



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

Consent
April 6, 2010

**Honorable Members of the
Law and Legislation Committee**

Subject: Legislative position: Support SB 1276 (Cox) Related to Public Utility Liens

Location/Council District: Citywide

Recommendation: Adopt a support SB 1276 (Cox) related to Public Utility Liens.

Contact: Michelle Heppner, Special Projects Manager, 808-1226

Presenters: N/A

Department: City Manager's Office

Division: Government Affairs

Organization No: 09200

Description/Analysis

Issue: Due to the economic down turn in recent years, Sacramento has experienced one of the highest foreclosure rates nationwide. With these high foreclosure rates, the City has seen significant reductions in utility revenues due to customers defaulting on mortgage loans.

In an attempt to collect outstanding revenues from customers who have defaulted on their utility bills, existing law allows the Utilities Department to file a Judgment Lien against the real property owner who incurred the charges. However, should the property be under a mortgage, most lenders have a Trustee's Deed on the property. As a repayment guarantee, the lender or mortgagee may file a Trustee's Deed upon entering into a mortgage loan with the property owner. Should the property owner default on the mortgage loan, and the Trustee's Deed pre-dates the City's Judgment Lien, the Trustee's Deed takes precedence over the City's Judgment Lien and the City is required to release its lien and forfeit any outstanding balances.

Senate Bill 1276 will circumvent the lenders precedence and require the lenders to satisfy any existing judgment liens filed by the City prior to the sale of the real property. This would ensure revenue recovery albeit it might be at a future date.

Environmental Considerations: None

Rationale for Recommendation: Due to the economic down turn in recent years, Sacramento has experienced one of the highest foreclosure rates nationwide. With these high foreclosure rates, the City has seen significant reductions in utility revenues due to customers defaulting on mortgage loans and the lenders trustee deeds taking precedence over City judgment liens which result in the City forfeiting any unpaid utility balances.

Financial Considerations: None

Emerging Small Business Development (ESBD): None

Respectfully Submitted by: _____



Michelle Heppner
Special Projects Manager

Recommendation Approved:

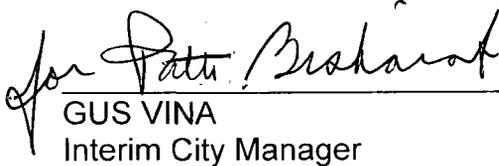

GUS VINA
Interim City Manager

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SENATE BILL

No. 1276

Introduced by Senator Cox

February 19, 2010

An act to add Section 697.335 to the Code of Civil Procedure, relating to liens.

LEGISLATIVE COUNSEL'S DIGEST

SB 1276, as introduced, Cox. Public utility liens.

Existing law allows a public utility to obtain a judgment lien on real property for unpaid utility charges. Existing law requires the judgment lien to be filed against the real property owner who incurred the charges. Unless the money judgment is satisfied or the lien is released, a judgment lien continues with the property for 10 years. Existing law also provides that a lien for charges for water, sanitation, storm drainage, or sewerage systems services and facilities, of certain municipal utility entities, shall have the force, effect, and priority of a judgment lien when a certificate specifying the amount of unpaid charges is recorded with the county recorder.

This bill would require the trustee or mortgagee of a defaulted deed of trust mortgage on real property to satisfy any existing judgment liens, as provided, filed by a public utility of any city, county, or city and county against the judgment debtor prior to sale of the real property.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 697.335 is added to the Code of Civil
- 2 Procedure, to read:

SB 1276

— 2 —

1 697.335. (a) If the judgment debtor defaults on a deed of trust
2 or mortgage on real property, the trustee or mortgagee shall satisfy
3 any existing judgment liens filed by a public utility of any city,
4 county, or city and county prior to sale of the real property.
5 (b) For purposes of this section judgment liens include those
6 liens filed in accordance with the provisions of Section 54354 of
7 the Government Code and Section 5473.11 of the Health and Safety
8 Code.

The Honorable Mary Salas
California State Assembly
State Capitol, Room 2137
Sacramento, CA 95814
ATTN: Legislative Director

SUBJECT: Support SB 1276 – Public Utility Liens

Dear Senator Cox:

On behalf of the City of Sacramento, I am pleased to write in support of SB 1276. Due to the economic down turn in recent years, Sacramento has experienced one of the highest foreclosure rates nationwide. With these high foreclosure rates, the City has seen significant reductions in utility revenues due to customers defaulting on mortgage loans and the lenders trustee deeds taking precedence over City judgment liens which result in the City forfeiting any unpaid utility balances.

SB 1276 would ensure the City recovers hundreds of thousands of dollars in lost revenues due to the precedence that a lenders trustees deed receives over a judgment lien filed by the City when a customer defaults on their mortgage loan.

Thank you for introducing this important legislation.

Sincerely,

LAUREN HAMMOND, Chair
Law and Legislation Committee

cc: Senator Darrell Steinberg
Senator Dave Cox
Assembly Member Dave Jones
Assembly Member Alyson Huber
Assembly Member Roger Niello
Mayor Johnson and Members of the City Council
David Jones, Emanuels and Jones and Associates