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November 19, 2008

**FILE COPY**

Ms. Kristen Gottschalk  
Nebraska Rural Electric Association  
800 South 13<sup>th</sup> Street  
P.O. Box 82048  
Lincoln, NE 68501

Re: Liens for Unpaid Electric Bills

Dear Kristen:

The attached two statutes provide the statutory basis for a lien for unpaid water and sewer bills for Cities of the First Class and for Second Class Cities and Villages. Note however that Section 16-682 provides ONLY provides a lien for unpaid water bills only. I did not pull the legislative history to find out why the legislature did not include power, light, heat, etc.

Therefore, while I believe you could propose an amendment for the benefit of rural electric providers and suspect that the question will come up as to why electricity is excluded in Section 16-682 and if that statute should be amended to include the excluded items. I do not know that NREA would oppose such an amendment but it may frustrate your efforts to obtain a lien for the benefit of NREA members.

To the extent you propose an amendment I suggest the following:

Section 70-655 could be amended to add a subparagraph (4) that would read:

All unpaid charges for electrical energy may be recorded as a lien upon the premises or real estate for which the same was used or supplied. Such lien shall be enforced in such a manner that is consistent with the enforcement of other liens.

You could also consider inserting this new language by creating a new section at Section 70-682.

NEBRASKA REVISED STATUTES OF 1943  
CHAPTER 16. CITIES OF THE FIRST CLASS  
ARTICLE 6. PUBLIC IMPROVEMENTS  
(G) PUBLIC UTILITIES

§ 16-682 Municipal utilities; service; delinquent rents; lien; collection.

Such cities shall have the right and power to tax, assess, and collect from the inhabitants thereof such rent or rents for the use and benefit of water, gas, power, light or heat used or supplied to them by such waterworks, mains, pump, or extension of any system of waterworks, or water supply, or by such gas, light or heat system, as the council shall by ordinance deem just or expedient. With respect to water rates, taxes or rents only, such water rates, taxes or rents, when delinquent, shall be a lien upon the premises or real estate upon or for which the same is used or supplied; and such water taxes, rents or rates shall be paid and collected and such lien enforced in such manner as the council or commission, as the case may be, shall by ordinance direct and provide. Any delinquent water rentals which remain unpaid for a period of three months after they become due may be, by resolution of the said council or commission, assessed against said real estate as a special assessment, which said special assessment shall be certified by the city clerk to the county clerk of the county in which said city is situated. Said county clerk shall thereupon place same on the tax rolls for collection, subject to the same penalties and to be collected in like manner as other city taxes; PROVIDED, that the local governing body of said city shall notify in writing nonoccupying owners of premises or their agents whenever their tenants or lessees are sixty days delinquent in the payment of water rent. Thereafter if the owner of said real estate or his agent within such city shall notify the council or commission in writing to discontinue water service to said real estate or the occupants thereof, it shall be the duty of the officer in charge of the water department promptly to discontinue said service; and rentals for any water furnished to the occupants of said real estate in violation of said notice shall not be a lien thereon.

Neb.Rev.St. § 17-925.01

NEBRASKA REVISED STATUTES OF 1943  
CHAPTER 17. CITIES OF THE SECOND CLASS AND VILLAGES  
ARTICLE 9. PARTICULAR MUNICIPAL ENTERPRISES  
(B) SEWERAGE SYSTEM

§ 17-925.01 Sewers; water utilities; maintenance and repair; tax authorized; service rate in lieu of tax; lien.


The mayor and council of any city of the second class or the board of trustees of any village is hereby authorized, after the establishment of a system of sewerage and at the time of levying other taxes for city or village purposes, to levy a tax of not more than three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village for the purpose of creating a fund to be used for the maintenance and repairing of any sewer or water utilities in such city or village. In lieu of the levy of such tax, the mayor and city

council of any such city or the board of trustees of any village may establish by ordinance such rates for such sewer service as may be deemed by them to be fair and reasonable, to be collected from either the owner or the person, firm, or corporation requesting the services at such times, either monthly, quarterly, or otherwise, as may be specified in the ordinance. All sewer charges shall be a lien upon the premises or real estate for which the same is used or supplied. Such lien shall be enforced in such manner as the local governing body provides by ordinance. The charges thus made when collected shall be placed either in a separate fund or in a combined water and sewer fund and used exclusively for the purpose of maintenance and repairs of the sewer system, or the water and sewer system, in such city or village.

Sincerely,

CROSBY GUENZEL LLP

By



David A. Jarecke

DAJ:tlh