

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: Karen Mayne

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



26 **10-11-4**, as last amended by Laws of Utah 2011, Chapter 172



27
28 *Be it enacted by the Legislature of the state of Utah:*

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

30 **10-11-3. Neglect of property owners -- Removal by municipality -- Costs of**
31 **removal -- Notice -- File action or lien -- Property owner objection.**

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

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

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

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

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

42 (i) include:

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

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

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

48 (ii) notify the property owner:

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

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

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

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

57 (d) (i) A municipality may file a notice of a lien, including a copy of the statement
58 described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the
59 county recorder of the county in which the property is located.

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

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

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

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

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

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

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

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

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

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

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

83 (c) The property owner shall pay any actual cost due after a decision by the
84 municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within
85 30 days after the day on which the hearing is held.

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

88 (a) file an action in district court for the actual cost determined under Subsection
89 (3)(b); or

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

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

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

101 [~~5~~] (6) This section does not affect or limit:

102 (a) a municipal governing body's power to pass an ordinance as described in Section
103 10-3-702; or

104 (b) a criminal or civil penalty imposed by a municipality in accordance with Section
105 10-3-703.

106 Section 2. Section **10-11-4** is amended to read:

107 **10-11-4. Costs of removal to be included in tax notice.**

108 (1) A municipality may certify to the treasurer of the county in which a property
109 described in Section 10-11-3 is located, the unpaid costs and expenses that the municipality has
110 incurred under Section 10-11-3 with regard to the property.

111 (2) If the municipality certifies with the treasurer of the county any costs or expenses
112 incurred for a property under Section 10-11-3, the treasurer shall enter the amount of the costs
113 and expenses on the assessment and tax rolls of the county in the column prepared for that
114 purpose.

115 (3) If current tax notices have been mailed, the treasurer of the county may carry the
116 costs and expenses described in Subsection (2) on the assessment and tax rolls to the following
117 year.

118 (4) (a) After entry by the treasurer of the county, the amount entered:

119 ~~[(a)]~~ (i) shall have the force and effect of a valid judgment of the district court;
120 ~~[(b)]~~ (ii) is a lien upon the property; and
121 ~~[(c)]~~ (iii) shall be collected by the treasurer of the county in which the property is
122 located at the time of the payment of general taxes.
123 (b) A lien imposed under this chapter:
124 (i) has priority over any lien, mortgage, security interest, or other encumbrance arising
125 after the day on which the lien is recorded; and
126 (ii) does not have priority over:
127 (A) a lien imposed pursuant to Title 59, Chapter 2, Property Tax Act; or
128 (B) or any other previously recorded lien.
129 (5) Upon payment of the costs and expenses:
130 (a) the judgement is satisfied;
131 (b) the lien is released from the property; and
132 (c) receipt shall be acknowledged upon the general tax receipt issued by the treasurer.
133 (6) This section does not apply to any public building, public structure, or public
134 improvement.