

Wilmington, Delaware  
\_\_\_\_\_, 2024

**Sponsor:**

**Council  
Member  
McCoy**

**WHEREAS**, pursuant to State law (25 Del. C. § 2901), service charges for the maintenance and use of water systems and sewer systems automatically become a lien against the associated real property when levied by the applicable taxing authority; and

**WHEREAS**, Section 4-181 of the Related Laws authorizes the City to file a monition against the owner of record of real property for delinquent water and sewer service charges related to that property; and

**WHEREAS**, the monition results in the public sale of such real property if the delinquent charges are not fully paid within twenty (20) days of notice of the monition; and

**WHEREAS**, a significant proportion of monitions filed by the City consist of delinquent water and/or sewer related charges where all or the majority of the aggregate amount owed to the City is comprised of such charges, as opposed to delinquent property taxes; and

**WHEREAS**, under the current practices, monitions filed by the City where all or the majority of the aggregate amount owed to the City consists of delinquent water and/or sewer service related charges can result in the displacement or even homelessness of the owner or resident of the associated real property; and

**WHEREAS**, the City desires to avoid displacing residents from their homes and possibly rendering them homeless; and

**WHEREAS**, pursuant to State law, the City must assert delinquent water and sewer service charges in monitions to collect delinquent property taxes; and

**WHEREAS**, providing the City with the flexibility to not assert delinquent water and sewer service charges in monitions will promote the use of alternative means of collection, thereby avoiding displacement and homelessness of City residents, while still preserving the lien status and ultimate collectability of delinquent water and sewer service charges; and

**WHEREAS**, although the City does not supply or otherwise provide electricity to its residents, several municipalities throughout the State provide electricity to their residents; and

**WHEREAS**, under 25 Del. C. § 2901(a), services charges for use or maintenance of electric power systems are not delineated as a “lien” or “liens” of the State or any political subdivision thereof; and

**WHEREAS**, notwithstanding the provisions of 25 Del. C. § 2901(a), certain municipalities in the State assert liens against homeowners for delinquent electric charges.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WILMINGTON**, that this Council respectfully requests the members of the Delaware General Assembly to amend Title 25, Section 2901 of the Delaware Code with the addition of the underlined language to read as follows:

§ 2901. Lien of taxes and other charges; Notice of Lien.

(a)(1) Except as otherwise provided, “lien” or “liens” as used in this section shall arise whenever the following charges, as defined in this section, are levied or imposed by the State or any political subdivision thereof (including the Levy Court or county council of any county, any united, consolidated or incorporated school district, or any incorporated town or city in this State) and such charges become due:

- a. Real property taxes, including penalty and interest thereon;

- b. School taxes, including taxes for a vocational-technical high school district or county vocational-technical center district, including penalty and interest thereon;
- c. Service charges for maintenance or use of sewer systems, including penalty and interest thereon;
- d. Service charges for maintenance or use of water systems, including penalty and interest thereon;

....

(2) "Liens" shall not include (a) administrative costs incurred by the sheriff in the sheriff's sale process or (b) service charges for maintenance or use of electric power systems.

....

(5) The liens created by paragraphs (a)(1)c. and (a)(1)d. of this section shall continue to be liens whether or not asserted or otherwise identified in a praecipe or praecipe for monition filed by any municipality in the State having a population in excess of 50,000, as enumerated in the most recent federal census, to collect delinquent taxes.

Passed by City Council,

ATTEST: \_\_\_\_\_  
City Clerk

**SYNOPSIS:** This Resolution urges the Delaware General Assembly to enact legislation that will amend Title 25, Section 2901(a) of the Delaware Code to enable the City of Wilmington to not assert delinquent water and/or service charges in monitions, while still preserving the lien status of such charges. In addition, the legislation should make clear that service charges for maintenance or use of electric power systems are not liens of the State or any political subdivision of the State.