

Representative Eric K. Hutchings proposes the following substitute bill:

LOCAL GOVERNMENT CLEAN-UP FEES

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts language governing a municipality that charges a fee for residential clean-up service.

Highlighted Provisions:

This bill:

- ▶ enacts language limiting a fee a municipality may charge for a residential clean-up service;
- ▶ requires a municipality to provide a property owner with a statement showing the municipality's calculation method of a clean-up fee;
- ▶ enacts language governing a lien certified for clean-up costs; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-11-3, as last amended by Laws of Utah 2011, Chapter 172



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-11-3** is amended to read:

10-11-3. Neglect of property owners -- Removal by municipality -- Costs of removal -- Notice -- File action or lien -- Property owner objection.

(1) (a) If an owner of, occupant of, or other person responsible for real property described in the notice delivered in accordance with Section 10-11-2 fails to comply with Section 10-11-2, a municipal inspector [~~may~~] shall:

(i) at the expense of the municipality, employ necessary assistance to enter the property and destroy or remove an item identified in a written notice described in Section 10-11-2; and

(ii) (A) prepare an itemized statement in accordance with Subsection (1)(b); and

(B) mail to the owner of record according to the records of the county recorder a copy of the statement demanding payment within 30 days after the day on which the statement is post-marked.

(b) The statement described in Subsection (1)(a)(ii)(A) shall:

(i) include:

(A) the address of the property described in Subsection (1)(a);

(B) an itemized list of and demand for payment in a specified amount for all expenses, including administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and

(C) the address of the municipal treasurer where payment may be made for the expenses; and

(ii) notify the property owner:

(A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a lien on the property in accordance with Section 10-11-4;

(B) that the owner may file a written objection to all or part of the statement within 20 days after the day of the statement post-mark; and

(C) where the owner may file the objection, including the municipal office and address.

(c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed by certified mail addressed to the property owner's of record last known address according to the records of the county recorder.

(d) (i) A municipality may file a notice of a lien, including a copy of the statement

57 described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the
58 county recorder of the county in which the property is located.

59 (ii) If a municipality files a notice of a lien indicating that the municipality intends to
60 certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section
61 10-11-4, the municipality shall file for record in the county recorder's office a release of the lien
62 after all amounts owing are paid.

63 (2) (a) If an owner fails to file a timely written objection as described in Subsection
64 (1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the
65 municipality may, subject to Subsection (5):

66 (i) file an action in district court; or

67 (ii) certify the past due costs and expenses to the county treasurer of the county in
68 which the property is located in accordance with Section 10-11-4.

69 (b) If a municipality pursues collection of the costs in accordance with Subsection
70 (2)(a)(i) or (4)(a), the municipality may:

71 (i) sue for and receive judgment for, subject to Subsection (5), all removal and
72 destruction costs, including administrative costs, and reasonable attorney fees, interest, and
73 court costs; and

74 (ii) execute on the judgment in the manner provided by law.

75 (3) (a) If a property owner files an objection in accordance with Subsection (1)(b)(ii),
76 the municipality shall:

77 (i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings
78 Act; and

79 (ii) mail or deliver notice of the hearing date and time to the property owner.

80 (b) At the hearing described in Subsection (3)(a)(i), the municipality shall review and
81 determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i).

82 (c) The property owner shall pay any actual cost due after a decision by the
83 municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within
84 30 days after the day on which the hearing is held.

85 (4) If the property owner fails to pay in accordance with Subsection (3)(c), the
86 municipality may:

87 (a) file an action in district court for the actual cost determined under Subsection

88 (3)(b); or

89 (b) certify the past due costs and expenses to the county treasurer of the county in
90 which the property is located in accordance with Section 10-11-4.

91 (5) (a) If the municipality files an action in district court under Subsection (2)(a)(i) or
92 (4)(a), or certifies a lien for the past due costs and expenses under Subsection (2)(a)(ii) or
93 (4)(b), the sum total of remittance for administrative expenses authorized in Subsection
94 (1)(b)(i)(B), or a cost, fee, or interest charge authorized in Subsection (2)(b)(i), that the
95 municipality may claim or certify may not exceed 100% of the actual cost of abatement
96 incurred by the municipality under Subsection (1)(a)(i).

97 (b) A municipality described in Subsection (5)(a) shall provide the owner with an
98 itemized statement that shows the calculation method of an expense, cost, fee, or charge made
99 in accordance with Subsection (5)(a).

100 [~~5~~] (6) This section does not affect or limit:

101 (a) a municipal governing body's power to pass an ordinance as described in Section
102 10-3-702; or

103 (b) a criminal or civil penalty imposed by a municipality in accordance with Section
104 10-3-703.