384.84 Rates and charges — billing and collection — contracts.

1. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise. When revenue bonds or pledge orders are issued and outstanding pursuant to this division, the governing body shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance.

2. The governing body of a city water or wastewater utility may enter into an agreement with a qualified entity to use proceeds from revenue bonds for a water resource restoration project if the rate imposed is no greater than if there was not a water resource restoration project agreement. For purposes of this subsection, *"qualified entity"* is an entity created pursuant to chapter 28E or two entities that have entered into an agreement pursuant to chapter 28E, whose purpose is to undertake a watershed project that has been approved for water quality improvements in the watershed.

3. *a.* A city utility or enterprise service to a property or premises, including services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, may be discontinued if the account for the service becomes delinquent. Gas or electric service provided by a city utility or enterprise shall be discontinued only as provided by section 476.20, and discontinuance of those services are subject to rules adopted by the utilities board of the department of commerce.

b. If more than one city utility or enterprise service is billed to a property or premises as a combined service account, all of the services may be discontinued if the account becomes delinquent.

c. A city utility or enterprise service to a property or premises shall not be discontinued unless prior written notice is sent, by ordinary mail, to the account holder in whose name the delinquent rates or charges were incurred, informing the account holder of the nature of the delinquency and affording the account holder the opportunity for a hearing prior to discontinuance of service. If the account holder is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. If the account holder is a tenant and requests a change of name for service under the account, such request shall be sent to the owner or landlord of the property if the owner or landlord has made a written request for notice of any change of name for service under the account to the rental property.

d. (1) If a delinquent amount is owed by an account holder for a utility service associated with a prior property or premises, a city utility, city enterprise, or combined city enterprise may withhold service from the same account holder at any new property or premises until such time as the account holder pays the delinquent amount owing on the account associated with the prior property or premises. A city utility, city enterprise, or combined city enterprise shall not withhold service from, or discontinue service to, a subsequent owner who obtains fee simple title of the prior property or premises unless such delinquent amount has been certified in a timely manner to the county treasurer as provided in subsection 4, paragraph "*a*", subparagraphs (1) and (2).

(2) Delinquent amounts that have not been certified in a timely manner to the county treasurer are not collectible against any subsequent owner of the property or premises.

e. (1) A legal entity created pursuant to chapter 28E by a city or cities, or other political subdivisions, and public or private agencies for the purposes of providing wastewater, sewer system, storm water drainage, or sewage treatment services shall have the same powers and duties as a city utility or enterprise under this subsection with respect to account holders and

subsequent owners, or with respect to properties and premises, associated with a delinquent account under this subsection.

(2) The governing body of a city utility, combined city utility, city enterprise, or combined city enterprise may enter into an agreement with a legal entity described in subparagraph (1) to discontinue water service to a property or premises if an account owed the legal entity for wastewater, sewer system, storm water drainage, or sewage treatment services provided to that customer's property or premises becomes delinquent. The customer shall be responsible for all costs associated with discontinuing and reestablishing water service disconnected pursuant to this paragraph *"e"*.

(3) This paragraph *"e"* shall not apply to a property or premises if, prior to July 1, 2015, the account holder for that property or premises had an established account with a legal entity described in subparagraph (1) for the provision of wastewater, sewer system, storm water drainage, or sewage treatment services to the property or premises.

f. (1) A legal entity providing wastewater, sewer system, storm water drainage, or sewage treatment services to a city or cities or other political subdivisions pursuant to a franchise or other agreement shall have the same powers and duties as a city utility or enterprise under this subsection with respect to account holders and subsequent owners, or with respect to properties and premises, associated with a delinquent account under this subsection.

(2) The governing body of a city utility, combined city utility, city enterprise, or combined city enterprise may enter into an agreement with a legal entity described in subparagraph (1) to discontinue water service to a property or premises if an account owed the legal entity for wastewater, sewer system, storm water drainage, or sewage treatment services provided to that customer's property or premises becomes delinquent. The customer shall be responsible for all costs associated with discontinuing and reestablishing water service disconnected pursuant to this paragraph *"f"*.

(3) This paragraph *"f"* shall not apply to a property or premises if, prior to July 1, 2015, the account holder for that property or premises had an established account with a legal entity described in subparagraph (1) for the provision of wastewater, sewer system, storm water drainage, or sewage treatment services to the property or premises.

4. *a.* (1) Except as provided in paragraph *"d"*, all rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due. The governing body of a city utility may, by resolution, delegate to a designee named in the resolution the city utility's authority to certify unpaid rates or charges to the county treasurer. The city council of a city that is contracting with a city utility for joint billing or collection or both pursuant to chapter 28E may, by ordinance, delegate to such city utility, or the city utility's designee, the city's authority to certify unpaid rates or charges to the county treasurer.

(2) If the delinquent rates or charges were incurred prior to the date a transfer of the property or premises in fee simple is filed with the county recorder and such delinquencies were not certified to the county treasurer prior to such date, the delinquent rates or charges are not eligible to be certified to the county treasurer. If certification of such delinquent rates or charges is attempted subsequent to the date a transfer of the property or premises in fee simple is filed with the county recorder, the county treasurer shall return the certification to the city utility, city enterprise, or combined city enterprise attempting certification along with a notice stating that the delinquent rates or charges cannot be made a lien against the property or premises.

(3) If the city utility, city enterprise, or combined city enterprise is prohibited under subparagraph (2) from certifying delinquent rates or charges against the property or premises served by the services described in subparagraph (1), the city utility, city enterprise, or combined city enterprise may certify the delinquent rates or charges against any other property or premises located in this state and owned by the account holder in whose name the rates or charges were incurred.

b. The lien under paragraph *"a"* may be imposed upon a property or premises even if a

city utility or enterprise service to the property or premises has been or may be discontinued as provided in this section.

c. A lien for a city utility or enterprise service under paragraph *"a"* shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder in whose name the delinquent rates or charges were incurred at least thirty days prior to certification. If the account holder is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty days prior to certification of the lien to the county treasurer.

d. (1) Residential or commercial rental property where a charge for water service is separately metered and paid directly to the city utility or enterprise by the tenant is exempt from a lien for delinquent rates or charges associated with such water service if the landlord gives written notice to the city utility or enterprise that the property is residential or commercial rental property and that the tenant is liable for the rates or charges. A city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of water service to be paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the residential or commercial rental property that the tenant is to occupy, and the date that the occupancy begins.

(2) A change in tenant for a residential rental property shall require a new written notice to be given to the city utility or enterprise within thirty business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the city utility or enterprise within ten business days of the change in tenant. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the water service charges are paid in full.

(3) A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility or enterprise within thirty business days of the completion of the change of ownership. A change in the ownership of the commercial rental property shall require written notice of such change to be given to the city utility or enterprise within ten business days of the completion of the change of ownership.

(4) The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

e. Residential rental property where a charge for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the city utility or enterprise by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice to the city utility or enterprise that the property is residential rental property and that the tenant is liable for the rates or charges. A city utility or enterprise may require a deposit not exceeding the usual cost of ninety days of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal to be paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for the charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the city utility or enterprise within thirty business days of the change in tenant. When the tenant moves from the rental property, the city utility or enterprise shall return the deposit if the charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the city utility or enterprise within thirty business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.

5. A lien shall not be imposed pursuant to this section for a delinquent charge of less than five dollars. The governing body of the city utility or enterprise may charge up to five dollars, and the county treasurer may charge up to five dollars, as an administrative expense

of certifying and filing this lien, which amounts shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor. Administrative expenses collected by the county treasurer on behalf of the city utility or enterprise shall be paid to the governing body of the city utility or enterprise, and those collected by the county treasurer on behalf of the county shall be credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

6. *a.* The governing body of a city utility or city enterprise providing wastewater, sewer system, storm water drainage, or sewage treatment services may file suit in the appropriate court against a customer if the customer's account for such services becomes delinquent pursuant to subsection 3. The governing body may recover the costs for providing such services to the customer's property or premises and reasonable attorney fees actually incurred.

b. A legal entity described in subsection 3, paragraph *"e"* or *"f"*, shall have the same powers and duties as a city utility or enterprise under paragraph *"a"* with respect to filing suit in an appropriate court against a customer if the customer's account for such services becomes delinquent.

7. A governing body may declare all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as provided in this section. The ordinance provisions for collection of rates of a storm water drainage system may prescribe a formula for determination of the rates which may include criteria and standards by which benefits have been previously determined for special assessments for storm water public improvement projects under this chapter.

8. *a.* The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may:

(1) By ordinance of the council or by resolution of the trustees published in the same manner as an ordinance, establish, impose, adjust, and provide for the collection of charges for connection to a city utility or combined utility system.

(2) Contract for the use of or services provided by a city utility, combined utility system, city enterprise, or combined city enterprise with persons whose type or quantity of use or service is unusual.

(3) Lease for a period not to exceed fifteen years all or part of a city enterprise or combined city enterprise, if the lease will not reduce the net revenues to be produced by the city enterprise or combined city enterprise.

(4) Contract for a period not to exceed forty years with other governmental bodies for the use of or the services provided by the city utility, combined utility system, city enterprise, or combined city enterprise on a wholesale basis.

(5) Contract for a period not to exceed forty years with persons and other governmental bodies for the purchase or sale of water, gas, or electric power and energy on a wholesale basis.

b. Two or more city utilities, combined utility systems, city enterprises, or combined city enterprises, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E for joint billing or collection, or both, of combined service accounts for utility or enterprise services, or both. The contracts may provide for the discontinuance of one or more of the city utility or enterprise services if a delinquency occurs in the payment of any charges billed under a combined service account.

c. One or more city utilities or combined utility systems, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E with one or more sanitary districts established pursuant to chapter 358 for joint billing or collection, or both, of combined service accounts from utility services and sanitary district services. The contracts may provide for the discontinuance of one or more of the city water utility services or sanitary district services if a delinquency occurs in the payment of any charges billed under a combined service account.

9. The portion of cost attributable to the agreement or arbitration awarded under section 357A.21 may be apportioned in whole or in part among water customers within an annexed area.

10. For the purposes of this section, *"premises"* includes a mobile home, modular home, or manufactured home as defined in section 435.1, when the mobile home, modular home, or manufactured home is taxed as real estate.

11. Notwithstanding subsection 4, a lien shall not be filed against the land if the premises are located on leased land. If the premises are located on leased land, a lien may be filed against the premises only.

[C73, §471, 473, 475; C97, §720, 725, 749; S13, §720, 724, 725, 766-c; C24, 27, 31, §5892, 5898, 6130, 6142, 6143, 6159; C35, §5892, 5898, 5903-f3, 5903-f6, 6066-f5, 6066-f8, 6130, 6142, 6143, 6159; C39, §**5892, 5898, 5903.14, 5903.17, 6066.28, 6066.32, 6130, 6142, 6143, 6159**; C46, 50, 54, §381.19, 382.5, 385.3, 385.6, 390.4, 390.5, 394.5, 394.9, 397.4, 397.27, 397.28, 398.10; C58, §381.19, 382.5, 385.3, 385.6, 386B.8, 390.4, 390.5, 394.5, 394.9, 397.4, 397.27, 397.28, 398.10; C62, §381.15, 382.5, 385.3, 385.6, 386B.8, 390.4, 390.5, 392.11, 394.5, 394.9, 397.4, 397.27, 397.28; C66, §368.24, 381.19, 382.5, 385.3, 385.6, 386B.8, 390.4, 390.5, 392.11, 394.5, 394.9, 397.4, 397.27, 397.28, 398.10; C71, 73, §368.24, 378A.7 – 378A.9, 381.19, 382.5, 385.3, 385.6, 386B.8, 390.4, 390.5, 392.11, 393.14, 394.5, 394.9, 397.4, 397.27, 397.28, 398.10; C75, 77, 79, 81, §384.84; 81 Acts, ch 128, §1]

83 Acts, ch 90, §27; 84 Acts, ch 1221, §1; 87 Acts, ch 109, §4; 88 Acts, ch 1246, §6; 90 Acts, ch 1206, §2; 90 Acts, ch 1211, §1; 93 Acts, ch 73, §4; 94 Acts, ch 1056, §2; 95 Acts, ch 49, §11; 95 Acts, ch 57, §9; 95 Acts, ch 67, §31; 97 Acts, ch 62, §3; 98 Acts, ch 1107, §15; 99 Acts, ch 149, §1, 2; 2000 Acts, ch 1085, §4; 2003 Acts, 1st Ex, ch 2, §19, 209; 2008 Acts, ch 1090, §1, 2; 2009 Acts, ch 72, §6; 2009 Acts, ch 133, §131, 132; 2011 Acts, ch 53, §1; 2012 Acts, ch 1087, §1 – 3; 2013 Acts, ch 89, §1; 2014 Acts, ch 1085, §1; 2015 Acts, ch 90, §1, 2

Referred to in §26.9, §357A.11, §357E.11A, §384.84A, §389.4, §390.5, §445.1, §455B.199, §476.20

Collection of taxes, see chapter 445

Subsection 3, NEW paragraphs e and f

Subsection 6 amended