

Local Finance Notice

LFN 2026-16

October 1, 2026

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Enforcing Unpaid Water and Sewer Charges Billed to Condominium Associations

Many condominium units are billed for water and sewer service through a dedicated meter for each individual unit. However, certain condominium buildings or complexes utilize a single meter, with the condominium association as a whole billed for usage associated with the common area and each individual unit owner.

This Notice reviews the enforcement and collection actions available to local units for enforcing unpaid water and sewerage charges in condominium complexes serviced by a single meter, or for unpaid charges associated with a condominium common element having its own meter (such as a clubhouse). In addition, this Notice recommends measures to address such arrearages prior to undertaking enforcement.

Enforcement Remedies

State law grants local units certain remedies in enforcing delinquent water or sewer charges, the most prominent of which involves the ability to enforce unpaid service charges at tax sale. However, if water or sewer is billed to the condominium association, and service charges are in turn incorporated into association fees, enforcement may be challenging. Below is a survey of the various statutory provisions pertaining to the enforcement of unpaid water and sewer charges by municipalities and local authorities (including water commissions).

Please note that the protections provided to individual residential ratepayers under the Winter Termination Program or Summer Termination Program would not apply to a condominium association.

Sewerage and Utilities Authorities; Water Commissions

The [Sewerage Authorities Law](#) (N.J.S.A. 40:14A-1 et seq.) and [Municipal and County Utilities Authorities Law](#) (N.J.S.A. 40:14B-1 et seq.) establish the respective enforcement powers of sewerage authorities and utilities authorities with respect to unpaid water and/or sewer charges. N.J.S.A. 40:62-108 through 151 pertain to water commissions formed by two or more municipalities. All are collectively referenced as “authorities” in this Notice.

Unpaid service charges accrue interest until the total delinquent amount is fully paid (in the case of sewerage and utilities authorities at a rate of 1.5% per month). For a lien to bind or affect subsequent bona fide purchasers of the property, the authority must file a statement with the tax collector identifying the parcel and showing the amount and due date of the unpaid balance. N.J.S.A. 40:14A-21(b); 40:14B-42(a); 40:62-141. [N.J.A.C. 5:31-3.2](#) requires authorities to treat unpaid service charges as municipal charges and are responsible for certifying, at least once annually, all outstanding delinquencies to the tax collector who, in turn, must enforce delinquent charges certified by the authority and pay over the proceeds to the authority.

Authorities are permitted to restrict or shut off the water or sewerage system, as applicable, until the total delinquent amount is paid in full. N.J.S.A. 40:14A-21(c) and (d); 40:14A-26(e); N.J.S.A. 40:14B-43 and 44; 40A:14B-57; N.J.S.A. 40:62-142. Authorities contemplating shutoffs of entire condominium complexes are strongly encouraged to first consult with local health officials.

With respect to discontinuance of water supply for unpaid sewer service charges, although discretionary for privately-owned water utilities, each county or municipality owning or operating a system of water distribution serving three or more parcels must, upon request by the authority specifying the parcel with an unpaid sewer service charge, stop or restrict the supply of water to the parcel until the total delinquent amount is paid in full or the authority directs otherwise. Counties, municipalities, and other persons will not be held liable for claims. If the supply of water is not promptly stopped or restricted by the county or municipality, the authority providing sewer service may itself discontinue or restrict the supply of water. The authority must pay the reasonable costs related to undertaking the shutoff and may agree to indemnify the county, municipality, and other persons from all related loss or damage. However, the supply of water must be restored or increased if the State Department of Health finds, after a public hearing held upon application of the local board of health or health officer of the municipality where such parcel is situated, that the continued shutoff or restriction of water to the parcel (in this case a condominium building or complex) endangers public health within the municipality. N.J.S.A. 40:14A-21; 40:14A-26; 40:14B-44; 40:14B-57.

A sewerage authority or utilities authority may also enforce and recover unpaid balances through an action filed in Superior Court. N.J.S.A. 40:14A-21(f); 40:14B-46. Rights and remedies granted to sewerage authorities or utilities authorities to enforce and collect service charges are cumulative and concurrent.

Municipalities with Water or Sewer Systems

In addition to enforcement of unpaid service charges at tax sale, the Municipal and County Sewerage Act (N.J.S.A. 40A:26A-1 et seq.) and the County and Municipal Water Supply Act (N.J.S.A. 40A:31-1 et seq.) authorize municipalities with water and/or sewer systems to retain the right to discontinue service to any property for failure to pay any amount owed within 30 days after the due date, provided written notice, which must include the reasoning, is given to the owner at least 10 days before the discontinuation. If the notice is provided by mail, notice is satisfied if the mailing is made to the owner's last known address and is postmarked at least 10 days before the

date of discontinuation. Civil remedies may also be available in Superior Court; please consult your attorney.

Lien Enforcement Against Individual Unit Owners

N.J.S.A. 46:8B-19 of the Condominium Act states that municipal charges must be enforced against individual units rather than upon an entire condominium complex. In its entirety, the statute says:

All property taxes, special assessments and other charges imposed by any taxing authority shall be separately assessed against and collected on each unit as a single parcel, and not on the condominium property as a whole. Such taxes, assessments and charges shall constitute a lien only upon the unit and upon no other portion of the condominium property. All laws authorizing exemptions from taxation or deductions from tax bills shall be applicable to each individual unit to the same extent they are applicable to other separate property.

[Mo Geo LLC v. City of New Brunswick](#), an unpublished New Jersey Superior Court Appellate Division case, held that unpaid sewer service charges are considered “other charges” pursuant to N.J.S.A. 46:8B-19 and should be “allocated to the respective unit owners rather than asserted in an aggregate amount against the Association.” In *Mo Geo LLC*, the Appellate Division affirmed that the purchased tax sale certificates at issue were invalid due to the municipality enforcing water and sewer charges attributable to the condominium’s common elements against the homeowners’ association instead of against each individual condominium unit within the complex. Please note that, as an unpublished opinion, the above-referenced *Mo Geo LLC* case does not serve as binding precedent.

Municipalities or authorities that are considering dividing a delinquent water or sewer charge billed to the condominium association amongst individual unit owners, with each unit responsible for its proportionate share of the lien, are strongly advised to consult legal counsel before proceeding. If the delinquency amount is *de minimis* when divided among each condominium unit, the practicality of individual lien enforcement should also be considered.

Municipalities seeking to collect delinquent water or sewer charges from a delinquent condominium association without taking individual units to tax sale should first consider entering into an installment agreement with the association pursuant to N.J.S.A. 54:5-19. Installment payments must be large enough to ensure full payment within a maximum of five years; delinquent payments—more than thirty (30) days after installments are due—will void the installment agreement and enable the delinquency to be brought to tax sale.

If a municipality or authority seeks to move forward with enforcing a condominium association delinquency against individual unit owners, the Division strongly recommends providing additional notice to the association and the individual condominium unit owners as follows:

1. The municipality or authority should send a letter by certified mail and regular mail to the condominium association’s board and management company stating that the municipality/authority will hold individual homeowners responsible for their proportional share of the arrearage if the delinquency (including any interest and penalties) is not satisfied in full.

2. If the delinquency remains outstanding, the municipality or the authority should provide written notice via regular mail to each individual unit owner of the fact that their association has a delinquency, the total amount of the delinquency, the proportionate share due from each unit owner, and the date by which the unit owner must satisfy their proportionate share.
3. For those unit owners who do not pay their proportionate share of the association's delinquency and are placed on tax sale, the tax collector should perform the two individual mailings permitted in lieu of any two notice publications under N.J.S.A. 54:2-26.

The above-referenced notification procedure is meant to ensure the association and all unit owners are aware of the intent to enforce the delinquency against individual condominium units.

For single-meter condominium buildings, a municipality or authority may want to consider billing individual units owners as if those units were serviced by their own meters. In Luv Condominium Association v. Borough of Stanhope, the Appellate Division rejected a challenge by associations of two single-meter condominium complexes of the Borough's amended sewer ordinance that, among other revisions, changed the method of billing from a single bill issued to the association to billing each unit owner as if their unit had a separate water meter, finding that the amended ordinance was not arbitrary, capricious, or discriminatory. 192 N.J. Super. 159, 167 (App. Div. 1983). A municipality or authority contemplating amending their billing framework in this fashion should first consult legal counsel.

Approved: Michael F. Rogers, Director

Document	Internet Address
Sewerage Authorities Law	https://www.nj.gov/dca/dlgs/programs/au_docs/Statutes/Sewerage%20Authority%20Law%20(as%20of%205-7-2026).PDF
MUA Law	https://www.nj.gov/dca/dlgs/programs/au_docs/Statutes/Municipal%20and%20Counties%20Utilities%20Authorities%20Law%20(as%20of%205-7-2026).PDF
N.J.A.C. 5:31-3	https://www.nj.gov/dca/dlgs/resources/rules_docs/5_31/531_3.pdf
Condominium Act	https://www.nj.gov/dca/codes/codreg/pdf_regs/46_8B.pdf
Mo Geo LLC v. New Brunswick	https://www.njcourts.gov/system/files/court-opinions/2023/a2019-21.pdf