



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

May 29, 2007

The Honorable Michael Mauro
Secretary of State
State Capitol Building
L O C A L

Dear Mr. Secretary:

House File 783 is a bill written to make a number of changes to Iowa Code section 384.84 that this Administration fully supports. For example, if enacted into law, the bill would clarify the status of potential liens on real property arising from unpaid bills and charges assessed for providing non-electric city services for residential properties.

However, the bill creates a new subsection 384.84(2)(e), which, if enacted, would allow the governing body of a city utility, combined utility system, city enterprise, or combined city enterprise to impose a new deposit fee upon residential rental tenants up to the usual cost of ninety days of sanitary sewer, storm water drainage, sewage treatment, solid waste collection and / or solid waste services. The bill makes no instruction as to what party—the service provider who has received the deposit, or the residential rental tenant who has paid the deposit—is entitled to keep the interest accruing on the deposited amount.

The Culver-Judge Administration is committed to what we have called “One Iowa.” By that, we mean that our laws and policies shall be inclusive and shall not bar any citizens who are willing to work hard and play by the rules from our most basic services or opportunities. A special concern of ours is that government not act to impose or to increase economic burdens upon, or barriers before, our lower income citizens, a disproportionate share of whom comprise the residential rental community.

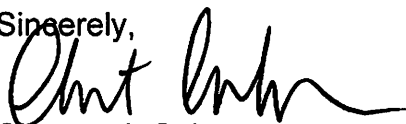
Persons seeking to rent apartments in Iowa already face a number of potential economic challenges unique to rental property. Rental real estate is subject to nearly twice the burden of real estate taxes than are owner-occupied residential properties. The Iowa Uniform Residential Landlord and Tenant Law, Iowa Code section 562A.12, allows a landlord to demand as a security deposit an amount or value of up to two months’ rent. Already, under Iowa Code section 384.84(3)(d),

a city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of water service to be paid to the utility or enterprise. This bill, if enacted into law, would increase that potential burden upon at least some citizens seeking the shelter of a rented residential housing. A citizen unable to come up with a ninety-day deposit can be denied completely access to these essential services.

The concern felt by this Administration as to the potential adverse and regressive effects that this well-intended legislation could have on an undeniably vulnerable segment of our citizens outweighs the significant merits that this bill would otherwise clearly offer. Insofar as this is not an appropriation bill, Iowa law does not permit the Governor to item veto only those provisions with which the Administration takes exception.

Therefore, because I am convinced that House File 783, an Act relating to certain city utilities or city enterprises by making changes to procedures for notice and collection of delinquent charges and by making changes to billing notifications for water service and other services provided to certain residential rental property, could potentially burden citizens and / or deprive them of access to essential municipal services, I hereby disapprove and transmit to you that bill, without my signature, in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver", written in a cursive style.

Chester J. Culver
Governor

CJC:jcl



HOUSE FILE 783

AN ACT

RELATING TO CERTAIN CITY UTILITIES OR CITY ENTERPRISES BY MAKING CHANGES TO PROCEDURES FOR NOTICE AND COLLECTION OF DELINQUENT CHARGES AND BY MAKING CHANGES TO BILLING NOTIFICATIONS FOR WATER SERVICE AND OTHER SERVICES PROVIDED TO CERTAIN RESIDENTIAL RENTAL PROPERTY.

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

Section 1. Section 384.84, subsection 2, paragraphs c and d, Code 2007, are amended to read as follows:

c. A city utility or enterprise service to a property or premises shall not be discontinued unless prior written notice is sent, by ordinary mail, to the account holder ~~by ordinary mail~~ in whose name the delinquent rates or charges were incurred, 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.

d. (1) If a delinquent amount is owed by an account holder for a utility service associated with a prior property or premises, a city utility, city enterprise, or combined city enterprise may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises. A city utility, city enterprise, or combined city enterprise shall not withhold service from, or discontinue service to, a subsequent owner of the prior property or premises unless such delinquent amount has been certified in a timely manner to the county treasurer as provided in subsection 3, paragraph "a", subparagraph (1).

(2) Delinquent amounts that have not been certified in a timely manner to the county treasurer as provided in subsection 3, paragraph "a", subparagraph (2), are not collectible against any subsequent owner of the property or premises.

Sec. 2. Section 384.84, subsection 3, Code 2007, is amended to read as follows:

3. a. (1) Except as provided in paragraph "d", 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.

(2) If the delinquent rates or charges were incurred prior to a transfer of the property or premises and such delinquencies were not certified to the county treasurer prior to the date of transfer, the delinquent rates or charges are not eligible to be certified to the county treasurer. If certification of such delinquent rates or charges is attempted subsequent to a transfer of the property or premises, the county treasurer shall return the certification to the city utility, city enterprise, or combined city enterprise

attempting certification along with a notice stating that the delinquent rates or charges cannot be made a lien against the property or premises.

(3) If the city utility, city enterprise, or combined city enterprise is prohibited under subparagraph (2) from certifying delinquent rates or charges against the property or premises served by the services described in subparagraph (1), the city utility, city enterprise, or combined city enterprise may certify the delinquent rates or charges against any other property or premises located in this state and owned by the account holder in whose name the rates or charges were incurred.

b. ~~This~~ The lien under paragraph "a" may be imposed upon a property or premises even if a city utility or enterprise service to the property or premises has been or may be discontinued as provided in this section.

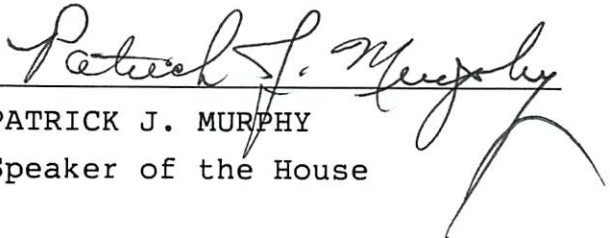
c. A lien for a city utility or enterprise service under paragraph "a" shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder ~~of~~ in whose name the delinquent ~~account~~ rates or charges were incurred at least thirty days prior to certification. 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 thirty days prior to certification of the lien to the county treasurer.


d. Residential rental property where a charge for water service is separately metered and paid directly to the city utility or enterprise by the tenant is exempt from a lien for delinquent rates or charges associated with such water service if the landlord gives written notice to the city utility or enterprise that the property is residential rental property and that the tenant is liable for the rates or charges. A city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of water service to be 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 residential rental property that the tenant is to occupy, and the date that the occupancy begins. ~~A-change-in-tenant-shall-require-a-new-written-notice-to-be-given-to-the-city-utility-or-enterprise-within-ten-business-days-of-the-change-in-tenant.~~ 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. A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility or enterprise within ten business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.


e. Residential rental property where a charge for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the city utility or enterprise by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice to the city utility or enterprise that the property is residential rental property and that the tenant is liable for the rates or charges. A city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal to be paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the address of the residential rental property that the tenant is to occupy and the date that the occupancy begins. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility or enterprise within ten business days of the completion of the change of ownership. The lien exemption for rental property does not

apply to charges for repairs related to a service of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.


PATRICK J. MURPHY
Speaker of the House


JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 783, Eighty-second General Assembly.


MARK BRANDSGARD
Chief Clerk of the House

Approved _____, 2007

CHESTER J. CULVER
Governor