

**SECTION 20. DELINQUENT ACCOUNTS; ACTIONS AT LAW**

To secure monies due and payable to the Authority from the customer whose account is delinquent because of the nonpayment of a utility bill(s) totaling more than \$250.00, the General Manager and Attorney shall perform as required the following tasks:

A. Lien for charges.

1. Real estate. Charges for utility services shall be lien upon the premises as provided by the Code of Virginia (1950, as amended). Two (2) weeks after the date that utility service is terminated, as provided in Sections 15 and 16 above, the General Manager shall file with the Clerk of the Circuit Court of James City County a "Statement of Lien." This statement shall contain the following:

- (a) Legal description of the premises served.
- (b) Amount of the unpaid bill.
- (c) Notice that the Authority claims a lien for the amount of the unpaid bill and for all charges for utility service subsequent to the period covered by such bill.
- (d) Petition the Clerk to record the lien in the judgment lien book.

Such lien, when properly entered, shall be enforced by the Authority Attorney as described in Section 20 (B) below.

Normally, such statements shall be batched monthly by the General Manager and filed with the Clerk.

2. Personal property. Two (2) days after the date that utility service is terminated, as provided in Sections 15 and 16 above, the General Manager shall file with the Authority Attorney a "Statement of Delinquent Account" when such account is one hundred dollars (\$100) or more in arrears. This statement shall contain the following:

- (a) Name and last known address of the customer.
- (b) Amount of the unpaid bill, the amount(s) classified according to utility service(s) furnished.
- (c) Time period covered by the unpaid bill.
- (d) Date complete payment was due and payable.

- (e) A copy of the "Application for Service and Contract."
- (f) Petition to the Authority Attorney to motion for a judgment for money in the James City County General District Court (James City County Circuit Court when the sum of unpaid bill exceeds \$7,000).

The Authority Attorney shall immediately motion for judgment for money in the proper court of James City County. When judgment for money is rendered against the customer and the customer defaults in the payment thereof, the Authority Attorney shall immediately request the ruling court for a writ of fieri facias and he shall docket same in all jurisdictions in which the customer is known to own or have interest in real or personal property, or both, thereby creating a lien upon such property.

B. Enforcement of lien.

1. Writ of fieri facias. When a writ of fieri facias has been issued, the Authority Attorney shall petition the James City County court having jurisdiction to issue to the customer a summons to answer interrogatories to ascertain the personal estate (goods and chattels) and the real estate in and out of the Commonwealth, on which the writ is lien.
2. Interrogatories. Upon the issuance and service of such summons to the customer to answer interrogatories, the Authority Attorney shall secure from the customer sufficient information about ownership and interest in real and personal estate to determine the appropriate action to satisfy the judgment for money.
3. Garnishment; levy; creditor's suit. The Authority Attorney, on facts learned during the interrogatories, shall initiate at his election the following actions:
  - (a) Garnishment. A petition to the Clerk of the James City County General District Court to issue a summons to one or more garnishees (a third party, e.g., an employer, who is indebted to the customer) to enforce the lien created by the writ. Payment(s) rendered to the Authority by the garnishee shall be applied in satisfaction of the judgment for money.
  - (b) Levy. A petition to the Sheriff of James City County to levy on the personal property (e.g., savings account, checking account, notes, securities, automobiles) of the customer. The Authority Attorney shall request the Sheriff to levy on certain personal estate (goods and chattels) at a certain location(s). The Sheriff seizes and then sells the goods and chattels of the customer and returns to the Authority the proceeds therefrom to satisfy the judgment for money. At the request of the Sheriff, the Authority Attorney shall cause the procurement of a bond to indemnify the Sheriff in such seizure and sale.

- (c) Creditor's suit; sale of land. When the judgment for money cannot be satisfied by the personal estate of the customer, the Authority Attorney institutes a suit in equity to have the real estate, if any, of the customer sold; provided, however, such suit shall not be instituted until the sum of the unpaid bill amounts to at least five hundred dollars (\$500), or the sum of the unpaid bill amounts to at least two hundred fifty dollars (\$250) and a period of three years has elapsed from date of termination of service reflected on the notice of termination of service.
  - (d) Enforcement priority; customer-tenant. The Authority Attorney, without delay, shall (1) obtain judgment for money against a customer-tenant who is delinquent in the payment of a utility bill and (2) cause the clerk of court to issue a writ of fieri facias upon the property of such customer-tenant. The Authority Attorney shall make a reasonable effort to satisfy the judgment from the personal and real estate of the customer-tenant before instituting action at law to satisfy the judgment against the owner of the real estate the use of which by the customer-tenant gave cause for the judgment for money.
  - (e) Suspension of action. The Authority Attorney, at his discretion, and after conferring with the James City County Director of Social Services, may suspend action to motion for judgment for money, or to initiate a creditor's suit, when a customer is the recipient of either unemployment compensation, or workmen's compensation, or a participant in a social services program.
- C. Tenant Delinquent Accounts Less Than \$250.00. For bills totaling less than \$250.00, the JCSA will obtain judgment against a tenant before placing a lien on the landlord's property.

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