

Senator Stephen H. Urquhart proposes the following substitute bill:

DISASTER RECOVERY SERVICE LIEN ACT

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to a lien for disaster recovery services.

Highlighted Provisions:

This bill:

- ▶ provides a lien on behalf of a provider of a disaster recovery service on proceeds payable from an insurance company that covers damages caused by a disaster;
- ▶ establishes requirements for a provider to claim a lien;
- ▶ requires a provider to give notice of a lien to the insurance company; and
- ▶ provides for enforcement of a lien.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

38-14-101, Utah Code Annotated 1953

38-14-102, Utah Code Annotated 1953

38-14-103, Utah Code Annotated 1953



26 **38-14-104**, Utah Code Annotated 1953
27 **38-14-105**, Utah Code Annotated 1953



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

30 Section 1. Section **38-14-101** is enacted to read:

31 **CHAPTER 14. DISASTER RECOVERY SERVICE LIEN ACT**

32 **38-14-101. Title.**

33 This chapter is known as the "Disaster Recovery Service Lien Act."

34 Section 2. Section **38-14-102** is enacted to read:

35 **38-14-102. Definitions.**

36 As used in this chapter:

37 (1) "Claims office" means the insurer's office that adjusts the claim of an owner of
38 damaged property for damage that is caused by a disaster.

39 (2) "Damaged property" means real property that is damaged because of a disaster.

40 (3) "Disaster" means an event or force that causes damage to real property.

41 (4) "Disaster recovery service" means labor or material provided to rebuild, repair,
42 restore, or clean real property to remedy the effects of a disaster.

43 (5) "Disaster recovery service lien" means a lien, as provided in this chapter, on
44 insurance proceeds for the unpaid balance owing to a provider under a service agreement with
45 the owner of damaged property.

46 (6) "Insurance proceeds" means money payable by an insurer to an owner of real
47 property under an insurance policy that covers damage to the real property that is caused by a
48 disaster.

49 (7) "Insurer" means an insurance company that provides insurance coverage for
50 damage to real property caused by a disaster.

51 (8) "Provider" means a person who provides disaster recovery service under a service
52 agreement.

53 (9) "Service agreement" means a written agreement between an owner of damaged
54 property and a provider under which a provider is required to provide disaster recovery service
55 for the owner's damaged property.

56 Section 3. Section **38-14-103** is enacted to read:

57 **38-14-103. Disaster recovery service lien -- Requirements.**

58 (1) Subject to Subsection (2), a provider that has not been paid for a disaster recovery
59 service has a disaster recovery service lien on insurance proceeds as provided in this chapter.

60 (2) A provider may not claim a disaster recovery service lien under Subsection (1)
61 unless:

62 (a) the service agreement under which the provider provides disaster recovery service
63 requires the owner to pay at least \$1,000 for the provider's disaster recovery service; and

64 (b) the provider gives notice to the insurer as required in Section 38-14-104.

65 Section 4. Section **38-14-104** is enacted to read:

66 **38-14-104. Notice of a disaster recovery service lien.**

67 (1) A provider that desires to claim a disaster recovery service lien shall provide
68 written notice to the insurer as provided in this section.

69 (2) A notice under Subsection (1) shall:

70 (a) notify the insurer that the provider claims a disaster recovery service lien;

71 (b) state the name, address, and telephone number of the owner of the damaged
72 property;

73 (c) state the date of the service agreement and the amount that the agreement provides
74 for the owner to pay the provider for disaster recovery service;

75 (d) describe the disaster recovery service provided by the provider and the date when
76 the provider completed or expects to complete the disaster recovery service;

77 (e) state the unpaid balance owing to the provider under the service agreement; and

78 (f) be sent to the claims office by certified mail no later than 10 days after the provider
79 completes the disaster recovery service the provider agrees to provide under the service
80 agreement.

81 Section 5. Section **38-14-105** is enacted to read:

82 **38-14-105. Insurer liable under lien -- Enforcement of lien.**

83 (1) An insurer that pays insurance proceeds to an owner of damaged property after
84 notice to the insurer is provided under Section 38-14-104 is liable to a provider for the amount
85 owing to the provider under the disaster recovery service lien, not to exceed the amount of
86 insurance proceeds the insurer pays to the owner after the insurer is provided notice.

87 (2) A provider may enforce a disaster recovery service lien by an action filed in a court

88 of competent jurisdiction.

89 (3) A provider who prevails in an action under Subsection (2) is entitled to an award of

90 costs and reasonable attorney fees.