

P.L. 2020, CHAPTER 39, *approved June 19, 2020*

Assembly, No. 4126 (*First Reprint*)

1 AN ACT concerning interest and lien enforcement of certain utility  
2 payments during emergencies <sup>1</sup>~~and~~ <sup>1</sup> amending various parts  
3 of the statutory law <sup>1</sup>, and supplementing chapter 62 of Title 40  
4 of the Revised Statutes<sup>1</sup>

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. Section 21 of P.L.1946, c.138 (C.40:14A-21) is amended to  
10 read as follows:

11 21. (a) In the event that a service charge of any sewerage  
12 authority with regard to any parcel of real property shall not be  
13 paid as and when due, interest shall accrue and be due to the  
14 sewerage authority on the unpaid balance at the rate of 1 1/2 %  
15 per month until such service charge, and the interest thereon, shall  
16 be fully paid to the sewerage authority.

17 (b) In the event that a service charge of any sewerage authority  
18 with regard to any parcel of real property owned by any person  
19 other than the State or an agency or subdivision thereof shall not be  
20 paid as and when due, the unpaid balance thereof and all interest  
21 accruing thereon shall be a lien on such parcel. Such lien shall be  
22 superior and paramount to the interest in such parcel of any owner,  
23 lessee, tenant, mortgagee or other person except the lien of  
24 municipal taxes and shall be on a parity with and deemed equal to  
25 the lien on such parcel of the municipality where such parcel is  
26 situate for taxes thereon due in the same year and not paid when  
27 due. Such lien shall not bind or affect a subsequent bona fide  
28 purchaser of such parcel for a valuable consideration without actual  
29 notice of such lien, unless the sewerage authority shall have filed in  
30 the office of the collector or other officer of said municipality  
31 charged with the duty of enforcing municipal liens on real property  
32 a statement showing the amount and due date of such unpaid  
33 balance and identifying such parcel, which identification may be  
34 sufficiently made by reference to the assessment map of said  
35 municipality. The information shown in such statement shall be  
36 included in any certificate with respect to said parcel thereafter  
37 made by the official of said municipality vested with the power to  
38 make official certificates of searches for municipal liens. Whenever  
39 such service charge and any subsequent service charge with regard  
40 to such parcel and all interest accrued thereon shall have been fully

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted May 11, 2020.

1 paid to the sewerage authority, such statement shall be promptly  
2 withdrawn or cancelled by the sewerage authority.

3 (c) In the event that a service charge of any sewerage authority  
4 with regard to any parcel of real property shall not be paid as and  
5 when due, the sewerage authority may, in its discretion, enter upon  
6 such parcel and cause the connection thereof leading directly or  
7 indirectly to the sewerage system to be cut and shut off until such  
8 service charge and any subsequent service charge with regard to  
9 such parcel and all interest accrued thereon shall be fully paid to  
10 the sewerage authority.

11 (d) In the event that a service charge of any sewerage authority  
12 with regard to any parcel of real property shall not be paid as and  
13 when due, the sewerage authority may, in accordance with section  
14 twenty-six of this act, cause the supply of water to such parcel to  
15 be stopped or restricted until such service charge and any  
16 subsequent service charge with regard to such parcel and all  
17 interest accrued thereon shall be fully paid to the sewerage  
18 authority. If for any any reason such supply of water shall not be  
19 promptly stopped or restricted as required by section twenty-six of  
20 this act, the sewerage authority may itself shut off or restrict such  
21 supply and, for that purpose, may enter on any lands, waters or  
22 premises of any county, municipality or other person. The supply  
23 of water to such parcel shall, notwithstanding the provisions of this  
24 subsection, be restored or increased if the State Department of  
25 Health, upon application of the local board of health or health  
26 officer of the municipality where such parcel is situate, shall after  
27 public hearing find and shall certify to the sewerage authority that  
28 the continuance of such stopping or restriction of the supply of  
29 water endangers the health of the public in such municipality.

30 (e) The collector or other officer of every municipality charged  
31 by law with the duty of enforcing municipal liens on real property  
32 shall enforce, with and as any other municipal lien on real property  
33 in such municipality, all service charges and the lien thereof shown  
34 in any statement filed with him by any sewerage authority pursuant  
35 to subsection (b) of this section, and shall pay over to the sewerage  
36 authority the sums or a pro rata share of the sums realized upon  
37 such enforcement or upon liquidation of any property acquired by  
38 the municipality by virtue of such enforcement.

39 (f) In the event that any service charge of a sewerage authority  
40 shall not be paid as and when due, the unpaid balance thereof and  
41 all interest accrued thereon, together with attorney's fees and costs,  
42 may be recovered by the sewerage authority in a civil action, and  
43 any lien on real property for such service charge and interest  
44 accrued thereon may be foreclosed or otherwise enforced by the  
45 sewerage authority by action or suit in equity as for the foreclosure  
46 of a mortgage on such real property.

1 (g) All rights and remedies granted by this act for the collection  
2 and enforcement of service charges shall be cumulative and  
3 concurrent.

4 (h) Notwithstanding the provisions of this section, if the  
5 Governor has declared a public health emergency pursuant to the  
6 “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1 et  
7 seq.), or a state of emergency, pursuant to P.L.1942, c.251  
8 (C.App.A.9-33 et seq.), or both, in response to a flood, hurricane,  
9 superstorm, tornado, natural or other disaster, or public health  
10 emergency, then, for the duration of the public health emergency,  
11 state of emergency, or both and for a period up to 90 days after the  
12 public health emergency, state of emergency, or both, are no longer  
13 in effect, the sewerage authority may, in its discretion, engage in  
14 any combination of the following: (1) not charge interest on the  
15 delinquent payment; (2) not place a lien on such parcel of real  
16 property for the unpaid balance for any service charge and all  
17 interest accruing thereon; or (3) not discontinue service of any  
18 property for the failure to pay any amount owing. A sewerage  
19 authority shall exercise the discretionary authority it is provided  
20 under this subsection consistently to all properties, or to all  
21 properties of the same use type or other appropriate category.

22 (cf: P.L.1981, c.530, s.1)

23  
24 2. Section 41 of P.L.1957, c.183 (C.40:14B-41) is amended to  
25 read as follows:

26 41. a. In the event that a service charge of any municipal  
27 authority with regard to any parcel of real property shall not be paid  
28 as and when due, interest shall accrue and be due to the municipal  
29 authority on the unpaid balance at the rate of 1 1/2 **【%】** percent  
30 per month until such service charge, and the interest thereon, shall  
31 be fully paid to the municipal authority.

32 b. Notwithstanding the provisions of subsection a. of this  
33 section regarding delinquent payments, if the Governor has declared  
34 a public health emergency pursuant to the “Emergency Health  
35 Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.), or a state of  
36 emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or  
37 both, in response to a flood, hurricane, superstorm, tornado, natural  
38 or other disaster, or public health emergency that the municipal  
39 authority has experienced, then, for the duration of the public health  
40 emergency, state of emergency, or both and for a period up to 90  
41 days after the public health emergency, state of emergency, or both,  
42 are no longer in effect, the municipal authority may, in its  
43 discretion, refrain from charging interest on the delinquent  
44 payment. A municipal authority shall exercise the discretionary  
45 authority it is provided under this subsection consistently to all  
46 properties, or to all properties of the same use type or other  
47 appropriate category.

48 (cf: P.L.1981, c.530, s.2)

1       3. Section 42 of P.L.1957, c.183, (C.40:14B-42) is amended to  
2 read as follows:

3       42. a. In the event that a service charge of any municipal  
4 authority with regard to any parcel of real property owned by any  
5 person other than the State or an agency or subdivision thereof shall  
6 not be paid as and when due, the unpaid balance thereof and all  
7 interest accruing thereon shall be a lien on such parcel. Such lien  
8 shall be superior and paramount to the interest in such parcel of any  
9 owner, lessee, tenant, mortgagee or other person except the lien of  
10 municipal taxes and shall be on a parity with and deemed equal to  
11 the lien on such parcel of the municipality where such parcel is  
12 situate for taxes thereon due in the same year and not paid when  
13 due. Such lien shall not bind or affect a subsequent bona fide  
14 purchaser of such parcel for a valuable consideration without actual  
15 notice of such lien, unless the municipal authority shall have filed  
16 in the office of the collector or other officer of said municipality  
17 charged with the duty of enforcing municipal liens on real property  
18 a statement showing the amount and due date of such unpaid  
19 balance and identifying such parcel, which identification may be  
20 sufficiently made by reference to the assessment map of said  
21 municipality. The information shown in such statement shall be  
22 included in any certificate with respect to said parcel thereafter  
23 made by the official of said municipality vested with the power to  
24 make official certificates of searches for municipal liens. Whenever  
25 such service charge and any subsequent service charge with regard  
26 to such parcel and all interest accrued thereon shall have been fully  
27 paid to the municipal authority, such statement shall be promptly  
28 withdrawn or canceled by the municipal authority.

29       b. Notwithstanding the provisions of subsection a. of this  
30 section regarding delinquent payments, if the Governor has declared  
31 a public health emergency pursuant to the "Emergency Health  
32 Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), or a state of  
33 emergency, pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or  
34 both, in response to a flood, hurricane, superstorm, tornado, natural  
35 or other disaster, or public health emergency that the municipal  
36 authority has experienced, then, for the duration of the public health  
37 emergency, state of emergency, or both and for a period up to 90  
38 days after the public health emergency, state of emergency, or both,  
39 are no longer in effect, the municipal authority may, in its  
40 discretion, refrain from placing a lien on such parcel of real  
41 property for the unpaid balance for any service charge and all  
42 interest accruing thereon. A municipal authority shall exercise the  
43 discretionary authority it is provided under this subsection  
44 consistently to all properties, or to all properties of the same use  
45 type or other appropriate category.  
46 (cf: P.L.1957, c.183, s.42)

47

48       4. N.J.S.40A:26A-12 is amended to read as follows:

1       40A:26A-12. a. Rates, rentals, connection fees or other charges  
2 levied in accordance with N.J.S.40A:26A-10 and 40A:26A-11, shall  
3 be a first lien or charge against the property benefited therefrom. If  
4 any part of the amount due and payable in rates, rentals, connection  
5 fees or other charges remain unpaid for 30 days following the date  
6 for the payment thereof, interest upon the amount unpaid shall  
7 accrue at a rate of interest to be determined in accordance with  
8 N.J.S.40A:26A-17. The governing body or bodies of the local unit  
9 or units may authorize payment of delinquent assessments on an  
10 installment basis in accordance with R.S.54:5-19. Liens levied in  
11 accordance with this section shall be enforceable in the manner  
12 provided for real property tax liens in chapter 5 of Title 54 of the  
13 Revised Statutes.

14       b. Nothing in this section shall be construed to limit the right of  
15 a local unit or local units to discontinue service of any property for  
16 the failure to pay any amount owing within 30 days after the date  
17 the amount is due and payable, if written notice of the proposed  
18 discontinuance of service and of the reasons therefor has been  
19 given, within at least 10 days prior to the date of discontinuance, to  
20 the owner of record of the property. In the event that notice is  
21 provided by mail, the notice requirements shall be satisfied if the  
22 mailing is made to the last known address of the owner of record  
23 and is postmarked at least 10 days prior to the date of  
24 discontinuance.

25       c. Notwithstanding the provisions of subsections a. and b. of  
26 this section, if the Governor has declared a public health emergency  
27 pursuant to the "Emergency Health Powers Act," P.L.2005, c.222  
28 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942,  
29 c.251 (C.App.A.9-33 et seq.), or both, in response to a flood,  
30 hurricane, superstorm, tornado, natural or other disaster, or public  
31 health emergency, then, for the duration of the public health  
32 emergency, state of emergency, or both and for a period up to 90  
33 days after the public health emergency, state of emergency, or both,  
34 are no longer in effect, the governing body or bodies of the local  
35 unit or units may, in its discretion, engage in any combination of the  
36 following: (1) not charge interest on the delinquent payment; (2) not  
37 place a lien on such parcel of real property for the unpaid balance  
38 for any service charge and all interest accruing thereon; or (3) not  
39 discontinue service of any property for the failure to pay any  
40 amount owing. The governing body shall exercise the discretionary  
41 authority it is provided under this subsection consistently to all  
42 properties, or to all properties of the same use type or other  
43 appropriate category.

44 (cf: N.J.S.40A:26A-12)

45

46       5. N.J.S.40A:31-12 is amended to read as follows:

47       40A:31-12. a. Rates, rentals, connection fees or other charges  
48 levied in accordance with N.J.S.40A:31-10 and 40A:31-11, shall be

1 a first lien or charge against the property benefited therefrom. If  
2 any part of the amount due and payable in rates, rentals, connection  
3 fees or other charges remains unpaid for 30 days following the date  
4 for the payment thereof, interest upon the amount unpaid shall  
5 accrue at a rate of interest to be determined in accordance with  
6 N.J.S.40A:31-17. The governing body or bodies of the local unit or  
7 units may authorize payment of delinquent assessments on an  
8 installment basis in accordance with R.S.54:5-19. Liens levied in  
9 accordance with this section shall be enforceable in the manner  
10 provided for real property tax liens in chapter 5 of Title 54 of the  
11 Revised Statutes.

12 b. Nothing in this section shall be construed to limit the right of  
13 a local unit or local units to discontinue service to any property for  
14 the failure to pay any amount owing within 30 days after the date  
15 the amount is due and payable, if written notice of the proposed  
16 discontinuance of service and of the reasons therefor has been  
17 given, within at least 10 days prior to the date of discontinuance, to  
18 the owner of record of the property. In the event that notice is  
19 provided by mail, the notice requirements shall be satisfied if the  
20 mailing is made to the last known address of the owner of record  
21 and is postmarked at least 10 days prior to the date of  
22 discontinuance.

23 c. Notwithstanding the provisions of subsections a. and b. of  
24 this section, if the Governor has declared a public health emergency  
25 pursuant to the "Emergency Health Powers Act," P.L.2005, c.222  
26 (C.26:13-1 et seq.), or a state of emergency, pursuant to P.L.1942,  
27 c.251 (C.App.A.9-33 et seq.), or both, in response to a flood,  
28 hurricane, superstorm, tornado, natural or other disaster, or public  
29 health emergency, then, for the duration of the public health  
30 emergency, state of emergency, or both and for a period up to 90  
31 days after the public health emergency, state of emergency, or both,  
32 are no longer in effect, the governing body or bodies of the local  
33 unit or units may, in its discretion, engage in any combination of the  
34 following: (1) not charge interest on the delinquent payment; (2) not  
35 place a lien on such parcel of real property for the unpaid balance  
36 for any service charge and all interest accruing thereon; or (3) not  
37 discontinue service of any property for the failure to pay any  
38 amount owing. The governing body shall exercise the discretionary  
39 authority it is provided under this subsection consistently to all  
40 properties, or to all properties of the same use type or other  
41 appropriate category.

42 (cf: N.J.S.40A:31-12)

43  
44 <sup>16</sup>. (New section) Notwithstanding the provisions of any law to  
45 the contrary, if the Governor has declared a public health  
46 emergency pursuant to the "Emergency Health Powers Act,"  
47 P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency,  
48 pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, in

1 response to a flood, hurricane, superstorm, tornado, natural or other  
2 disaster, or public health emergency, then, for the duration of the  
3 public health emergency, state of emergency, or both, and for a  
4 period up to 90 days after the public health emergency, state of  
5 emergency, or both, are no longer in effect, any municipality that  
6 owns and operates its water and sewer systems as one utility or that  
7 furnishes a supply of water or sewerage service, or both, to the  
8 inhabitants of another municipality, may, in its discretion, engage in  
9 any combination of the following: (1) not charge interest on the  
10 delinquent payment; (2) not place a lien on such parcel of real  
11 property for the unpaid balance for any service charge and all  
12 interest accruing thereon; or (3) not discontinue service of any  
13 property for the failure to pay any amount owing. A sewerage  
14 authority shall exercise the discretionary authority it is provided  
15 under this subsection consistently to all properties, or to all  
16 properties of the same use type or other appropriate category.<sup>1</sup>

17  
18 <sup>1</sup>**[6.] 7.**<sup>1</sup> This act shall take effect immediately and shall apply  
19 retroactively to March 9, 2020.

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23

24 Permits local units and authorities to waive interest and lien  
25 enforcement for certain delinquent water and sewer utility payments  
26 during emergency circumstances.