

**Effective 5/8/2018**

## **Chapter 60 Political Subdivision Lien Authority**

### **11-60-101 Title.**

This chapter is known as "Political Subdivision Lien Authority."

Enacted by Chapter 197, 2018 General Session

### **11-60-102 Definitions.**

As used in this chapter:

- (1) "Direct charge" means a charge, fee, assessment, or amount, other than a property tax, that a political subdivision charges to a property owner.
- (2) "Nonrecurring tax notice charge" means a tax notice charge that a political subdivision certifies to the county treasurer on a one-time or case-by-case basis rather than regularly over multiple calendar years.
- (3) "Notice of lien" means a notice that:
  - (a) a political subdivision records in the office of the recorder of the county in which a property that is the subject of a nonrecurring tax notice charge is located; and
  - (b) describes the nature and amount of the nonrecurring tax notice charge and whether the political subdivision intends to certify the charge to the county treasurer under statutory authority that allows the treasurer to place the charge on the property tax notice described in Section 59-2-1317.
- (4) "Political subdivision" means:
  - (a) a county, as that term is defined in Section 17-50-101;
  - (b) a municipality, as that term is defined in Section 10-1-104;
  - (c) a special district, as that term is defined in Section 17B-1-102;
  - (d) a special service district, as that term is defined in Section 17D-1-102;
  - (e) an interlocal entity, as that term is defined in Section 11-13-103;
  - (f) a community reinvestment agency created under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;
  - (g) a local building authority, as that term is defined in Section 17D-2-102;
  - (h) a conservation district, as that term is defined in Section 17D-3-102; or
  - (i) a local entity, as that term is defined in Sections 11-42-102 and 11-42a-102.
- (5) "Political subdivision lien" means a lien that a statute expressly authorizes a political subdivision to hold and record, including a direct charge that constitutes, according to an express statutory provision, a lien.
- (6) "Property tax" means a tax imposed on real property under Title 59, Chapter 2, Property Tax Act, Title 59, Chapter 3, Tax Equivalent Property Act, or Title 59, Chapter 4, Privilege Tax.
- (7) "Tax notice charge" means the same as that term is defined in Section 59-2-1301.5.
- (8) "Tax sale" means the tax sale described in Title 59, Chapter 2, Part 13, Collection of Taxes.

Amended by Chapter 16, 2023 General Session

### **11-60-103 Political subdivision liens -- Status -- Limitations.**

- (1) Unless expressly granted in statute, a political subdivision has no lien authority or lien rights when a property owner fails to pay a direct charge for:

- (a) a service that the political subdivision renders; or
  - (b) a product, an item, or goods that the political subdivision delivers.
- (2) A political subdivision lien other than a lien described in Subsection (3):
- (a)
    - (i) is not equivalent to and does not have the same priority as property tax; and
    - (ii) is not subject to the same collection and tax sale procedures as a property tax;
  - (b) is effective as of the date on which the lienholder records the lien in the office of the recorder of the county in which the property is located;
  - (c) is subordinate in priority to all encumbrances on the property existing on the date on which the lienholder records the lien; and
  - (d) is invalid and does not attach to the property if:
    - (i) the lienholder does not record the lien; or
    - (ii) a subsequent bona fide purchaser purchases the lien property for value before the lienholder records the lien.
- (3)
- (a) A political subdivision lien that is included on the property tax notice in accordance with Section 59-2-1317 or another express statutory provision:
    - (i) under Subsection 59-2-1317(3), has the same priority as a property tax and is subject to collection in a tax sale in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes, if:
      - (A) in order to hold the lien, statute requires the lienholder to record the lien or a resolution, notice, ordinance, or order, and the lienholder makes the required recording; or
      - (B) statute does not require the lienholder to record the lien or a resolution, notice, ordinance, or order; and
    - (ii) except as provided in Subsection (3)(b):
      - (A) attaches to the property; and
      - (B) is valid against a subsequent bona fide purchaser of the property.
  - (b) Notwithstanding Subsection (3)(a)(ii), a nonrecurring tax notice charge does not attach to the property and is invalid against a subsequent bona fide purchaser if the recording of a document conveying title to the subsequent bona fide purchaser occurs before the earlier of:
    - (i) the recording of the lien or a notice of lien in the office of the recorder of the county in which the lien property is located; or
    - (ii) the mailing of the property tax notice that includes the nonrecurring tax notice charge.
- (4) If the holder of a political subdivision lien records the lien or a notice of lien, upon payment of the amount that constitutes the lien:
- (a) the lien is released from the property; and
  - (b) the lienholder shall record a release of the lien or the notice of lien in the same recorder's office in which the lienholder recorded the lien or the notice of the lien.
- (5) Unless otherwise expressly stated in statute, a partial payment of an amount constituting a political subdivision lien, including all costs, charges, interest, and amounts accrued since the unpaid amount was certified to the county treasurer, is not a release of any assessment to be paid in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.
- (6) Nothing in this section limits a political subdivision's lien authority, lien rights, or remedies otherwise provided in statute, a contract, a judgment, or another property interest.

Amended by Chapter 30, 2019 General Session

