

1989

Session Law 89-272

Florida Senate & House of Representatives

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S 122 GENERAL BILL/2ND ENG by Kiser (Similar H 27)

Delinquent Utility Accounts/Tenants; deletes requirement of notification by municipality of delinquent accounts of certain tenants; deletes authority of certain landlords to commence eviction proceedings in event of nonpayment by tenant of certain utility service charges; provides that a municipality may discontinue service to a tenant who is in arrears. Amends 180.135. Effective Date: 10/01/89.

01/24/89 SENATE Prefiled
02/13/89 SENATE Referred to Economic, Professional and Utility Regulation; Community Affairs
04/04/89 SENATE Introduced, referred to Economic, Professional and Utility Regulation; Community Affairs -SJ 17
04/06/89 SENATE On Committee agenda—Economic, Professional and Utility Regulation, 04/10/89, 2:00 pm, Room-1C-(309)
04/10/89 SENATE Comm. Report: Favorable by Economic, Professional and Utility Regulation -SJ 124
04/11/89 SENATE Now in Community Affairs -SJ 124
04/14/89 SENATE Extension of time granted Committee Community Affairs; On Committee agenda—Community Affairs, 04/18/89, 1:00 pm, Room-C-(LL-32)
04/18/89 SENATE Comm. Report: Favorable by Community Affairs, placed on Calendar -SJ 180
04/27/89 SENATE Placed on Special Order Calendar -SJ 210
05/02/89 SENATE Placed on Special Order Calendar -SJ 242; Passed as amended; YEAS 36 NAYS 0 -SJ 252; Immediately certified -SJ 252
05/02/89 HOUSE In Messages
05/03/89 HOUSE Received, placed on Calendar -HJ 341; Substituted for HB 27 -HJ 360; Read second time; Amendment adopted -HJ 360
05/09/89 HOUSE Read third time; Passed as amended; YEAS 117 NAYS 0 -HJ 420
05/10/89 SENATE In Messages
05/18/89 SENATE Refused to concur, requested House to recede -SJ 388
05/18/89 HOUSE In Messages
05/25/89 HOUSE Receded; Reconsidered; Amendments adopted; Passed as further amended; YEAS 116 NAYS 0 -HJ 634
05/25/89 SENATE In Messages
05/29/89 SENATE Amendment to House amendment adopted; Concurred in House amendments as amended; Requested House to concur; Passed as amended; YEAS 34 NAYS 0 -SJ 502
05/29/89 HOUSE In Messages
06/02/89 HOUSE Concurred; Passed as amended; YEAS 101 NAYS 0 -HJ 1219
06/02/89 Ordered engrossed, then enrolled -SJ 1406
06/20/89 Signed by Officers and presented to Governor
07/05/89 Approved by Governor; Chapter No. 89-272

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

STORAGE NAME: h0027.ca
DATE: April 5, 1989

HB 27

HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMUNITY AFFAIRS
STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 0027

RELATING TO: Municipal Utility Services

SPONSOR(S): Rep. Rehm and others

EFFECTIVE DATE: October 1, 1989

COMPANION BILL(S): SB 0122

OTHER COMMITTEES OF REFERENCE: (1) None

(2)

I. SUMMARY:

This bill amends s. 180.135(4), F.S., by removing the "three consecutive months in arrears" provision and providing that municipalities may discontinue utility service to a tenant in arrears for utility services.

A. PRESENT SITUATION:

Currently, chapter 180 F.S., relating to municipal public works, removes some loopholes which had, in the past, allowed municipal utilities to collect unpaid bills incurred by former tenants from the landlord or a subsequent tenant.

Section 180.135, F.S., as amended by the 1988 Legislature, provides clarifying language to allow that a landlord or tenant may not be held responsible for payment of charges incurred by a former tenant. It specifies that in such cases no legal action can be taken against a landlord or subsequent tenant nor can the rights be signed away by contract. Before the 1988 revisions, some property owners were being forced to pay for charges which they did not incur and over which they had no control.

In addition, the 1988 revisions provided that a municipal utility may discontinue service after three consecutive monthly periods of nonpayment. The law also specifies that the municipal utility is required to notify the landlord in the event a tenant fails to pay for service. Upon such notification, the landlord is permitted to commence eviction proceedings.

The Florida League of Cities has explained the impact of s. 180.135, F.S., on municipalities' bond credit rating (see attached Memorandum, dated February 24, 1989). Specifically, the League of Cities points out that the Attorney General in his opinion, A.G.O. 85-70, has concluded that the provisions of s. 180.135, F.S., may not be applied

to affect situations in which a local government, prior to the effective date of that section, issued revenue bonds pursuant to Chapter 159, F.S., the "Revenue Bond Act of 1953." As a result, municipalities are faced with the prospect of obeying s. 180.135, F.S., and breaching their bond covenants, or continuing to honor their bond covenants and thereby violate s. 180.135, F.S. According to the League of Cities, if a municipality abides by s. 180.135, F.S., it can impair the revenue stream used to repay the bond and thereby impair its bond credit rating.

B. EFFECT OF PROPOSED CHANGES:

House Bill 27 removes the requirement that a municipality must wait three consecutive months before discontinuing service for nonpayment by the tenant. The bill provides clarifying language so that a municipality may discontinue service to any tenant who is in arrears.

C. SECTION-BY-SECTION ANALYSIS:

Section 1--Amends s.180.135(4), F.S., by removing three month requirement.

Section 2--Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

Minimal.

2. Recurring or Annualized Continuation Effects:

Minimal.

3. Long Run Effects Other Than Normal Growth:

Minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Minimal.

2. Direct Private Sector Benefits:

Owners of rental property will benefit in that they will no longer be responsible for utility charges which they did not incur and over which they have no control.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the State Comprehensive Plan as follows:

(2) GOVERNMENTAL EFFICIENCY.--

(b) Policies.--

9. Encourage greater efficiency and economy at all levels of government through adoption and implementation of effective . . . evaluation procedures.

IV. COMMENTS:

This bill is consistent with the Mission Statements for Group III, the Community Affairs Committee, which states:

"Identify the needs and roles of local governments and their financial requirements."

The bill is also consistent with the Policy Statement of the Legislative Issues Conference, which states, on page 18, "A. Local governments must be provided with the tools to build fiscally sound methods of infrastructure and public service finance."

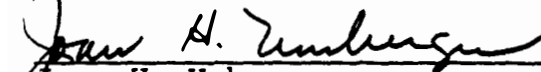
V. AMENDMENTS:

None.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:

Prepared by:



Joan H. Umberger
Legislative Analyst

Staff Director:



Mario L. Taylor

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Heffner</u>	<u>Krasovsky</u>	1. <u>EPUR</u>	<u>Favorable</u>
2. <u>Buck</u>	<u>Buck</u>	2. <u>CA</u>	<u>Favorable</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Utility Services

BILL NO. AND SPONSOR:

SB 122 by
Senator Kiser

I. SUMMARY:

A. Present Situation:

Chapter 88-332, Laws of Florida, amended section 180.135, Florida Statutes, by prohibiting a municipal utility from holding landlords or current tenants responsible for unpaid utility bills incurred by former tenants. Prior to enactment of chapter 88-332, L.O.F., some property owners were being forced to pay utility bills that they did not incur and over which they had no control.

The current law specifies that a municipality may not take legal action against a landlord or subsequent tenant or waive the chapter's provisions by contract. The law also specifies that the municipality is required to notify the landlord in the event a tenant fails to pay for service. Upon such notification, the landlord is permitted to commence eviction proceedings. The municipality may discontinue service after three consecutive monthly periods of nonpayment by the tenant.

According to the Florida League of Cities, chapter 88-332, L.O.F., will have an adverse impact upon municipalities. The vast majority of the municipally owned and operated water and sewer systems are financed with revenue bonds which contain covenants. The covenants require that a municipality discontinue water and sewer service to utility customers for nonpayment of service charges. The covenants also require that municipalities not restore water and sewer service until all service charges are paid in full. Therefore, if a municipality obeys the provisions of s. 180.135, F.S., it will breach its revenue bond covenants. If a municipality chooses to honor its revenue bond covenants then it will be in violation of s. 180.135, F.S. In addition, if a municipality obeys s. 180.135, F.S., it could impair the revenue stream used to repay the bond, and thereby impair its bond credit rating. This could increase future bond costs.

The League has also indicated that 16 municipalities have increased their utility deposits in order to offset the cost of s. 180.135, F.S. The city of Orlando increased its electrical deposit from \$120 to \$240, while the remaining municipalities increased the size of their water and sewer system deposits.

B. Effect of Proposed Changes:

The bill removes the requirement that a municipality must wait three consecutive months before discontinuing service for nonpayment by the tenant. The bill also clarifies that a municipality may discontinue service to any tenant who is an arrears.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Granting municipalities the ability to discontinue service to any tenant who is in arrears should enable municipalities that have increased utility deposits to reduce the size of the deposit. This will benefit the public by reducing the size of the deposit that they must pay in order to obtain utility service.

B. Government:

The impact upon municipalities should be minimal.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.