



"LANDLORD PACKET"

(Revised 11/7/19)

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MUNICIPAL WATER LIENS (EXCERPT)
Act 178 of 1939

123.165 Priority of lien; applicability of act where lease provides lessor not liable for payment of bills; affidavit.

Sec. 5.

The lien created by this act shall, after June 7, 1939, have priority over all other liens except taxes or special assessments whether or not the other liens accrued or were recorded before the accrual of the water or sewage system lien created by this act. However, this act shall not apply if a lease has been legally executed, containing a provision that the lessor shall not be liable for payment of water or sewage system bills accruing subsequent to the filing of the affidavit provided by this section. An affidavit with respect to the execution of a lease containing this provision shall be filed with the board, commission, or other official in charge of the water works system or sewage system, or both, and 20 days' notice shall be given by the lessor of any cancellation, change in, or termination of the lease. The affidavit shall contain a notation of the expiration date of the lease.

History: 1939, Act 178, Imd. Eff. June 8, 1939 ;-- CL 1948, 123.165 ;-- Am. 1981, Act 132, Imd. Eff. Oct. 7, 1981

Sec. 44-118. Collections.

The utility services department is hereby authorized to enforce the payment of charges for water service to any premises by instructing the division of water to discontinue the water service to such premises, and the payment of charges for sewage disposal service to any premises may be enforced by discontinuing either the water service or the sewage disposal service to such premises, or both, and an action of assumpsit may be instituted by the city against the customer. The charges for water service and sewage disposal service, which under the provisions of Act 94, Public Acts of 1933 of the State of Michigan, as amended (MCL, § 141.101 et seq., MSA

§ 5.273 et seq.), are made a lien on the premises which, on the first day of October preceding, have remained unpaid for a period of ninety (90) days, shall be certified by the city official in charge of the collection thereof and provided to the tax assessing officer who shall place the same on the next tax roll of the city. Such charges so assessed shall be collected in the same manner as general city taxes. In cases where the city is properly notified in accordance with such Act 94 of 1933, that a tenant is responsible for water or sewage disposal service charges, no such service shall be commenced or continued to such premises until there has been deposited with the division of water as determined by resolution. Where the water service to any premises is turned off to enforce the payment of water service charges or sewer disposal service charges, the re- establishment of water service shall not be recommended until all delinquent charges and a ten (10) percent late penalty payment have been paid and a deposit as in the case of tenants is made, and there shall be a water turn- on charge of fifty dollars (\$50.00). In any other case where, in the discretion of the director, the collection of charges for water or sewage disposal service may be difficult or uncertain, the director may require a similar deposit. Such deposits may be applied against any delinquent water or sewage disposal service charges and the application thereof shall not affect the right of the division of water to turn off the water service and/or sewer service, to any premises for any delinquency thereby satisfied. (Code 1972, § 2.150; Ord. of 11-29-76, § 2.150;

Ord. of 1-14-80, § 2.150; Ord. of 1-26-81, § 2.150; Ord. No. 535-84, § 2.150; 9-17—84; Ord. No. 546-86, 3-10-86; Ord. No. 599-88, 10-10-88)

City of Benton Harbor, Michigan Charter

Section 11:13 - Uniform Schedule of Rates.....

The Commission shall, by ordinance, establish a uniform schedule of rates, make such rules and regulations for the use of water and the payment therefore as may be deemed expedient. Unpaid charges for the use of water upon any property within the City shall be a lien upon said property.

Section 11:14 - No Discrimination Shall Be Shown....

No person, firm, corporation, or association shall be allowed free use of water, nor shall there be discrimination among water users of like classes, and rebates shall never be allowed, except as an inducement for prompt payment of water rates.

Checklist for **AFFIDAVIT**

1. If tenant is deemed responsible an **AFFIDAVIT** is required.
 - Address
 - Start date with expiration date
 - Original signatures of Landlord and Tenant/s
 - Original signatures of Notary

2. Provide Tenant with a Lease and/or Rental Agreement
 - Address
 - Landlord's name and Tenant/s name
 - Start and expiration date of Lease
 - List services responsible for

3. Provide an annual renewal

4. Provide a "Notice to Quit" when tenant is no longer occupying residence.

AFFIDAVIT

STATE OF MICHIGAN)
)
COUNTY OF BERRIEN) SS.

NOW COMES THE Affiant, _____, and having the authority to swear to the following facts, swears as follows:

1. _____ which owns or manages the real property located at: _____
2. has leased the above property to _____ at the above address pursuant to a lease agreement dated _____, 20____
3. Pursuant to a provision in the above lease, _____ as Lessor is not liable for payment of water or sewage system bills as they are the sole responsibility of the Lessee.
4. The Lease Agreement above expires on _____, 20____ unless renewed by both parties.
5. This affidavit is made pursuant to MCLA 123.165.
6. Your Affiant is aware of the above information and is competent to swear to the above facts.

FURTHER, Affiant saith not.

Lessee

Affiant

Subscribed and sworn to before me on the ____ days of
_____ 20_____

Notary Public

Berrien County Michigan
My Commission expires: _____

Policy and Procedures for applying for water services

What is needed?

1. Lease, Rental Agreement, Land Contract, Warranty Deed and or Covenant Deed.
2. Picture ID and/or Federal Identification Number
3. Complete application in the office (local applicants must apply in person, residential and/or business)

Requirements

4. Renting, Leasing and/or Land Contracts, and Businesses are required to pay a **\$150.00** deposit. A **\$50.00 Turn on fee** is required for both residential and business accounts if water is off. (effective 7/1/13)
5. All unpaid balances under the applicants name must be paid before service is rendered. Applicants purchasing property need to make sure a title search is done on each parcel
6. Any name(s) listed on paperwork is required to apply individually.
7. Applicant must be 18 years of age.