

The instrument shall be filed with the secretary of state and with the county recorder in the county in which the principal office of the cooperative association is located. The cooperative association shall amend its articles of incorporation pursuant to section 499.41 to comply with the provisions of this chapter. The secretary of state shall not file the instrument unless the cooperative association is in compliance with the provisions of chapter 498 at the time of filing. A cooperative association shall file an annual report which is due pursuant to section 499.49. Upon filing the instrument with the secretary, all of the following shall apply:

Sec. 14. Section 499.67, unnumbered paragraph 2, Code 1993, is amended to read as follows: The articles of merger or articles of consolidation shall be delivered to the secretary of state for filing, and shall be filed and recorded in the office of the county recorder.

Sec. 15. Section 504A.32, subsection 2, Code Supplement 1993, is amended to read as follows: 2. Except for a statement of change of registered office or registered agent filed pursuant to section 504A.9 or 504A.73, and an annual report filed pursuant to section 504A.83, any instrument required to be filed and recorded in the office of the secretary of state only, shall be returned by the secretary to the corporation or its representative. Any instrument required to be filed and recorded in the office of the county recorder shall be returned by the recorder to the corporation or its representative.

Sec. 16. REPEAL. Section 491.4, Code 1993, is repealed.

Approved April 8, 1994

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## CHAPTER 1056

### CITY UTILITY AND ENTERPRISE SERVICES — RATES AND CHARGES

*S.F. 216*

**AN ACT** relating to rates and charges for city utility and enterprise services by authorizing their collection as combined service accounts, authorizing the discontinuance of services in the event of nonpayment, and providing uniform notice procedures prior to discontinuance of service and prior to certification of lien for nonpayment.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 384.80, Code 1993, is amended by adding the following new subsections: **NEW SUBSECTION. 2A.** "Combined service account" means a customer service account for the provision of two or more utility or enterprise services, regardless of whether those services are being provided by a single city, or by any combination of city utilities, combined utility systems, city enterprises, or combined city enterprises of one or more cities.

**NEW SUBSECTION. 5A.** "Landlord" means the owner of record of a rental property, or a real estate manager or management company appointed by the owner to administer rental property.

**NEW SUBSECTION. 7A.** "Owner" means the owner of record as reflected in the records of the county treasurer.

Sec. 2. Section 384.84, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

#### 384.84 RATES AND CHARGES — BILLING AND COLLECTION — CONTRACTS.

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise. When revenue bonds or pledge orders are issued and outstanding pursuant to this

division, the governing body shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance.

2. a. A city utility or enterprise service to a property or premises, including services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, may be discontinued if the account for the service becomes delinquent. Gas or electric service provided by a city utility or enterprise shall be discontinued only as provided by section 476.20, and discontinuance of those services are subject to rules adopted by the utilities board of the department of commerce.

b. If more than one city utility or enterprise service is billed to a property or premises as a combined service account, all of the services may be discontinued if the account becomes delinquent.

c. A city utility or enterprise service to a property or premises shall not be discontinued unless prior written notice is sent to the account holder by ordinary mail, informing the account holder of the nature of the delinquency and affording the account holder the opportunity for a hearing prior to discontinuance of service. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord.

3. a. All rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due.

b. This lien may be imposed upon a property or premises even if a city utility or enterprise service to the property or premises have been or may be discontinued as provided in this section.

c. A lien for a city utility or enterprise service shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than ten days prior to certification of the lien to the county treasurer.

d. For a residential rental property where a charge for water service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the landlord gives written notice to the city utility or enterprise that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety days of water service is paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the water service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

4. A lien shall not be imposed pursuant to this section for a delinquent charge of less than five dollars. The governing body of the city utility or enterprise may charge up to five dollars, and the county treasurer may charge up to two dollars, as an administrative expense of certifying and filing this lien, which amounts shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor. Administrative expenses

collected by the county treasurer on behalf of the city utility or enterprise shall be paid to the governing body of the city utility or enterprise, and those collected by the county treasurer on behalf of the county shall be credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

5. A governing body may declare all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as provided in this section. The ordinance provisions for collection of rates of a storm water drainage system may prescribe a formula for determination of the rates which may include criteria and standards by which benefits have been previously determined for special assessments for storm water public improvement projects under this chapter.

6. a. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may:

(1) By ordinance of the council or by resolution of the trustees published in the same manner as an ordinance, establish, impose, adjust, and provide for the collection of charges for connection to a city utility or combined utility system.

(2) Contract for the use of or services provided by a city utility, combined utility system, city enterprise, or combined city enterprise with persons whose type or quantity of use or service is unusual.

(3) Lease for a period not to exceed fifteen years all or part of a city enterprise or combined city enterprise, if the lease will not reduce the net revenues to be produced by the city enterprise or combined city enterprise.

(4) Contract for a period not to exceed forty years with other governmental bodies for the use of or the services provided by the city utility, combined utility system, city enterprise, or combined city enterprise on a wholesale basis.

(5) Contract for a period not to exceed forty years with persons and other governmental bodies for the purpose or sale of water, gas, or electric power and energy on a wholesale basis.

b. Two or more city utilities, combined utility systems, city enterprises, or combined city enterprises, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E for joint billing or collection, or both, of combined service accounts for utility or enterprise services, or both. The contracts may provide for the discontinuance of one or more of the city utility or enterprise services if a delinquency occurs in the payment of any charges billed under a combined service account.

7. The portion of cost attributable to the agreement or arbitration awarded under section 357A.21 may be apportioned in whole or in part among water customers within an annexed area.

Approved April 12, 1994