on which the manufactured home or mobile home unit is
10 located. A lien on a manufactured home or mobile home unit may be enforced using
11 the procedures under s. 779.48 (2).

12 (e) This subsection does not apply to arrearages collected using the procedure
13 under s. 66.0627.

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

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

17 66.0809 (3m) (a) If sub. (5) applies and a notice of arrears under sub. (3) (a) is
18 given or past-due charges are certified to the comptroller under s. 62.69 (2) (f), on the
19 date the notice of arrears is given, or the past-due charges are certified under s. 62.69
20 (2) (f), the municipality has a lien upon the assets of each tenant of a rental dwelling
21 unit whom is responsible for arrears in the amount of the arrears, including any
22 penalty assessed pursuant to the rules of the utility, on the date that the notice is
23 given for which the tenant is responsible.

24 (b) The department in charge of the utility shall provide a notice to each tenant
25 against whom the municipal utility has a lien. The notice shall be in writing and

1 shall state the amount of arrears including any penalty assessed pursuant to the
2 rules of the utility, that the tenant is subject to a lien upon his or her assets for arrears
3 for which he or she is responsible, that the lien will transfer to the owner of the rental
4 dwelling unit if the owner pays the arrears, and that the lien will be enforceable upon
5 the filing of the lien with the clerk of courts.

6 (c) If par. (a) applies, prior to December 17, the municipality shall file with the
7 clerk of courts a list of tenants of rental dwelling units responsible for arrears and
8 against whom the municipality continues to have a lien. No action to enforce a lien
9 under par. (a) may be maintained unless a notice of lien is filed under this paragraph.

10 (d) If par. (a) applies and the owner of the rental dwelling unit has paid the
11 municipality the amount provided in the notice of arrears given under sub. (3) (a),
12 or certified to the comptroller under s. 62.69 (2) (f), or the amount placed as tax
13 against the real estate under sub. (3) (b) or s. 62.69 (2) (f), the lien under par. (a)
14 transfers to the owner of the rental dwelling unit and the municipality no longer has
15 a lien against the tenant.

16 (e) An owner of a rental dwelling unit who has a lien under par. (d) may file a
17 notice of lien with the clerk of court of the county in which the rental dwelling unit
18 is located not more than 6 months after the date the lien arose under par. (a). The
19 clerk of courts shall file and enter the notice of lien in the judgment and lien docket.
20 No action to enforce a lien under par. (d) may be maintained unless a notice of lien
21 is filed under this paragraph.

22 (f) Within 7 days after a lien established and filed under this subsection is
23 satisfied, the lienholder shall file with the clerk of courts a notice of lien satisfaction.

24 **SECTION 4.** 66.0809 (5) (b) (intro.) and 2. of the statutes are consolidated,
25 renumbered 66.0809 (5) (b) and amended to read:

1 66.0809 (5) (b) ~~If this subsection applies, a~~ A municipal public utility may use
2 sub. (3) ~~or, if s. 62.69 applies, s. 62.69 (2) (f),~~ to collect arrearages incurred after the
3 owner of a rental dwelling unit has provided the utility with written notice under par.
4 (a) ~~only if the municipality complies with at least one of the following:~~ 2. ~~In order to~~
5 ~~comply with this subdivision, if a customer who is a tenant has charges for water or~~
6 ~~electric service provided by the utility that are past due,~~ the municipal public utility
7 ~~shall serve~~ serves notice of the past-due charges on the owner of the rental dwelling
8 unit within 14 days of the date on which the tenant's charges became past due. The
9 municipal public utility shall serve notice in the manner provided in s. 801.14 (2).

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

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

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

2 66.0809 (5) (bm) 1. No earlier than 14 days after receiving a notice under sub.
3 (5) (b) of a tenant's past-due charges for electric service, the owner of a rental unit
4 may request that the municipal public utility terminate electric service to the rental
5 dwelling unit.

6 2. Upon receipt of a request under subd. 1., the municipal public utility shall
7 serve notice on the tenant that unless all past-due charges are paid within 10 days,
8 electric service to the rental dwelling unit will be terminated. The municipal public
9 utility shall serve notice in the manner provided in s. 801.14 (2). This subdivision
10 does not apply if a municipal public utility may not use the procedures under sub.
11 (3) to collect the past-due charges.

12 3. Except as provided under rules of the public service commission relating to
13 disconnections of service and subject to the procedural requirements under those
14 rules, unless all past-due charges are paid, the municipal utility shall terminate
15 electric service to the rental dwelling unit within 14 days after serving the notice
16 under subd. 2.

17 **SECTION 7.** 66.0809 (5) (c) of the statutes is amended to read:

18 66.0809 (5) (c) A municipal public utility may demonstrate compliance with the
19 notice requirements of par. (b) ~~1.~~ or ~~2.~~ (bm) by providing evidence of having sent the
20 notice by U.S. mail or, if the person receiving the notice has consented to receive
21 notice in an electronic format, by providing evidence of having sent the notice in an
22 electronic format.

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

24 66.0809 (5) (d) If this subsection applies and a municipal public utility is
25 ~~permitted~~ elects to collect arrearages under sub. (3) or s. 62.69 (2) (f), the municipal

1 public utility shall provide all notices under sub. (3) or s. 62.69 (2) (f) to the tenant
2 and to the owner of the property or a person designated by the owner.

3 **SECTION 9.** 66.0809 (7) of the statutes is created to read:

4 66.0809 (7) A municipal utility may require a prospective customer to submit
5 an application for water or electric service.

6 **SECTION 10.** 66.0809 (8) of the statutes is created to read:

7 66.0809 (8) A municipal public utility shall disclose to the owner of a rental
8 dwelling unit, upon the owner's request, whether a new or prospective tenant has
9 outstanding past-due charges for utility service to that municipal public utility in
10 that tenant's name at a different address.

11 **SECTION 11.** 66.0809 (9) of the statutes is created to read:

12 66.0809 (9) A municipal utility is not required to offer a customer who is a
13 tenant at a rental dwelling unit a deferred payment agreement.

14 **SECTION 12.** 66.0809 (10) of the statutes is created to read:

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

20 **SECTION 13.** 196.37 (5) of the statutes is created to read:

21 196.37 (5) It is not unreasonable or unjustly discriminatory for a municipal
22 public utility to adopt application, deposit, disconnection, or collection rules and
23 practices that distinguish between customers based upon whether the customer
24 owns or leases the property that is receiving utility service where the possibility

1 exists for any unpaid bills of a tenant to become a lien on the property that is
2 receiving utility service.

3 **SECTION 14. Initial applicability.**

4 (1) The treatment of sections 62.69 (2) (g) and 66.0809 (3) and (5) (b) (intro.),
5 1., and 2. of the statutes first applies to arrearages incurred on the effective date of
6 this subsection.

7 (2) The treatment of section 66.0809 (3m) of the statutes first applies to a notice
8 of arrears given on the effective date of this subsection.

9 **SECTION 15. Effective dates.** This act takes effect on the day after publication,
10 except as follows:

11 (1) The treatment of sections 62.69 (2) (g) and 66.0809 (3), (3m), and (5) (b)
12 (intro.), 1., and 2., (bm), (c), and (d) of the statutes and SECTION 14 (1) and (2) of this
13 act take effect on the first day of the 9th month beginning after publication.

14 (END)