



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2013 Wisconsin Act 274
[2013 Senate Bill 517]

**Collection of Utility Bills by a
Municipal Utility for Service to
Rental Residential Property**

2013 Wisconsin Act 274 relates to the collection of unpaid bills for utility service when the utility is owned by a municipality and the customer is a tenant.

BACKGROUND

Municipal public utilities, being a part of municipal government, have the legal authority to collect unpaid bills for utility service as a lien on the property served, collected as are property taxes. In the case of rental property, this creates the possibility of the unpaid utility bills of a tenant becoming a lien on the landlord's property. To help landlords manage this problem, if a landlord informs a municipal utility of the name and address of a tenant who is responsible for payment of bills for utility service to a rental dwelling unit, the municipal utility must send the landlord certain notices when unpaid utility charges are accruing for the rental dwelling unit.

2013 WISCONSIN ACT 274

Provisions Applicable if Requested by Landlord

The following provisions of Act 274 apply if a landlord has given a municipal utility the name and address of a tenant who is responsible for utility bills at a rental property and has requested notification when unpaid utility charges are accruing for that rental property.

Notice to Landlord as Condition of Lien Against Property

Under prior law, a municipal utility had two options for the procedures it would follow in providing the required notices. The Act establishes a single procedure, as follows:

- A municipal utility must send bills for service to a customer who is a tenant in the tenant's own name.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.wisconsin.gov>.

- A municipal utility must provide notice to a landlord of a tenant's arrears within 14 days of the charges becoming past due.
- If the landlord notifies the utility that a tenant has vacated the dwelling while utility charges are in arrears and, within 21 days of the tenant vacating the dwelling, the landlord has provided the utility with a forwarding address for the tenant, the utility must continue to send past-due notices to the tenant at the forwarding address until either the charges have been paid or the utility has started the procedure for collecting the charges as a tax lien.
- A municipal utility must send a notice stating that unpaid charges will become a lien on the property (the "October 15 notice") to the tenant and to the owner.

Lien Against the Tenant's Property

The Act provides that, when a municipal utility provides the October 15 notice to a landlord and tenant, the municipality has a lien on the assets of the tenant in the amount of the arrears. If the landlord pays the amount of the arrears to the municipality, the lien transfers to the landlord. The lienholder (the municipality or the landlord) must file a notice of the lien with the clerk of courts before it may commence an action to enforce the lien and must file a notice of lien satisfaction with the clerk of courts when the lien is satisfied.

When a municipal utility provides the October 15 notice to a landlord and tenant, it must also provide a written notice to the tenant explaining the lien that has arisen on the tenant's assets.

Disconnection of Electric Service

Beginning 14 days after receiving a notice of a tenant's past-due charges for electric service, the Act allows a landlord to request a municipal utility to disconnect electric service from the rental dwelling unit. Except as provided in rules of the Public Service Commission (PSC), relating to disconnection of service¹, the municipal utility must then terminate electric service.

Form of Notices

The Act provides that, with the permission of the recipient (the tenant or landlord), a municipal utility may provide certain notices in electronic format.

Provisions Applicable in All Cases

The following provisions of the Act apply regardless of whether a property owner has requested notices when utility charges for service to the owner's property become past-due

¹ PSC rules prohibit disconnection of electric utility service, for example, during the winter months, during heat emergencies, if disconnection of service will aggravate an existing medical or protective services emergency, if the customer is in compliance with a deferred payment agreement, and while a dispute over the amount of arrears is under investigation by the PSC. Procedural requirements in these rules relate to matters such as ensuring that the customer has adequate notice and opportunity to respond prior to losing service.

and regardless of whether the municipal utility uses the tax lien procedure to collect unpaid charges:

- A municipal utility may require a prospective customer to submit an application for water or electric service.
- Upon the request of the owner of rental residential property, a municipal utility must disclose whether a new or prospective tenant has outstanding past-due charges for service provided by the utility in that tenant's name at a different address.
- A municipal utility is not required to offer a customer who is a tenant at a rental dwelling unit a deferred payment agreement.
- A municipal utility may adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer owns or leases the property that is receiving utility service and subject to a lien for unpaid utility bills.
- In general, a public utility may not adopt rules or procedures that are unreasonable or unjustly discriminatory. The Act provides that it is not unreasonable or unjustly discriminatory for a municipal utility to adopt application, deposit, disconnection, or collection rules and practices that distinguish between customers based upon whether the customer owns or leases the property that is receiving utility service and subject to a lien for unpaid utility bills.

Effective date: The Act took effect on April 18, 2014, except that the provisions that apply only if the landlord has requested notification when unpaid utility charges are accruing for the landlord's property take effect on January 1, 2015.

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