



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

Discussion
December 4, 2012

Honorable Members of the
Law and Legislation Committee

Title: Proposed Legislation Related to Utility Liens on Foreclosed Properties

Location/Council District: Citywide

Recommendation: Consider proposed legislation related to utility liens on foreclosed properties and discussions with the League of California Cities, and other potential stakeholders, for inclusion in 2013-14 legislative platform.

Contact: Randi L. Knott, Intergovernmental Relations Officer, (916) 808-5771, City Manager's Office

Presenters: Jamille Moens, Business Services Manager, (916) 808-5988, Utilities Department

Department: Utilities

Division: Business Services

Description/Analysis

Issue: Under current law, foreclosure of a property terminates the utility liens of both municipalities and private utilities. In 2011, the City reported \$3.6 million in Bad Debt expenses. In late 2012, the department began tracking the specific causes of the bad debt and believes foreclosures are responsible for a significant percentage. A change in current law has the potential to reduce revenue loss to the Utilities Department caused by foreclosures in the City.

Policy Considerations: The banking industry, already hit hard by foreclosures, in addition to the California Chamber of Commerce and other business organizations, will be quick to oppose such a measure. The coordinated efforts of municipal utilities with the League of California Cities and other partners has the potential to make this a viable effort when coupled with a strong author in the Legislature. It should also be noted that foreclosures are trending down significantly and that should be part of the deliberations regarding pursuit of this change to current law.

Environmental Considerations: N/A

Sustainability Considerations: N/A

Rationale for Recommendation: Staff has reviewed the proposal forwarded by Sacramento resident Rick Stevenson and concurs with his assertion that there may be an opportunity to recoup some of the revenue lost due to existing law. However, staff does not underestimate the challenge of securing passage of this proposed legislation and therefore recommends entering into discussions with the League of California Cities rather than pursuing the proposed legislation unilaterally.

Financial Considerations: Changing existing law to allow utilities to be a “superior lien” ahead of banks and other lien holders has the potential to reduce revenue loss. However, it may be necessary to recommend a cap on the amount of the lien to reduce opposition by the banking industry and other interested parties. Mr. Stevenson has recommended a cap of \$2,000 per foreclosed home in order to decrease opposition. While that amount may not equal the approximately millions lost by water, sewer and solid waste utilities due to foreclosure, it does have the potential to significantly reduce the loss.

Emerging Small Business Development (ESBD): N/A

Respectfully Submitted by: 
Randi L. Knott, Intergovernmental Relations Officer

Approved by: 
John F. Shirey, City Manager

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Services Division

June 10, 2009

TO: Sacramento Mayor and City Council
FROM: Rick Stevenson (916) 452-9716
RE: Utility Liens
Proposed Legislation

Situation:

Under current law, foreclosure of a property extinguishes utility liens of municipalities and private utilities, leaving those bills unpaid and uncollectible for services that have been already delivered.

The City of Sacramento reports a utility (water, sewer, solid waste, etc.) budget shortfall of over four million dollars this year for that reason alone.

Multiply this situation around the state and the financial impact on municipal utilities may well run to hundreds of millions of dollars. .

Proposed Solution

Legislation to change the precedence of funds realized from the sale of foreclosed properties to require utility liens be paid from those proceeds. This would make utility liens a "superior lien" in the manner that property taxes are presently.

Discussion

Support can be expected from cities, counties, and municipal utilities around the state.

Putting a cap on the amount of money from each foreclosed residential property, perhaps \$2000 for example, might prevent objections from banks and the real estate industry.

This is an immediate way for the state to facilitate hundreds of millions of dollars of funding to local governments without any tax or fee increase.

This proposal might be suitable for a state budget trailer bill, which would give it immediate impact on local government cash flows.

LEGISLATIVE COUNSEL'S DIGEST**Bill No.**

as introduced, _____.

General Subject: Cities: fees and charges: liens: priority.

Existing law provides that specified taxes and assessments, including taxes collected upon real property, declared to be liens on real property have priority over all other liens on the property, regardless of the time of their creation. Existing law requires these liens to be given priority over matters including, but not limited to, any recognizance, deed, judgment, debt, obligation, or responsibility with respect to which the subject real property may become charged or liable.

This bill would provide that any unpaid fee or charge for the provision of services for storm drain, solid waste, wastewater, or water services provided by a city, or charged by a city for the provision of those services within the city by a separate agency through a contract, is a first priority lien on that property. The bill would require that the lien be given priority over matters, including, but not limited to, any recognizance, deed,

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judgment, debt, obligation, or responsibility with respect to which that property may become charged or liable except as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 14.5 (commencing with Section 39800) is added to Part 2 of Division 3 of Title 4 of the Government Code, to read:

CHAPTER 14.5. LIENS ON PROPERTY

39800. (a) Except as provided in subdivision (b), any unpaid fee or charge related to the provision of services for storm drain, solid waste, wastewater, or water services provided by a city or charged by a city for the provision of the services within a city by a separate agency through a contract, shall, with regard to the property for which the services were provided, be a first priority lien on that property given priority over matters including, but not limited to, any recognizance, deed, judgment, debt, obligation, or responsibility with respect to which that property may become charged or liable.

(b) This section shall not apply to subordinate any lien that was recorded prior to the effective date of this section.



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TO: Mark Prestwich
FROM: Rick Stevenson
 (916) 452-9716



DEPARTMENT OF UTILITIES
 BUSINESS SERVICE DIVISION

CITY OF SACRAMENTO
 CALIFORNIA

1300 30th Avenue
 Sacramento, CA 95822
 Phone: 916-808-1400
 Fax: 916-808-1497/1498

November 15, 2011

Rick Stevenson
 1411 Birchwood Lane
 Sacramento, CA 95822

Dear Mr. Stevenson,

I am writing in response to your request for the Bad Debt expenses incurred by the Department of Utilities for the past three fiscal years. Below is a table containing this data but please take note that data for our 2011 fiscal year is estimated as the year ended June 30, 2011 has not yet been closed.

FUND	Fiscal Year 2009	Fiscal Year 2010	(Estimated) Fiscal Year 2011	Three Year Total
	7/1/2008 6/30/2009	7/1/2009 6/30/2010	7/1/2010 6/30/2011	
Water	1,477,796.07	1,068,091.42	1,151,375.68	3,697,263.17
WasteWater	882,267.30	675,146.63	759,997.46	2,317,411.39
Solid Waste	1,689,948.90	1,133,929.57	1,199,755.62	4,023,634.09
Drainage	666,028.07	462,422.95	552,555.51	1,681,006.53
TOTAL	4,716,040.34	3,339,590.57	3,663,684.27	11,719,315.18

We are pleased to provide this information to you. If you have any questions, please contact me at (916) 808-8895.

Warm regards,

Patricia Sobon
 Supervising Financial Analyst
 Department of Utilities
 Business Services Division