

Memorandum



Date: (Second Reading 02-05-08)
December 4, 2007

To: Honorable Chairman Bruno A. Barreiro and
Members, Board of County Commissioners

From: George M. Burgess
County Manager

Agenda Item No. 7(J)

Subject: Ordinance Amending Sections 32-91, 32-93, 32-94 and 32-95 of the Miami-Dade
County Code

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve and adopt the attached ordinance amending Sections 32-91, 32-93, 32-94 and 32-95 of the Miami-Dade County Code. This amendment will change the date when interest charges commence on unpaid account balances, change the date when water and sewer charges become eligible for a special assessment lien against delinquent accounts, extend the time period for filing and recording liens, and increase the minimum amount for filing a Notice of Lien to \$100.

BACKGROUND

The Miami-Dade Water and Sewer Department (MDWASD) requests that revisions be made to Sections 32-91, 32-93, 32-94 and 32-95 of the Miami-Dade County Code. These sections set the procedural parameters followed by MDWASD when customers fail to make timely payments on their water and sewer accounts.

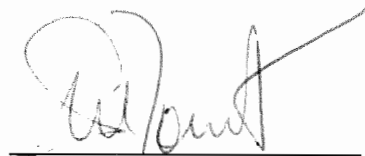
Section 32-91 of the Code authorizes the commencement of interest charges sixty (60) days after the past due date for water and sewer charges on customers bills. The proposed language changes the start date of interest charges from sixty (60) days after the past due date to sixty (60) days after the final bill date for water and sewer charges. An account becomes past due 21 days after it is billed, whereas, the final bill date is the date the account is closed and the final bill is created. An account may be closed for different reasons such as non-payment, at the request of the customer or because there is no application for service at the premise. This revision conforms to MDWASD's current billing system.

Section 32-93 of the Code is being revised to clarify when delinquent water and sewer charges become a special assessment lien. Currently, the language states that delinquent water and sewer charges become eligible for lien sixty (60) days after the past due date on the bill. The proposed language states that a delinquent account is eligible for lien sixty (60) days from the date of the final bill. This revision conforms to MDWASD's current billing system.

Section 32-94 of the Code is being changed to extend the time MDWASD has to record a lien. Currently, the time allotted to record a lien is six (6) months. Liens for water and wastewater service are issued automatically against real property when service is provided with a lien duration of 20 years. MDWASD records special assessment lien notices against real property as a notification of action to the general public that could be researching for a title of a specific property. The proposed change deletes the time period allocated to record a lien in its entirety providing additional time to file and record liens and pursue the collection of delinquent accounts.

Honorable Chairman Bruno A. Barreiro and Members,
Board of County Commissioners
Page 2

Section 32-95 of the Code is being changed to increase the minimum threshold for filing a Notice of Lien from \$50 to \$100. This change was recommended by Audit and Management Services after a cost analysis was conducted which showed it is not cost effective for MDWASD to pursue collection of delinquent accounts less than \$100.

A handwritten signature in black ink, appearing to read "J. Paul", is written over a horizontal line.

Assistant County Manager

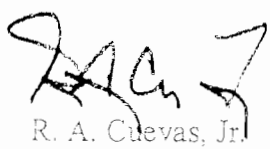


MEMORANDUM

(Revised)

TO: Honorable Chairman Bruno A. Barreiro
and Members, Board of County Commissioners

DATE: February 5, 2008

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 7(J)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Agenda Item No. 7(J)

Veto _____

02-05-08

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING CHAPTER 32 OF THE CODE OF MIAMI-DADE COUNTY RELATING TO THE MIAMI-DADE WATER AND SEWER DEPARTMENT; CHANGING IMPOSITION OF INTEREST CHARGES ON SERVICE BILLS FROM SIXTY DAYS AFTER PAST DUE DATE TO SIXTY DAYS AFTER FINAL BILL; CHANGING IMPOSITION OF AUTOMATIC LIEN FROM SIXTY DAYS AFTER PAST DUE DATE TO SIXTY DAYS AFTER FINAL BILL; DELETING TIME PERIOD FOR FILING NOTICE OF LIEN; RAISING THE MINIMUM LIEN AMOUNT FOR WHICH THE COUNTY MUST FILE A NOTICE OF LIEN FROM \$50 TO \$100, PROVIDING FOR SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Chapter 32 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 32-91. When service charge billings are due; penalties for delinquency.

(a) Water and sewer charges for service rendered by the Miami-Dade Water and Sewer ~~[[Authority]]~~ Department (hereinafter called "Department") shall be billed to customers for such reasonable periods as the County Manager may from time to time establish. If such charges are not fully paid by said customers on or before the past due dates set forth on customers' bills, a ten (10) percent late charge may be added to the water and sewer bill and imposed upon the customer by the Department in accordance with regulations prescribed by the Manager. Unpaid balances of said customers for such charges and late charges shall be subject to an interest charge at the rate of eight (8) percent per annum. Imposition of said interest charge shall commence sixty (60) days after the ~~[[past due]]~~ >>final bill<< date for water and sewer charges ~~[[set forth on the customers' bills]]~~.

* * *

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

Sec. 32-93. Water and sewer charges to constitute a lien.

Except as otherwise provided by this article, all charges, late charges and interest accruing thereupon, for water and sewer service rendered by the Department after the effective date of Ordinance No. 84-10 to any real property which remain unpaid sixty (60) days after the ~~[[past due]]~~ >>final bill<< date ~~[[of the]]~~ >>for<< water and sewer charges shall become a lien against and upon the real property to which such water and sewer service has been furnished to the same extent and character as a lien for a special assessment. Until fully paid and discharged, said charges, late charges, and interest accrued thereupon shall be, remain, and constitute a special assessment lien equal in rank and dignity with the liens of County ad valorem taxes and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved for the period of twenty (20) years from the date said charges become a lien as set forth in this section. Said liens may be enforced and satisfied by the County, on behalf of the Department, pursuant to Chapter 173, Florida Statutes, as it may be amended from time to time, or by any other method permitted by law. The lien provided for herein shall not be deemed to be in lieu of any other legal remedies for payment available to the County and Department, including but not limited to suspension and termination of water service.

Sec. 32-94. Recording of liens.

(a) For water and sewer service charges for service rendered during the period of February 13, 1981, through December 31, 1984, which become more than sixty (60) days past due and unpaid, the Department shall cause to be filed in the office of the Clerk of the Circuit Court of Miami-Dade County, Florida, on or before June 30, 1985, a notice of lien or statement showing a legal description of the property against which the lien is claimed, its location by street and number, the name of the owner, an accurate statement of the water and sewer service charges then unpaid, and a copy of such notice of lien shall be mailed within a reasonable time to the owner of the property involved as shown by the records of the Tax Collector of Metropolitan Miami-Dade County. If the Department fails to file a notice of lien on or before June 30, 1985, for water and sewer service charges becoming more than sixty (60) days past due during said period of February 13, 1981, through December 31, 1984, the lien shall not be enforceable by the County. Thereafter, no lien shall be enforceable by the County unless ~~[[said notice shall be filed within six (6) months of the date the water and sewer service charges become a lien as established in Section 32-93 herein]]~~ >>a notice of lien is filed by the County<<. Liens imposed prior to February 17, 1984, shall not be enforced.

* * *

S

Sec. 32-95. Minimum lien amount.

Notwithstanding other provisions to the contrary herein, the Department shall have the discretion not to file notices of lien for water and sewer service charges, late charges and interest accrued in an amount less than ~~[[fifty dollars (\$50.00)]]~~>>one hundred dollars (\$100.00)<<. However, if the Department elects not to file a notice of lien, said charges and interest accrued shall remain as >>automatic liens as provided in Section 32-93, and as<< debts due and owing the Department in accordance with Section 32-91, herein.

* * *
* * *

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:

Prepared by:

Henry N. Gillman