



H.B. 103

127th General Assembly
(As Introduced)

Reps. Blessing, Seitz, Wagoner, Gibbs, Brinkman

BILL SUMMARY

- Modifies and standardizes procedures for collecting unpaid water rents and charges.
- Authorizes regional water and sewer districts to sue to collect unpaid water rents and charges.
- Specifies the amount of any unpaid water rents or charges that may be certified to the county auditor as a lien on residential property based on the type of residential property served.
- Permits landlords to sue tenants who are obligated to pay directly for water service and do not pay those charges within 30 days after becoming due.

CONTENT AND OPERATION

Collecting unpaid water rents and charges

Villages via their board of trustees of public affairs, municipal corporations via their director of public service or any other city official or body authorized by charter, counties via their board of county commissioners, and regional water and sewer districts via their boards of trustees (hereinafter "waterworks authority") may assess rents and charges for providing water services. When water rents or charges are not paid, a waterworks authority may either (1) certify them to the county auditor for placement on the real property tax list and collection as are real property taxes or (2) sue the owner, tenant, or other person who is liable for the rents or charges to collect the unpaid amount. (R.C. 735.29, 743.04, 6103.02, and 6119.06.) A regional water and sewer district is not authorized to sue, however.

The bill makes several modifications to the alternatives that are available to a waterworks authority to collect unpaid water rents and charges.

(1) If the unpaid water rents and charges pertain to a residential property that is not a multifamily residential property for which water rents or charges are calculated based on a single master water meter, *e.g.*, a detached residential house, the waterworks authority must do all the following before the unpaid rents and charges can be certified to the county auditor or a lawsuit to collect the unpaid rents and charges can be maintained:

First, promptly send written notice by ordinary mail to the owner of the property after not more than 30 days have elapsed since the water rents or charges became due. The notice must contain a statement that the water rents or charges were not paid when due, and must specify the number of days that have elapsed since the water rents or charges became due.

Second, terminate service to the property after not more than 90 days have elapsed since the water rents or charges first became due, unless they and any penalties have been paid in full. In spite of this rule, termination may occur after the expiration of the 90-day period.

Third, promptly send written notice by ordinary mail to the owner of the property if the meter reading associated with the unpaid water rents or charges indicates usage that is "inordinately high" as compared to the water usage under normal circumstances and the historical water usage at the property. "Inordinately high" is defined as 40% above the historical water usage at the property.

(2) If modification (1) applies to the property to which unpaid water rents or charges pertain, the waterworks authority may certify the unpaid water rents or charges to the county auditor, or bring a lawsuit to collect unpaid water rents or charges, only after (a) it has complied with all three elements of modification (1) and the water rents or charges have not been paid or (b) 90 days have elapsed since the rents or charges first became due and water service to the property has not been terminated. If modification (1) does not apply to the property to which unpaid water rents or charges pertain, *e.g.*, to an apartment building having a single master water meter, the waterworks authority may straightaway certify the unpaid water rents or charges to the county auditor or bring a lawsuit to collect the unpaid water rents or charges.

(3) The waterworks authority, subject to the rules described in modification (1), may certify unpaid water rents or charges to the county auditor at any time and as often as necessary to further the collection of unpaid water rents and charges and penalties.

(4) The waterworks authority must send written notice to the owner of the property to which unpaid water rents and charges pertain when the unpaid water rents and charges have been certified to the county auditor.

(5) If unpaid water rents or charges pertain to residential property, the amount that can be certified to the county auditor is dependent upon the type of residential property:

If the property is individually metered for water usage and the owner occupies all or part of the property, the certified amount is to be the amount of any unpaid water rents or charges and any penalties.

If the property is individually metered for water usage and the owner does not occupy all or part of the property and is not the party liable to pay the water rents or charges, and the owner has provided the waterworks authority with a copy of a written lease or rental agreement or with an affidavit evidencing these facts, the certified amount cannot exceed the amount of the water rents or charges for water service for a three-month period and any penalties.

If the property is a multifamily residential property and the water rents or charges are calculated on a single master meter, the certified amount is the amount of any unpaid water rents or charges and any penalties.

As a pre-condition to the county auditor placing unpaid water rents and charges on the tax list, a waterworks authority is no longer required to certify that the unpaid water rents or charges have arisen from a service contract made directly with the owner who occupies the property to which the unpaid water rents or charges pertain.

The modified procedures for collection of unpaid water rents and charges replace the authority of regional water and sewer districts to refuse services of its projects if water rents and charges are not paid. As noted above, a regional water and sewer district can certify unpaid water rents and charges to the county auditor, both under current law and under the law as modified by the bill, but a district was not authorized to sue to collect the unpaid water rents and charges. The bill authorizes regional water and sewer districts alternatively to sue to collect unpaid water rents and charges, subject to the modifications described above, the same as are the other waterworks authorities.

The bill also clarifies that when a regional water and sewer district certifies unpaid water rents and charges to the county auditor for placement on the tax list, the lien thus created is released when the amount certified is paid in full.

Tenants' default of payment of water rents and charges

Current law provides that a landlord may sue a tenant when that tenant is in default of payment of rent (R.C. 5321.03). The bill considers tenants who are obligated under a rental agreement to pay directly for any charges for water service, and who do not pay those rents or charges within 30 days after becoming due, to be in default of rent. This permits landlords to sue tenants who fail to pay water rents or charges within 30 days after becoming due when the tenants are obligated to do so. (R.C. 5321.03(D).)

COMMENT

Under the Ohio Constitution, home rule permits municipalities to adopt their own procedures regarding utilities. The Ohio Constitution states, "any municipality may acquire, construct, own, lease, and operate within or without its corporate limits, any public utility the product or service of which is or is to be supplied to the municipality or its inhabitants, and may contract with others for any such product or service." Ohio Const., Art. XVIII, §4. Thus, villages and municipal corporations only are required to adhere to the Revised Code if they have not adopted their own charter establishing utilities procedures, or their charter requires them to follow the Code.

HISTORY

ACTION	DATE
Introduced	03-08-07

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