

Introduction

There are two Michigan statutes that provide for the authority of a municipality to impose a lien against property for unpaid water or sewer bills.

Permissive Lien

MCL 141.121 (1933 PA 94, as amended by 1978 PA 216)

This statute provides that charges for services furnished to a premises **may be a lien** on the premises. The provision is part of the Revenue Bond Act of 1933. The powers granted by the act may be exercised even if no bonds are issued under the act. Charges which are delinquent for 6 months or more may be certified annually to the proper tax assessing officer who shall enter the lien on the next tax roll against the premises to which the services shall have been rendered. The charges shall be collected and the lien enforced in the same manner as provided for the collection of taxes assessed upon the roll and the enforcement of a lien for the taxes. The time and manner of certification and other details shall be prescribed by the ordinance adopted by the governing body. A municipality must adopt an ordinance in order to avail itself of this statute. The act also contains special provisions if a tenant is responsible for the payment of the charges. The local unit of government may also discontinue service, in the case of water and sewer.

Mandatory Lien

MCL 123.162 (1939 PA 178)

This statute provides that a municipality which operates a water or sewage system **shall** have as security a lien upon the premises for the service was supplied. The lien is effective immediately upon distribution of the service. It must be enforced within 3 years of the effective date of the lien. The lien may be enforced by a municipality in a manner prescribed by charter of the municipality, by the laws of the state, or by an ordinance of the municipality. It is not necessary for the municipality to adopt an ordinance referencing the act. A municipality may also discontinue service. The act contains an exception to the act by which a landlord may give notice to the municipality of a lease that obligates a tenant to the charges. The act specifically states that it does not repeal any existing statutory charter or ordinance provisions for the assessment or collection of charges by a municipality.

See *Saginaw Landlords Association v City of Saginaw*, No. 222256, (unpublished opinion of Michigan Court of Appeals) (Nov. 2, 2001). Thanks to Tom Fancher, chief assistant city attorney, Saginaw for assistance with this One-Pager *Plus*. Tom represented the city in the *Saginaw Landlords* case and indicates he has made a request that the opinion be published which would grant the decision precedential effect.