

As Passed by the House

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Sub. H. B. No. 92

Representatives Johnson, McClain

Cosponsors: Representatives Claggett, Dean, Ray, Fowler Arthur, Schmidt, Barhorst, Click, Daniels, Deeter, Demetriou, Fischer, Gross, Hiner, King, Lear, Lorenz, Mathews, A., Plummer, Robb Blasdel, Rogers, Thomas, D., Williams, Willis

To amend sections 729.49, 735.29, and 743.04 and to 1
enact sections 743.51, 743.52, 743.53, and 2
743.54 of the Revised Code regarding unpaid 3
municipal utility services. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 729.49, 735.29, and 743.04 be 5
amended and sections 743.51, 743.52, 743.53, and 743.54 of the 6
Revised Code be enacted to read as follows: 7

Sec. 729.49. (A) The legislative authority of a municipal 8
corporation which has installed or is installing sewerage, a 9
system of sewerage, sewage pumping works, or sewage treatment or 10
disposal works for public use, may, by ordinance, establish just 11
and equitable rates or charges of rents to be paid to the 12
municipal corporation for the use of such services, by every 13
person, firm, or corporation whose premises are served by a 14
connection thereof. Such charges shall constitute a lien upon 15
the property served by such connection and if not paid when due 16
shall be collected in the same manner as other municipal 17
corporation taxes. The legislative authority may change such 18

rates or charges from time to time as is deemed advisable. The 19
legislative authority of a municipal corporation operating under 20
a charter may establish such schedule of rates and provide for 21
its administration by designating the department or officer to 22
be charged with the enforcement of sections 729.49 to 729.52, 23
inclusive, of the Revised Code. 24

(B) The legislative authority of a municipal corporation 25
shall not certify to the county auditor for placement upon the 26
tax list and duplicate and the county auditor shall not place 27
upon the tax list and duplicate as a charge against the property 28
the amount of any unpaid sewerage rates or charges if either of 29
the following apply: 30

(1) The unpaid rates or charges have arisen pursuant to a 31
service contract made with a tenant, as defined in section 32
5321.01 of the Revised Code. 33

(2) The property served by the connection is not occupied 34
by the property owner. 35

Sec. 735.29. The board of trustees of public affairs 36
appointed under section 735.28 of the Revised Code shall manage, 37
conduct, and control the waterworks, electric light plants, 38
artificial or natural gas plants, or other similar public 39
utilities, furnish supplies of water, electricity, or gas, 40
collect all water, electric, and gas rents or charges, and 41
appoint necessary officers, employees, and agents. 42

The board may make such bylaws and rules as it determines 43
to be necessary for the safe, economical, and efficient 44
management and protection of such works, plants, and public 45
utilities. These bylaws and rules, when not repugnant to 46
municipal ordinances or to the constitution or laws of this 47

state, shall have the same validity as ordinances.

For the purpose of paying the expenses of conducting and managing such waterworks, plants, and public utilities or of making necessary additions thereto and extensions and repairs thereon, the board may assess a water rent or charge, or a light, power, gas, or utility rent, of sufficient amount, and in such manner as it determines to be most equitable, upon all tenements and premises supplied therewith. When such rents, except water rents and charges, are not paid when due, the board may certify them to the county auditor to be placed on the duplicate and collected as other village taxes, or it may collect them by actions at law in the name of the village. When water rents or charges are not paid when due, the board may do either or both of the following:

(A) Certify them, together with any penalties, to the county auditor. The county auditor shall place the certified amount on the real property tax list and duplicate against the property served by the connection if ~~he~~the auditor also receives from the board additional certification that the unpaid rents or charges have arisen pursuant to a service contract made directly with an owner who occupies the property served.

The amount placed on the tax list and duplicate shall be a lien on the property served from the date placed on the list and duplicate and shall be collected in the same manner as other taxes, except that, notwithstanding section 323.15 of the Revised Code, a county treasurer shall accept a payment in such amount when separately tendered as payment for the full amount of such unpaid water rents or charges and associated penalties. The lien shall be released immediately upon payment in full of the certified amount. Any amounts collected by the county

treasurer under this division shall be placed for immediate 78
distribution to the village, in the appropriate distinct fund 79
established for water rents and charges. 80

The board shall not certify to the county auditor for 81
placement upon the tax list and duplicate and the county auditor 82
shall not place upon the tax list and duplicate as a charge 83
against the property the amount of any unpaid water rents or 84
charges together with any penalties as described in division (A) 85
of this section if either of the following apply: 86

(1) The unpaid rents or charges have arisen pursuant to a 87
service contract made with a tenant, as defined in section 88
5321.01 of the Revised Code. 89

(2) The property served by the connection is not occupied 90
by the property owner. 91

(B) Collect them by actions at law in the name of the 92
village from an owner, tenant, or other person who is liable to 93
pay the rents or charges. 94

The board shall have the same powers and perform the same 95
duties as are provided in sections 743.01, 743.05 to 743.07, 96
743.10, 743.11, 743.18, 743.24, and 735.05 to 735.09 of the 97
Revised Code, and all powers and duties relating to waterworks 98
in any of such sections shall extend to and include electric 99
light, power, and gas plants, and such other similar public 100
utilities, and such board shall have such other duties as are 101
prescribed by law or ordinance not inconsistent herewith. 102

Each board that assesses water rents or charges shall 103
determine the actual amount of rents due based upon an actual 104
reading of each customer's meter at least once in each three- 105
month period, and at least quarterly the board shall render a 106

bill for the actual amount shown by the meter reading to be due, 107
except estimated bills may be rendered if access to a customer's 108
meter was unobtainable for a timely reading. Each board that 109
assesses water rents or charges shall establish procedures 110
providing fair and reasonable opportunity for resolution of 111
billing disputes. 112

When property to which water service is provided is about 113
to be sold, any party to the sale or ~~his~~any party's agent may 114
request the board to read the meter at that property and to 115
render within ten days following the date on which the request 116
is made, a final bill for all outstanding rents and charges for 117
water service. Such a request shall be made at least fourteen 118
days prior to the transfer of the title of such property. 119

At any time prior to a certification under division (A) of 120
this section, the board shall accept any partial payment of 121
unpaid water rents or charges, in the amount of ten dollars or 122
more. 123

Sec. 743.04. (A) For the purpose of paying the expenses of 124
conducting and managing the waterworks of a municipal 125
corporation, including operating expenses and the costs of 126
permanent improvements, the director of public service or any 127
other city official or body authorized by charter may assess and 128
collect a water rent or charge of sufficient amount and in such 129
manner as the director, other official, or body determines to be 130
most equitable from all tenements and premises supplied with 131
water. 132

(1) When water rents or charges are not paid when due, the 133
director or other official or body may do either or both of the 134
following: 135

(a) Certify them, together with any penalties, to the 136
county auditor. The county auditor shall place the certified 137
amount on the real property tax list and duplicate against the 138
property served by the connection if the auditor also receives 139
from the director or other official or body additional 140
certification that the unpaid rents or charges have arisen 141
pursuant to a service contract made directly with an owner who 142
occupies the property served. 143

The amount placed on the tax list and duplicate shall be a 144
lien on the property served from the date placed on the list and 145
duplicate and shall be collected in the same manner as other 146
taxes, except that, notwithstanding section 323.15 of the 147
Revised Code, a county treasurer shall accept a payment in such 148
amount when separately tendered as payment for the full amount 149
of such unpaid water rents or charges and associated penalties. 150
The lien shall be released immediately upon payment in full of 151
the certified amount. Any amounts collected by the county 152
treasurer under this division shall be immediately placed in the 153
distinct fund established by section 743.06 of the Revised Code. 154

(b) Collect them by actions at law, in the name of the 155
city from an owner, tenant, or other person who is liable to pay 156
the rents or charges. 157

(2) The director or other official body shall not certify 158
to the county auditor for placement upon the tax list and 159
duplicate and the county auditor shall not place upon the tax 160
list and duplicate as a charge against the property the amount 161
of any unpaid water rents or charges together with any penalties 162
as described in division (A) (1) (a) of this section if any of the 163
following apply: 164

(a) The property served by the connection has been 165

transferred or sold to an electing subdivision as defined in 166
section 5722.01 of the Revised Code, regardless of whether the 167
electing subdivision is still the owner of the property, and the 168
unpaid water rents or charges together with any penalties have 169
arisen from a period of time prior to the transfer or 170
confirmation of sale to the electing subdivision~~+~~. 171

(b) The property served by the connection has been sold to 172
a purchaser at sheriff's sale or auditor's sale, the unpaid 173
water rents or charges together with any penalties have arisen 174
from a period of time prior to the confirmation of sale, and the 175
purchaser is not the owner of record of the property immediately 176
prior to the judgment of foreclosure nor any of the following: 177

(i) A member of that owner's immediate family; 178

(ii) A person with a power of attorney appointed by that 179
owner who subsequently transfers the land to the owner; 180

(iii) A sole proprietorship owned by that owner or a 181
member of that owner's immediate family; 182

(iv) A partnership, trust, business trust, corporation, or 183
association of which the owner or a member of the owner's 184
immediate family owns or controls directly or indirectly more 185
than fifty per cent. 186

(c) The property served by the connection has been 187
forfeited to this state for delinquent taxes, unless the owner 188
of record redeems the property. 189

(d) The unpaid rents or charges have arisen pursuant to a 190
service contract made with a tenant, as defined in section 191
5321.01 of the Revised Code. 192

(e) The property served by the connection is not occupied 193

by the property owner. 194

(3) Upon valid written notice to the county auditor by any 195
owner possessing an ownership interest of record of the property 196
or by an electing subdivision previously in the chain of title 197
of the property that the unpaid water rents or charges together 198
with any penalties have been certified for placement or placed 199
upon the tax list and duplicate as a charge against the property 200
in violation of division (A) (2) of this section, the county 201
auditor shall promptly remove such charge from the tax 202
duplicate. This written notice to the county auditor shall 203
include all of the following: 204

(a) The parcel number of the property; 205

(b) The common address of the property; 206

(c) The date of the recording of the transfer of the 207
property to the owner or electing subdivision; 208

(d) The charge allegedly placed in violation of division 209
(A) (2) of this section. 210

(4) Each director or other official or body that assesses 211
water rents or charges shall determine the actual amount of 212
rents due based upon an actual reading of each customer's meter 213
at least once in each three-month period, and at least quarterly 214
the director or other official or body shall render a bill for 215
the actual amount shown by the meter reading to be due, except 216
estimated bills may be rendered if access to a customer's meter 217
was unobtainable for a timely reading. Each director or other 218
official or body that assesses water rents or charges shall 219
establish procedures providing fair and reasonable opportunity 220
for resolution of billing disputes. 221

(5) When property to which water service is provided is 222

about to be sold, any party to the sale or the agent of any such 223
party may request the director or other official or body to read 224
the meter at that property and to render within ten days 225
following the date on which the request is made, a final bill 226
for all outstanding rents and charges for water service. Such a 227
request shall be made at least fourteen days prior to the 228
transfer of the title of such property. 229

(6) At any time prior to a certification under division 230
(A) (1) (a) of this section, the director or other official or 231
body shall accept any partial payment of unpaid water rents or 232
charges, in the amount of ten dollars or more. 233

(B) (1) When title to a parcel of land that is subject to 234
any of the actions described in division (A) (1) of this section 235
is transferred to a county land reutilization corporation, any 236
lien placed on the parcel under division (A) (1) (a) of this 237
section shall be extinguished, and the corporation shall not be 238
held liable for unpaid rents or charges in any collection action 239
brought under division (A) (1) (b) of this section, if the rents 240
or charges certified under division (A) (1) (a) of this section or 241
subject to collection under division (A) (1) (b) of this section 242
were incurred before the date of the transfer to the corporation 243
and if the corporation did not incur the rents or charges, 244
regardless of whether the rents or charges were certified, the 245
lien was attached, or the action was brought before the date of 246
transfer. In such a case, the corporation and its successors in 247
title shall take title to the property free and clear of any 248
such lien and shall be immune from liability in any such 249
collection action. 250

If a county land reutilization corporation takes title to 251
property before any rents or charges have been certified or any 252

lien has been placed with respect to the property under division 253
(A) (1) of this section, the corporation shall be deemed a bona 254
fide purchaser for value without knowledge of such rents, 255
charges, or lien, regardless of whether the corporation had 256
actual or constructive knowledge of the rents, charges, or lien, 257
and any such lien shall be void and unenforceable against the 258
corporation and its successors in title. 259

(2) If a lien placed on a parcel is extinguished as 260
provided in division (B) (1) of this section, the municipal 261
corporation may pursue the remedy available under division (A) 262
(1) (b) of this section to recoup the rents and charges incurred 263
with respect to the parcel from any owner, tenant, or other 264
person liable to pay such rents and charges. 265

Sec. 743.51. As used in sections 743.51 to 743.54 of the 266
Revised Code: 267

(A) "Landlord," "residential premises," and "tenant" have 268
the same meanings as in section 5321.01 of the Revised Code. 269

(B) "Municipal utility service" means water, sewer, 270
natural gas, electric, or other utility service supplied by a 271
municipal corporation. 272

Sec. 743.52. (A) Division (B) of this section applies only 273
if one or both of the following are met: 274

(1) The former tenant of a residential premises contracted 275
for municipal utility service at the residential premises with 276
the municipal corporation. 277

(2) The municipal corporation provided municipal utility 278
service to a residential premises with the knowledge of the 279
former tenant's name and the period that the former tenant was 280
provided the service. 281

(B) Notwithstanding any provision of the Revised Code to 282
the contrary, no municipal corporation shall refuse or 283
discontinue municipal utility service to a landlord, present 284
tenant, or prospective tenant at a residential premises based on 285
nonpayment for municipal utility services by a former tenant of 286
the residential premises. 287

Sec. 743.53. Notwithstanding any provision of the Revised 288
Code to the contrary, a municipal corporation may adopt an 289
ordinance authorizing the municipal corporation to withdraw and 290
expend any security deposit collected by the municipal 291
corporation from any tenant for municipal utility service for 292
the nonpayment of municipal services by the tenant. 293

Sec. 743.54. No contract entered into between a municipal 294
corporation and a landlord may waive any provision of sections 295
743.51 to 743.54 of the Revised Code. 296

Section 2. That existing sections 729.49, 735.29, and 297
743.04 of the Revised Code are hereby repealed. 298