File No. 154

House Bill No. 5436

House of Representatives, March 26, 1998. The Committee on Judiciary reported through REP. LAWLOR, 99th DIST., Chairman of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING WATER UTILITY RECEIVERSHIP PROCEDURES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 16-262f
2 of the general statutes is repealed and the
3 following is substituted in lieu thereof:
4 (a) (1) Upon default of the owner, agent,
5 lessor or manager of a residential dwelling who is
6 billed directly by an electric, gas [,] OR
7 telephone [or water] company or by a municipal
8 utility for ELECTRIC OR GAS utility service
9 furnished to such building, such company or
10 municipal utility may petition the Superior Court
11 or a judge thereof, for appointment of a receiver
12 of the rents or payments for use and occupancy OR
13 COMMON EXPENSES, AS DEFINED IN SECTION 47-202, for
14 any dwelling for which the owner, agent, lessor or
15 manager is in default. The court or judge shall
16 forthwith issue an order to show cause why a
17 receiver should not be appointed, which shall be
18 served upon the owner, agent, lessor or manager or
19 his agent in a manner most reasonably calculated
20 to give notice to such owner, agent, lessor or
21 manager as determined by such court or judge,

22 including, but not limited to, a posting of such
23 order on the premises in question.
24 (2) A hearing shall be had on such order no
25 later than seventy-two hours after its issuance or
26 the first court day thereafter. The sole purpose
27 of such a hearing shall be to determine whether
28 there is an amount due and owing between the
29 owner, agent, lessor or manager and the company or
30 municipal utility. The court shall make a
31 determination of any amount due and owing and any
32 amount so determined shall constitute a lien upon
33 the real property of such owner. A certificate of
34 such amount may be recorded in the land records of
35 the town in which such property is located
36 describing the amount of the lien and the name of
37 the party in default. When the amount due and
38 owing has been paid the company or municipality
39 shall issue a certificate discharging the lien and
40 shall file the certificate in the land records of
41 the town in which such lien was recorded.
42 (3) The receiver appointed by the court shall
43 collect all rents or payments for use and
44 occupancy OR COMMON EXPENSES forthcoming from the
45 occupants of the building in question in place of
46 the owner, agent, lessor or manager.
47 (4) The receiver shall pay the petitioner or
48 other supplier, from such rents or payments for
49 use and occupancy [,] OR COMMON EXPENSES for
50 electric, gas, telephone, water or heating oil
51 supplied on and after the date of his appointment.
52 The owner, agent, lessor or manager shall be
53 liable for such reasonable fees and costs
54 determined by the court to be due the receiver,
55 which fees and costs may be recovered from the
56 rents or payments for use and occupancy under the
57 control of the receiver, provided no such fees or
58 costs shall be recovered until after payment for
59 current electric, gas, telephone and water service
60 and heating oil deliveries has been made. The
61 owner, agent, lessor or manager shall be liable to
62 the petitioner for reasonable attorney's fees and
63 costs incurred by the petitioner, provided no such
64 fees or costs shall be recovered until after
65 payment for current electric, gas, telephone and
66 water service and heating oil deliveries has been
67 made and after payments of reasonable fees and
68 costs to the receiver. Any moneys from rental
69 payments or payments for use and occupancy OR

70 COMMON EXPENSES remaining after payment for
71 current electric, gas, telephone and water service
72 or heating oil deliveries, and after payment for
73 reasonable costs and fees to the receiver, and
74 after payment to the petitioner for reasonable
75 attorney's fees and costs, shall be applied to any
76 arrearage found by the court to be due and owing
77 the company or municipal utility from the owner,
78 agent, lessor or manager for service provided such
79 building. Any moneys remaining thereafter shall be
80 turned over to the owner, agent, lessor or
81 manager. The court may order an accounting to be
82 made at such times as it determines to be just,
83 reasonable, and necessary.
84 Sec. 2. (NEW) (a) (1) Upon default of the
85 owner, agent, lessor or manager of a residential
86 dwelling or dwellings who is billed directly by a
87 water company or by a municipal water utility for
88 water service furnished to such building or
89 buildings, such company or municipal utility may
90 petition the Superior Court or a judge thereof,
91 for appointment of a receiver of the rents or
92 payments for use and occupancy or common expenses,
93 as defined in section 47-202 of the general
94 statutes, for any dwelling or dwellings for which
95 the owner, agent, lessor or manager is in default.
96 The court or judge shall forthwith issue an order
97 to show cause why a receiver should not be
98 appointed, which shall be served upon the owner,
99 agent, lessor or manager or his agent in a manner
100 most reasonably calculated to give notice to such
101 owner, agent, lessor or manager as determined by
102 such court or judge, including, but not limited
103 to, a posting of such order on the premises in
104 question. If a petition or petitions are filed by
105 a single petitioner regarding more than one
106 building under the same ownership, the court
107 shall, if practicable, appoint a common receiver
108 for all such buildings and, if filed as separate
109 actions, may consolidate such petitions and treat
110 them as a single action.
111 (2) A hearing shall be had on such order no
112 later than seventy-two hours after its issuance or
113 the first court day thereafter. The sole purpose
114 of such a hearing shall be to determine whether
115 there is an amount due and owing between the
116 owner, agent, lessor or manager and the company or
117 municipal utility. The court shall make a

118 determination of any amount due and owing and any
119 amount so determined shall constitute a lien upon
120 the real property of such owner. A certificate of
121 such amount may be recorded in the land records of
122 the town in which such property is located
123 describing the amount of the lien and the name of
124 the party in default. When the amount due and
125 owing has been paid, the company or municipality
126 shall issue a certificate discharging the lien and
127 shall file the certificate in the land records of
128 the town in which such lien was recorded.
129 (3) Not more than ten days after receipt of
130 the order of appointment by the receiver, such
131 receiver shall provide written notice to all
132 occupants of the building or buildings, delivered
133 separately to each dwelling unit, stating that the
134 receiver has been authorized to collect all rents
135 or payments for use and occupancy or common
136 expenses, as defined in section 47-202 of the
137 general statutes, due from such occupant and that
138 the owner, agency, lessor or manager, as the case
139 may be, is prohibited from collecting such rents
140 or payments for use and occupancy or common
141 expenses. The notice shall include the address to
142 which payments are to be made and a telephone
143 number at which the receiver can be contacted. The
144 notice shall be in plain and simple language and
145 shall be written in English and in Spanish. A copy
146 of the court order appointing the receiver and
147 authorizing the collection of rents shall be
148 attached to the notice.
149 (4) The receiver appointed by the court shall
150 collect all rents or payments for use and
151 occupancy or common expenses forthcoming from the
152 occupants of the building or buildings in question
153 in place of the owner, agent, lessor or manager.
154 The court may authorize the receiver to make
155 reasonable repairs and provide reasonable
156 maintenance to the premises, as determined by the
157 court, the reasonable cost of which shall be added
158 to the total amount due and owing from the owner,
159 agency, lessor or manager.
160 (5) The receiver shall pay to the petitioner,
161 other supplier or receiver, as is appropriate,
162 from such rents or payments for use and occupancy
163 or common expenses from such building or
164 buildings, in the following priority: (A) For
165 electric, gas, telephone, water or heating oil

166 supplied on and after the date of his appointment
167 and for the reasonable cost of repairs and
168 maintenance made or provided pursuant to
169 subdivision (4) of this subsection; (B) for such
170 reasonable fees and costs determined by the court
171 to be due the receiver; (C) for reasonable
172 attorney's fees and costs incurred by the
173 petitioner; and (D) for any arrearage found by the
174 court to be due and owing the company or municipal
175 utility from the owner, agent, lessor or manager
176 for service provided such building or buildings.
177 The owner, agent, lessor or manager shall be
178 liable for all such costs. Except as otherwise
179 provided in subsection (b) of this section, if
180 more than one building under the same ownership is
181 subject to the receivership, any moneys remaining
182 after such payments are made for any building
183 subject to the receivership may be applied to any
184 moneys due and owing for any other building
185 subject to the receivership in accordance with the
186 priorities of this subdivision. Any moneys
187 remaining thereafter shall be turned over to the
188 owner, agent, lessor or manager. The court may
189 order an accounting to be made at such times as it
190 determines to be just, reasonable and necessary.
191 (b) Any receivership established pursuant to
192 subsection (a) of this section, shall be
193 terminated by the court upon its finding that the
194 arrearage which was the subject of the original
195 petition or petitions have been satisfied for all
196 buildings subject to the receivership, or that all
197 occupants of a building have agreed to assume
198 liability in their own names for prospective
199 service supplied by the petitioner, or that the
200 building has been sold and the new owner has
201 assumed liability for prospective service supplied
202 by the petitioner.
203 (c) On motion by the receiver, the court may
204 authorize the receiver to institute a summary
205 process action pursuant to chapter 832 of the
206 general statutes against an occupant, upon a prima
207 facie showing that: (1) The occupant has received
208 notice in accordance with subdivision (3) of
209 subsection (a) of this section; (2) the receiver
210 has made reasonable efforts to supplement such
211 notice with other written and oral notice; (3)
212 after the occupant has received notice in
213 accordance with subdivision (3) of subsection (a)

214 of this section, payments equal to one month's
215 rent or use and occupancy have not been made by or
216 on behalf of the occupant during the most recent
217 sixty consecutive days; and (4) the duty to make
218 such payments has not been suspended as a result
219 of the condition of the premises or any applicable
220 preoccupancy certification requirements. In any
221 such summary process action, the receiver shall be
222 subject to all claims and defenses that the
223 occupant could assert against the owner, agent,
224 lessor or manager of the dwelling.
225 (d) Nothing in this section shall be
226 construed to prevent the petitioner from pursuing
227 any other action or remedy at law or equity that
228 it may have against the owner, agent, lessor or
229 manager.
230 (e) Any owner, agent, lessor or manager who
231 collects or attempts to collect any rent or
232 payment for use and occupancy or common expenses,
233 as defined in section 47-202 of the general
234 statutes, from any occupant of a building or
235 buildings subject to an order appointing a
236 receiver or who in any other way interferes with
237 the receiver in the performance of his duties
238 shall be found, after due notice and hearing, to
239 be in contempt of court.
240 (f) If a proceeding is initiated pursuant to
241 sections 47a-14a to 47a-14h, inclusive, of the
242 general statutes or sections 47a-56 to 47a-56i,
243 inclusive, of the general statutes or if a
244 receiver of rents is appointed pursuant to chapter
245 735a of the general statutes or pursuant to any
246 other action involving the making of repairs to
247 residential rental property under court
248 supervision, rent or use and occupancy payments
249 and common expenses, as defined in section 47-202
250 of the general statutes, shall be made pursuant to
251 such proceeding or action without regard to
252 whether such proceeding or action is initiated
253 before or after a receivership is established
254 under this section, and such proceeding or action
255 shall take priority over a receivership
256 established under this section in regard to
257 expenditure of such rent or use and occupancy
258 payments.

259 ET COMMITTEE VOTE: YEA 16 NAY 0 JF C/R JUD
260 JUD COMMITTEE VOTE: YEA 32 NAY 0 JF

* * * * *

"THE FOLLOWING FISCAL IMPACT STATEMENT AND BILL ANALYSIS ARE PREPARED FOR THE BENEFIT OF MEMBERS OF THE GENERAL ASSEMBLY, SOLELY FOR PURPOSES OF INFORMATION, SUMMARIZATION AND EXPLANATION AND DO NOT REPRESENT THE INTENT OF THE GENERAL ASSEMBLY OR EITHER HOUSE THEREOF FOR ANY PURPOSE."

* * * * *

FISCAL IMPACT STATEMENT - BILL NUMBER HB 5436

STATE IMPACT	None
MUNICIPAL IMPACT	None
STATE AGENCY(S)	Judicial Department

* * * * *

OLR BILL ANALYSIS

HB 5436

AN ACT CONCERNING WATER UTILITY RECEIVERSHIP PROCEDURES

SUMMARY: This bill expands the scope and modifies the procedures of the law that water utilities use to petition the court to appoint a rent receiver when the owner, agent, lessor, or manager of a residential building defaults on payment for service directly billed to him. Among other things, it allows the court to permit the receiver to make repairs and to evict residents who do not pay.

The bill also allows a receiver for an electric, gas, telephone, or water utility to collect payments of common expenses in actions involving common interest communities such as condominiums.

EFFECTIVE DATE: October 1, 1998

FURTHER EXPLANATION

Initiation and Scope of Receivership

By law, if the court grants a receivership petition

from a utility, the building residents must pay rent or payments for use and occupancy to the receiver. The bill explicitly allows the court, in the case of water utility receiverships, to permit the receiver to make reasonable repairs to and provide reasonable maintenance of the premises, with the costs added to the total due from the owner.

The bill requires the court to appoint a common receiver, if practicable, when a water utility files a petition regarding multiple buildings under the same ownership. If the petitions are filed as separate actions, the court may consolidate them and treat them as a single action.

Notice to Residents

The bill requires the receiver to provide written notice to the residents of his authority to collect all rents, payments for use and occupancy, and common expenses within 10 days of being appointed. The notice must also state that the building owner may not collect these payments, include the receiver's phone number and payment address, be in simple language and in English and Spanish, and be delivered separately to each dwelling unit. A copy of the court order appointing the receiver and authorizing the collection of rents must be attached to the notice.

Use of Residents' Payments

The law requires the receiver to use residents' payments for various expenses. Under current law, the first priority is payment of all current utility bills. The bill adds to this category payment of the reasonable costs of building repairs and maintenance. The bill does not change the subsequent disbursal priorities (the receiver's costs, the cost of the petitioning utility's attorneys, and the arrearage owed the utility).

The bill requires the court to terminate a receivership once (1) the arrearage for all of the buildings subject to the original petitions have been satisfied, (2) all occupants of a building have agreed to assume liability for future utility service, or (3) the building has been sold and the new owner has assumed liability for future service.

Eviction of Nonpaying Residents

The bill allows the court to authorize a receiver to evict a resident who fails to pay his rent. The receiver must show that:

1. the resident received notice of the receivership and the receiver made reasonable efforts to supplement this notice with other written and oral notices;

2. the resident has fallen one month behind in his payments, after receiving the initial written notice, during the most recent 60 days; and

3. the resident's obligation to pay has not been suspended because of the condition of the premises or any applicable preoccupancy certification requirement.

In the eviction, the receiver is subject to all of the claims and defenses that are available to residents against the owner.

Contempt of Court

By law, any owner who attempts to collect rent or use and occupancy payments from a resident of a building under receivership must be found in contempt of court. For water utility receiverships, the bill extends the contempt provision to cover an owner's attempts to collect common expenses or interference with the receiver in the performance of his duties.

Termination of the Receivership

The bill makes more stringent one of the three conditions under which a court must terminate receivership. Under current law, a court must terminate a receivership if the arrearage that was the subject of the original petition has been paid. The bill requires, in water utility cases, that the arrearage for all of the buildings that are under the receivership be paid. By law, the court must terminate a utility receivership if all of a building's occupants assume liability for future utility service or if a building has been sold and the new owner

assumes such liability.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute Change of Reference
Yea 16 Nay 0

Judiciary Committee

Joint Favorable Report
Yea 32 Nay 0