

**DISASTER RECOVERY LIENS**

2013 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:

- ▶ gives a person that provides certain disaster recovery services to an owner of damaged property a lien on the proceeds of the insurance policy that covers the disaster recovery 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**, 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



28 38-14-105, Utah Code Annotated 1953



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

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

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

33 **Part 1. General Provisions**

34 **38-14-101. Title.**

35 (1) This chapter is known as the "Disaster Recovery Service Lien Act."

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

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

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

39 As used in this chapter:

40 (1) "Claims office" means an insurer's office that adjusts an owner's claim for damaged  
41 property.

42 (2) "Damaged property" means real property that is damaged by a disaster.

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

46 (4) "Disaster recovery service" means labor or material provided to perform a  
47 mitigation or emergency service to remedy damaged property.

48 (5) "Disaster recovery service lien" means a lien on insurance proceeds for the unpaid  
49 balance owing to a provider under a service agreement.

50 (6) "Mitigation or emergency service" means labor or material provided for the purpose  
51 of performing:

52 (a) urgent repairs necessary to prevent further damage; or

53 (b) services or repairs to mitigate the damage caused by the disaster, including cleanup.

54 (7) "Insurance proceeds" means money payable by an insurer under an insurance policy  
55 for a disaster recovery service.

56 (8) "Insurer" means an insurance company that provides insurance coverage for  
57 damage to real property caused by a disaster.

58 (9) "Provider" means a person who provides a disaster recovery service under a service

59 agreement.

60 (10) "Service agreement" means a written agreement between an owner of property  
61 damaged by a disaster and a provider, under which the provider agrees to perform a disaster  
62 recovery service for the owner's damaged property.

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

64 **38-14-103. Disaster recovery service lien -- Requirements.**

65 A provider that performs a disaster recovery service under a service agreement has a  
66 disaster recovery service lien on the insurance proceeds related to the disaster recovery service  
67 if:

68 (1) the service agreement under which the provider performs the disaster recovery  
69 service requires the owner of the damaged property to pay at least \$5,000 for the provider's  
70 disaster recovery service;

71 (2) the owner of the damaged property has not paid the provider the amount owed  
72 under the service contract for the disaster recovery service; and

73 (3) the provider gives notice to the insurer under Section 38-14-104.

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

75 **38-14-104. Notice of a disaster recovery service lien.**

76 (1) Within three business days after the day on which a provider completes a disaster  
77 recovery service governed by a service agreement, the provider shall send written notice, as  
78 described in Subsection (2), to the claims office of the insurer by certified mail, postage  
79 prepaid.

80 (2) A notice described in Subsection (1) shall:

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

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

84 (c) state the date of the service agreement;

85 (d) state the amount that the owner of the damaged property is required to pay under  
86 the service agreement;

87 (e) describe the disaster recovery service that the provider performed;

88 (f) state the date on which the provider completed the disaster recovery service; and

89 (g) state the unpaid balance owing to the provider under the service agreement as of the

90 date on which the notice is sent.

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

92 **38-14-105. Insurer liable under lien -- Enforcement of lien.**

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

97 (2) A provider may enforce a disaster recovery service lien by an action filed in a court  
98 of competent jurisdiction.

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

---

---

**Legislative Review Note**  
as of **2-19-13 4:44 PM**

**Office of Legislative Research and General Counsel**