

## SB0219S02 compared with SB0219S01

~~{deleted text}~~ shows text that was in SB0219S01 but was deleted in SB0219S02.

inserted text shows text that was not in SB0219S01 but was inserted into SB0219S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Stephen H. Urquhart proposes the following substitute bill:

### ~~{DISASTER RECOVERY LIENS}~~PAYMENT OF INSURANCE

#### PROCEEDS

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen H. Urquhart**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill enacts provisions ~~{relating}~~related to ~~{a lien for mitigation services}~~the payment of certain insurance proceeds.

##### Highlighted Provisions:

This bill:

- ▶ ~~{gives}~~requires a ~~{person that provides certain}~~property and casualty insurer, under certain circumstances, to include the provider of a mitigation {services to}service as an {owner of damaged property a lien on the proceeds of the insurance policy that covers}additional payee on checks issued to the insured:
  - for \$2,500 or more; and

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- intended to pay for the mitigation service ~~{ for the balance owed to the provider under the governing service agreement;~~

~~— establishes prerequisites to a provider obtaining a lien described in this bill; and~~

~~— provides for enforcement of a lien described in this bill}.~~

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

ENACTS:

~~{~~ ~~38-14-101~~; 31A-22-1309, Utah Code Annotated 1953

~~{~~ ~~38-14-102~~, Utah Code Annotated 1953

~~—~~ ~~38-14-103~~, Utah Code Annotated 1953

~~—~~ ~~38-14-104~~, Utah Code Annotated 1953

~~—~~ ~~38-14-105~~, Utah Code Annotated 1953

~~—~~ ~~38-14-106~~, Utah Code Annotated 1953

~~}~~

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

Section 1. Section ~~{~~ ~~38-14-101~~; 31A-22-1309 is enacted to read:

~~{~~ **CHAPTER 14. MITIGATION SERVICE LIEN ACT**

#### ~~Part 1. General Provisions~~

~~—~~ ~~38-14-101. Title:~~

~~—~~ ~~(1) This chapter is known as the "Mitigation Service Lien Act."~~

~~—~~ ~~(2) This part is known as "General Provisions."~~

~~—~~ ~~Section 2. Section 38-14-102 is enacted to read:~~

~~—~~ ~~38-14-102. Definitions:~~

~~—~~ } **31A-22-1309. Payment of insurance proceeds to provider of mitigation service.**

(1) As used in this chapter:

(~~{~~1~~}~~a) "Certificate of satisfactory completion" means a document signed by a named insured in which the named insured certifies that the provider satisfactorily completed the

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mitigation service provided under the service agreement.

~~{ (2) "Claims office" means an insurer's office that adjusts an owner's claim for damaged property.~~

~~{ (3) b) "Damaged property" means real property that is damaged by a {disaster.~~

~~— (4) "Disaster" means a situation causing, or threatening to cause, widespread damage, social disruption, or injury or loss of life or property resulting from attack, internal disturbance, natural phenomena, or technological hazard.~~

~~— (5) "Insurer" means an insurance company that provides insurance coverage for damage to real property caused by a disaster.~~

~~— (6) covered peril.~~

(c) "Insurance proceeds" means money payable by an insurer under an insurance policy for a mitigation service.

(d) "Insurer" means property and casualty insurer that provides coverage for damage to real property caused by a covered peril.

(e) "Mitigation service" means labor, equipment, or material provided on damaged property for the purpose of performing {:

~~— (a) urgent} repairs necessary to prevent further damage {; or~~

~~— (b) services or repairs to mitigate the damage caused by a disaster} caused by the covered peril, including cleanup. {~~

~~— (8) "Mitigation service lien" means a lien on insurance proceeds for the unpaid balance owing to a provider under a service agreement. }~~

(f) "Provider" means a person that provides a mitigation service under a service agreement.

(g) "Service agreement" means a written agreement between an owner of property damaged by a {disaster} covered peril and a provider, under which the provider agrees to perform a mitigation service for the owner's damaged property.

~~{Section 3. Section 38-14-103 is enacted to read:~~

~~— **38-14-103. Mitigation service lien -- Requirements.**~~

~~— A provider that performs a mitigation service under a service agreement has a mitigation service lien on the insurance proceeds related to the mitigation service if:~~

~~— (1) the owner of the damaged property has not paid the provider the amount owed~~

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~~under the service contract for the mitigation service; and~~

~~— (2) the provider gives notice to the insurer under Section 38-14-104.~~

~~— Section 4. Section 38-14-104 is enacted to read:~~

~~— 38-14-104. Notice of a mitigation service lien.~~

~~(1)(a) Within 10 business days after the day on which a provider completes a mitigation service governed by a service agreement, the provider shall send to the insurer of the damaged property:~~

~~(a)i) the a written notice of completion described in Subsection (2)(b); and~~

~~(b)ii) a copy of the certificate of satisfactory completion.~~

~~(2)b) A notice described in Subsection (1) of completion shall state:~~

~~(a)i) notify the insurer that the provider claims money owed for a mitigation service lien provided under a service agreement;~~

~~(b)ii) state the name, address, and telephone number of the owner of the damaged property insured;~~

~~(c)iii) state the date of the service agreement; and~~

~~(d)iv) state the amount still owed to the provider for the mitigation service provided under the service agreement.~~

~~— Section 5. Section 38-14-105 is enacted to read:~~

~~— 38-14-105. Payment by insurer -- Proceeds payable to provider.~~

~~— , if any.~~

~~(3) If a provider satisfies the requirements described in Section 38-14-104 Subsection (2) and has not received the full amount due for the mitigation service, as described in the provider's notice of completion and certificate of satisfactory completion, the insurer shall include the provider as an additional payee on each check issued to the insured that is:~~

~~(1)a) for \$2,500 or more; and~~

~~(2)b) intended to pay for the mitigation service described in the provider's notice of completion and certificate of satisfactory completion.~~

~~{ — Section 6. Section 38-14-106 is enacted to read:~~

~~— 38-14-106. Enforcement of lien.~~

~~— (1) A provider may enforce a mitigation service lien by an action filed in a court of competent jurisdiction.~~

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~~(2) A provider that prevails in an action described in Subsection (2) is entitled to an award of costs and reasonable attorney fees.~~

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