


Policy Title:		Foreclosures	
	OFFICE OF THE CHIEF FINANCIAL OFFICER	Category	Billing - Foreclosures
		Policy #	
		Revision #	
		Review Frequency	As Needed – no less frequently than triennially
Division	Finance; Billing	Reviewed By	
Approval		Last Reviewed/Update Date	01/18/2019
Implementation Date		Policy Owner	Deputy CFO; General Counsel

## 1. AUTHORITY

- 1.1. Under Michigan Act 178 of 1939, *Municipal Water Liens* (MCL 123.161, *et seq.*) “the Water Lien Act”) and Chapter 56, *Utilities*, of the Detroit City Code (“City Code”), Detroit Water and Sewerage (“DWSD”) provides water and sewerage service to customers and under certain conditions, has a lien that becomes effective immediately upon the distribution of water or provision of water and sewerage system service on the premises or property supplied. Under Michigan Act 206 of 1893, *The General Property Tax Act* (MCL 211.1, *et seq.*) (“the Property Tax Act”), DWSD may enforce its lien by transferring the same to the City’s tax roll or pursue foreclosure.
- 1.2. Pursuant to MCL 123.165, DWSD may not place a lien upon a property for nonpayment of water and sewerage bills for which the tenant is responsible where the land owner has executed a lease with the tenant containing a provision that the lessor shall not be liable for payment of water and sewerage bills and has filed an affidavit with respect to the execution of such lease with DWSD. DWSD may not place a lien upon property if tenant has opened a water and sewerage service account in tenant's name.
- 1.3. Under the General Property Tax Act, MCL 211.1, *et seq.* a judgment of tax foreclosure extinguishes all liens and interests related to unpaid utility service charges against the property (MCL 211.78k). A municipality may seek to recover such charges by including the delinquent charges in the cost of the property at the time it is offered for sale under the General Property Tax Act, or by instituting other lawful action against the former property owner. This provision does not apply in instances where the tenant is responsible for payment.

### Key Foreclosure Deadlines.

- 1.3.1.1. Judgments of foreclosure are effective on March 31<sup>st</sup> of each year, at which point the title to the property transfers to the Wayne County Treasurer for potential transfer to a new owner at auction, the Detroit Land Bank Authority or other governmental department/agency.
- 1.3.1.2. Water and sewerage charge liens are canceled as of the December 31<sup>st</sup> immediately succeeding the sale or transfer of the Property or Wayne County Treasurer’s retention of foreclosed property.

## **2. OBJECTIVES**

- 2.1. To ensure accuracy in account records so that the Detroit Water and Sewerage Department (DWSD) enforces debt collection against the correct responsible party.
- 2.2. To ensure compliance with state law regarding collection of delinquent debt owed to DWSD when a judgment of foreclosure is entered against a property.

## **3. PURPOSE**

- 3.1. DWSD has a legal and contractual duty, and a responsibility to its customers, to collect charges for water and sewerage services rendered in order to keep rates fair and affordable for all and to ensure there are sufficient revenues to maintain, repair and replace water and sewer infrastructure.
- 3.2. Foreclosure actions present unique challenges for the Finance and Customer Service Divisions, especially considering the substantial number of rental properties in Detroit. This policy will instruct employees how to properly document accounts in our billing system and from whom we may collect debt.

## **4. DEFINITIONS**

“Customer” means an Owner, Landlord or Tenant that establishes an account for DWSD services and is responsible for payment of DWSD services.

“Debt” in this particular policy means unpaid balance for water, sewerage, and/or drainage charges incurred by the customer.

“enQuesta” is the computer information system (CIS) software technology utilized by DWSD for customer billing, field meter services work management, and other customer service related functions.

“Foreclosure” refers to the legal process by which the owner forfeits all rights to the property, which, for purposes of this particular policy, relate directly to failure to timely pay property taxes.

“Landlord” means an Owner that enters into an agreement to rent a specific property to a Tenant or any third party property managers or representatives to whom Owner has delegated the authority to enter into agreements on Owner's behalf with others.

"Owner" means the person that holds legal title to a property.

"Person" means an individual, business, partnership or corporate entity, or a governmental agency.

“Premise” refers to the physical building or residential structure where water, sewerage, and/or drainage services are provided

"Property" means a parcel or group of parcels treated as one unit for purposes of obtaining water, sewerage and/or drainage services.

“Tenant” means individual(s) that enters into an agreement to rent a specific property from a Landlord

## **5. SCOPE**

- 5.1. This policy applies to all matters concerning property foreclosures and DWSD’s ability to collect outstanding balances for water, sewerage, and/or drainage charges.

- 5.2. Employees should refer to the Establishing New Service Policy regarding transferring service into another person's name in the event of foreclosure.
- 5.3. Employees should refer to the Final Real Estate Closing Bill for Property Transfers Policy regarding collection of debt at time of property sales.
6. **RESPONSIBILITIES (NOTE: This Policy is based upon the Legal Authority cited above and not the discretion of DWSD Management. As such, the Responsibilities section prescribes certain employee actions.)**
  - 6.1. **Collections Division and Customer Service Division; Debt Collection.** The Collections Division and Customer Service Division may collect debt from:
    - 6.1.1. Tenant Customers responsible for payment of pre- and/or post-foreclosure debt on a Property;
    - 6.1.2. Customer Owners responsible for payment of pre- and post-foreclosure debt on Property. (**NOTE:** Customers who are Property Owners are personally responsible for payment of debt regardless of foreclosure.)
  - 6.2. **Customer Service Division; Establishing New Service for Customers.** The Customer Service Division:
    - 6.2.1. Allows a post-foreclosure Tenant or post-foreclosure Owner to initiate new service in their name (See Establishing New Service Policy); and
    - 6.2.2. Does not attempt to collect from a post-foreclosure Tenant or post-foreclosure Owner debt owed on a Property if that post-foreclosure Tenant or post-foreclosure Owner was not the Customer responsible for payment of pre-foreclosure DWSD services at the Property.
  - 6.3 **Finance Department – Real Estate Closings Division.** For foreclosed properties, the Real Estate Closing Division issues a Final Real Estate Closing Bill ***only for debt incurred as of January 1<sup>st</sup> the year after year of foreclosure owed by a Customer who is a Property Owner and not a Tenant.*** (See also, Final Real Estate Closing Bill for Property Transfers Policy.)
  - 6.4 **Office of General Counsel.** The Office of General Counsel, in consultation with the Chief Financial Officer and Collections Division Manager, may initiate legal action against a Customer to collect pre- and post-foreclosure debt. (See also, Resident and Non-Residential Collections Policy.)

## 7. POLICY

- 7.1. **Billing Division.** The Billing Division will indicate foreclosed properties in enQuesta so the Collections, Real Estate Closings and Customer Service Divisions and Office of General Counsel fulfill their respective Responsibilities set forth in Paragraph 6 of this Policy.
- 7.2. **Subsequent Owners of Foreclosed Property; Actions When Tenant Responsible for Payment of DWSD Services.**
  - 7.2.1. After auction of foreclosed property pursuant to the General Property Tax Act, it is the new Owner's responsibility to initiate DWSD services in Owner's name or, if a Tenant is responsible for payment of DWSD services, to ensure DWSD has a copy

of the Lease Agreement or an Affidavit of Lessee Responsibility and Tenant is the registered Customer.

7.2.2. Subsequent Owners of foreclosed property who fail to notify DWSD that a Tenant is the Customer responsible for payment may be held liable for payment of DWSD services.

7.2.3. If City of Detroit or Land Bank Authority allows a Tenant to reside on Property and become responsible for payment of DWSD services, DWSD requires Tenant to follow Establishing New Service Policy.

### **7.3. Reasonable and Necessary Accommodations**

7.3.1. Management may take reasonable and necessary actions to accomplish the intent of this policy.

## **8. PROCEDURE**

### **8.1. Billing Division.**

8.1.1. As soon after April 1<sup>st</sup> of each year as is practicable, obtain from Wayne County Treasurer's Office a data file of all foreclosures in the City of Detroit.

8.1.2. Initiate a "foreclosure pop-up notice" in enQuesta for each address on the Wayne County Treasurer List.

### **8.2. Customer Service Division and Collections Division.**

8.2.1. When employees review a particular account and a "foreclosure pop-up notice" occurs, employees shall refer and adhere to their Responsibilities in Paragraph 6 of this Policy.

### **8.3. Finance Department – Real Estate Closings Division.**

8.3.1. The Real Estate Closings Division will adhere to Paragraph 8.2 of the Real Estate Closing Bill for Property Transfers Policy.

8.3.2. When employees review a particular account and a "foreclosure pop-up notice" occurs, the Real Estate Closings Division will verify the **year** Property was foreclosed. The Final Real Estate Closing Bill will not include debt owed prior to December 31<sup>st</sup> of the year of foreclosure, but will include debt owed as of January 1<sup>st</sup> the year after the year of foreclosure if a post-foreclosure Owner (not Tenant) Customer was responsible for payment of DWSD services.