

## Utility Billing Tax Lien Process for (Tenant Responsible) Residential Rental Properties

QUALIFIERS: If you answer YES to ALL 4 of the questions below, then use this flow chart to help you through the new tax lien process for residential rental properties where tenant is responsible for utilities.

- Is the property a residential rental property?
- Did the landlord/owner notify the municipal utility that the tenant is responsible for the bill AND provide “necessary” tenant information? Bills must be in the tenant’s name. Necessary information is considered reasonable data needed to identify the tenant and contact him/her. 66.0809(5) states landlord is to notify Utility in writing if landlord wants to receive past due notices, have utility continue attempts to collect debt from tenant after they vacate, and have the option to put a lien on tenants’ property. However, the Utility has authority to create a policy to accept the information either verbally, in writing, or a formal landlord tenant agreement. (If landlord/owner failed to notify utility per Utility’s method, then treat debt as owner’s debt and follow that tax lien process.)
- Were the services provided prior to October 1<sup>st</sup> AND delinquent on October 15<sup>th</sup>? (If no, then debt may sit and you can check if it qualifies for the lien process next year.)
- Did the municipal utility provide the owner notice of the tenant’s past due balance(s) within 14 days of being late? (If utility failed to notify the owner then utility cannot tax lien the owner for that amount ever.)

October 1<sup>st</sup> utility creates listing of all accounts with outstanding balances. List should designate owner occupied, landlord paid, or tenant paid. Each designation has its own lien process. This flow chart is only for those accounts that meet all 4 qualifiers above.

October 15<sup>th</sup> utility removes accounts with a zero balance or pay plan from lists of delinquent accounts and gives to treasurer. 66.0809(3)(a)

October 15<sup>th</sup> – treasurer (or Board/Council authorizes utility staff) sends notice to landlords and tenants. Include: past due amount is due by 10/31, 10% penalty is added to unpaid balance on 11/1, any unpaid balance goes to tax bill as a lien on 11/16. 66.0809(3)(a) On tenant’s notice, state that a lien is **now** placed on his/her personal assets 66.0809(3m)(a) and if landlord pays bill the lien will be transferred to the landlord. 66.0809(3m)(b) (The tenants’ lien is only reflected in a listing held with the municipality for now. You file a list with the Clerk of Court Nov 16<sup>th</sup> – Dec 16<sup>th</sup>.) Prepare a Certificate of Mailing to document notices were mailed.

Nov. 1<sup>st</sup>: Add a 10% penalty to any amount stated in written notice that is still outstanding.

Bill and penalties are **paid by TENANT BEFORE 11/16**

DONE 😊 delinquency doesn’t exist anymore.

Bill and penalties are **paid by OWNER BEFORE 11/16**

Utility transfers lien to owner by providing receipt / notice of transfer. See example.

Utility Bill is NOT paid BEFORE November 16<sup>th</sup> deadline

Nov. 16<sup>th</sup> - STEP 1

Utility (or whoever mailed the Oct 15<sup>th</sup> notices) updates delinquent list including the parcel number, amount of arrears & amount of penalty. The list is then certified and filed with the municipal clerk as a lien to be assessed as a tax against the property. 66.0809 (3)(b) (This is the same process as in the past for all delinquent bills.)

Nov. 16<sup>th</sup> - STEP 2

From the certified list created under step 1, the officer or utility creates a separate list of all of the tenants who are responsible for those amounts in arrears. See example. Then certifies and files this list on behalf of the utility with the county Clerk of Courts. *Deadline to file is Dec. 16<sup>th</sup>. This is only a list of liens held by the court (free), not notice of individual liens that are added to the Liens Docket which is seen on CCAP (\$5 each name).*

### Each municipality should develop and create internal policies for their office regarding payments.

Some things to consider include:

- 1) Who will you accept payment from (tenant/landlord)? And when?
- 2) How will tax collector notify utility of who paid the assessment? See example.
- 3) If owner pays, the municipality MUST provide a receipt or notice that transfers lien to owner and allows owner to file the lien on Court’s Lien Docket thus putting it on CCAP 66.0809(3m)(d). How will owner get the receipt / notice to transfer?
- 4) If tenant makes payment toward tax bill - will you notify owner, who gets escrow check overages, what if tax bill is already paid?
- 5) Does an escrow or owner’s check have to clear before you transfer lien to owner?
- 6) Will you accept payments in the time between processing the tax roll (Nov. 16<sup>th</sup>) and receiving the tax bills/tax file from county treasurer? If yes, will you hold the payment or receipt it somehow?

If the tax lien (tax bill) is NOT paid by tenant or owner, the municipality follows its delinquent tax collection practices and *may* choose to execute the lien on the tenant’s property further by filing it on the Court Lien Docket (\$5) where it will appear on CCAP. *Caution: if you file on the Lien Docket and your County assumes your unpaid tax roll, you may need to transfer the lien to your County (another \$5) – check with your municipal attorney as statutes do not provide direction for this scenario.*