

FILED MAR 6 1997

SENATE FILE 354

BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 14)

(P. 623)

Passed Senate, Date 3-17-97

Passed House, Date _____

Vote: Ayes 39 Nays 10

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the kinds of city utility or enterprise
2 services for which a landlord may be exempted from a lien for
3 delinquent payments by a tenant.

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

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S.F. 354

1 Section 1. Section 384.84, subsection 2, paragraph c, Code
2 1997, is amended to read as follows:

3 c. A city utility or enterprise service to a property or
4 premises shall not be discontinued unless prior written notice
5 is sent to the account holder by ordinary mail, informing the
6 account holder of the nature of the delinquency and affording
7 the account holder the opportunity for a hearing prior to
8 discontinuance of service. If the account holder is a tenant,
9 and if the owner or landlord of the property has made a
10 written request for notice, the notice shall also be given to
11 the owner or landlord. A request for and the giving of notice
12 does not create an obligation or liability on the part of the
13 owner or landlord to pay any amounts owed by the tenant.

14 Sec. 2. Section 384.84, subsection 3, Code 1997, is
15 amended to read as follows:

16 3. a. All rates or charges for the services of sewer
17 systems, storm water drainage systems, sewage treatment, solid
18 waste collection, water, solid waste disposal, or any of these
19 services, if not paid as provided by ordinance of the council
20 or resolution of the trustees, are a lien upon the property or
21 premises served by any of these services upon certification to
22 the county treasurer that the rates or charges are due, unless
23 the rates or charges are the obligation of and are owed by a
24 tenant of the property or premises.

25 b. ~~This~~ Except as otherwise provided in this section, a
26 lien may be imposed upon a property or premises even if a city
27 utility or enterprise service to the property or premises has
28 been or may be discontinued as provided in this section.

29 c. A lien for a city utility or enterprise service shall
30 not be certified to the county treasurer for collection unless
31 prior written notice of intent to certify a lien is given to
32 the account holder of the delinquent account. If the account
33 holder is a tenant, and if the owner or landlord of the
34 property has made a written request for notice, the notice
35 shall also be given to the owner or landlord. The notice

1 shall be sent to the appropriate persons by ordinary mail not
2 less than ten days prior to certification of the lien to the
3 county treasurer. The giving or sending of notice under this
4 paragraph does not create an obligation or liability on the
5 part of the landlord for any amounts owed by a tenant.

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

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EXPLANATION

26 This bill makes changes in how liens for municipal utility
27 or enterprise services are applied to rental property. The
28 bill provides that a request for or the giving of notice of
29 discontinuance of city utility or enterprise services or the
30 giving of notice of certification of collection does not
31 create an obligation or liability on the part of the landlord
32 for amounts owed by a tenant. Rates or charges for sewer,
33 storm water, sewage treatment, solid waste collection, water,
34 solid waste disposal, or other services are not a lien against
35 property served by the services if the amounts are owed by the

1 tenant of the property.

2 The bill also eliminates the restriction that limits the
3 kinds of separately metered rental properties to residential
4 rental properties, for which water services charges can be
5 paid directly by a tenant and which are exempt from a lien for
6 delinquent charges incurred after the landlord gives written
7 notice to the utility or enterprise that the tenant is liable
8 for the charges. The bill continues the requirement that a
9 deposit not exceeding the usual cost of 90 days of water
10 service be paid to the utility or enterprise and that the
11 landlord's written notice contain the name of the tenant, the
12 address of the property that the tenant is to occupy, and the
13 date that the occupancy is to begin. New notices and deposits
14 are required when there is a change in tenants.

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King, Chair
Schuerer
DeLuhera

SSB 14
Commerce

SENATE/HOUSE FILE SF HF 354
BY (PROPOSED CITIZENS' AIDE/
OMBUDSMAN BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the kinds of separately metered properties for
2 which a landlord may be exempted from a lien for delinquent
3 water services.

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

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1 Section 1. Section 384.84, subsection 3, paragraph d, Code
2 1997, is amended to read as follows:

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

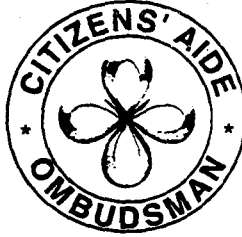
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EXPLANATION

23 This bill eliminates the restriction that limits the kinds
24 of separately metered rental properties to residential rental
25 properties, for which water services charges can be paid
26 directly by a tenant and which are exempt from a lien for
27 delinquent charges incurred after the landlord gives written
28 notice to the utility or enterprise that the tenant is liable
29 for the charges. The bill continues the requirement that a
30 deposit not exceeding the usual cost of 90 days of water
31 service be paid to the utility or enterprise and that the
32 landlord's written notice contain the name of the tenant, the
33 address of the property that the tenant is to occupy, and the
34 date that the occupancy is to begin. New notices and deposits
35 are required when there is a change in tenants.

SSB 14

CITIZENS' AIDE/OMBUDSMAN
DOL COMPLEX
101 WEST 7TH STREET
DES MOINES, IOWA 50319-0231
(515) 281-3592
TOLL FREE 1-800-358-5510



WILLIAM P. ANGRICK II
CITIZENS' AIDE / OMBUDSMAN

In reply, please refer to:

MEMORANDUM IN SUPPORT OF LEGISLATIVE PROPOSAL

To: Members of the Iowa General Assembly
From: William P. Angrick II, Citizens' Aide/Ombudsman

The purpose of this bill is to remove the specification that separately metered properties be residential in order for a landlord to be exempted from a lien for a tenant's delinquent charges for water services.

Section 384.84 allows *residential* rental properties with separately metered water charges to be exempt from a lien for those delinquent charges incurred after the landlord gives notice to the utility that the tenant is liable for the charges and a required deposit is paid. Upon receipt, the utility shall acknowledge the notice and deposit; in addition, the utility is required to give notice to the landlord if a tenant becomes delinquent.

Currently, a lien could be placed against a landlord if a tenant of a *commercial* rental property with separate water meters becomes delinquent, even if the landlord had provided notice of the tenant's liability and the required deposit had been paid to a utility.

The economic harm experienced by landlords for nonpayment of water services by commercial tenants could potentially be greater than that for similar delinquent payments by residential tenants. If the notice and deposit requirement works well for residential landlords, it should work as well for landlords of commercial properties. This bill would eliminate the different treatment for residential and commercial rental properties.