{deleted text} shows text that was in SB0184 but was deleted in SB0184S01.

Inserted text shows text that was not in SB0184 but was inserted into SB0184S01.

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.

NUISANCE AND Senator Daniel W. Thatcher proposes the following substitute bill:

CODE ENFORCEMENT AMENDMENTS

2019 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House	Sponsor:		

LONG TITLE

General Description:

This bill {amends provisions related to nuisance and} requires local governments to provide certain due process in code enforcement.

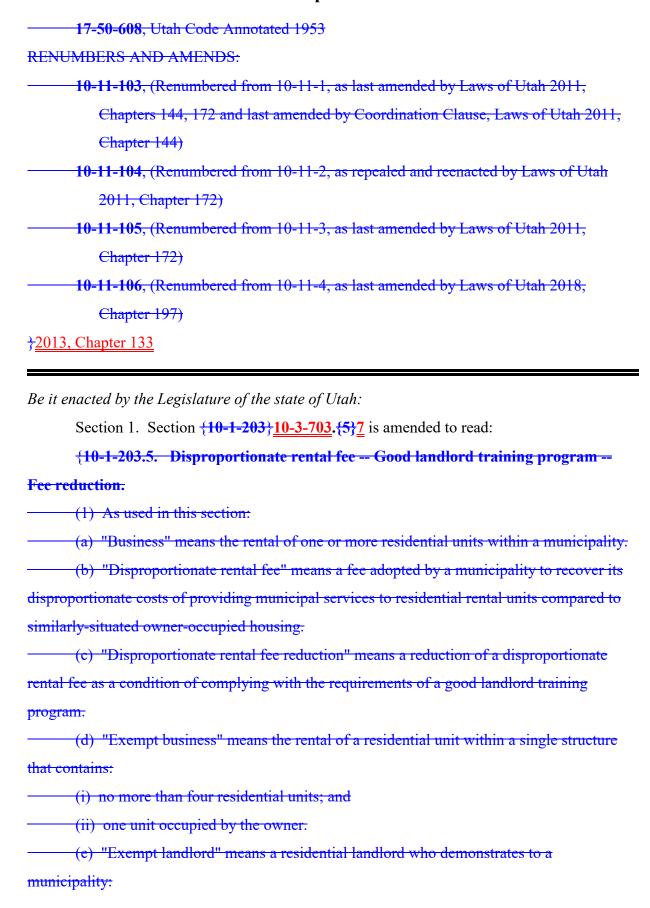
Highlighted Provisions:

This bill:

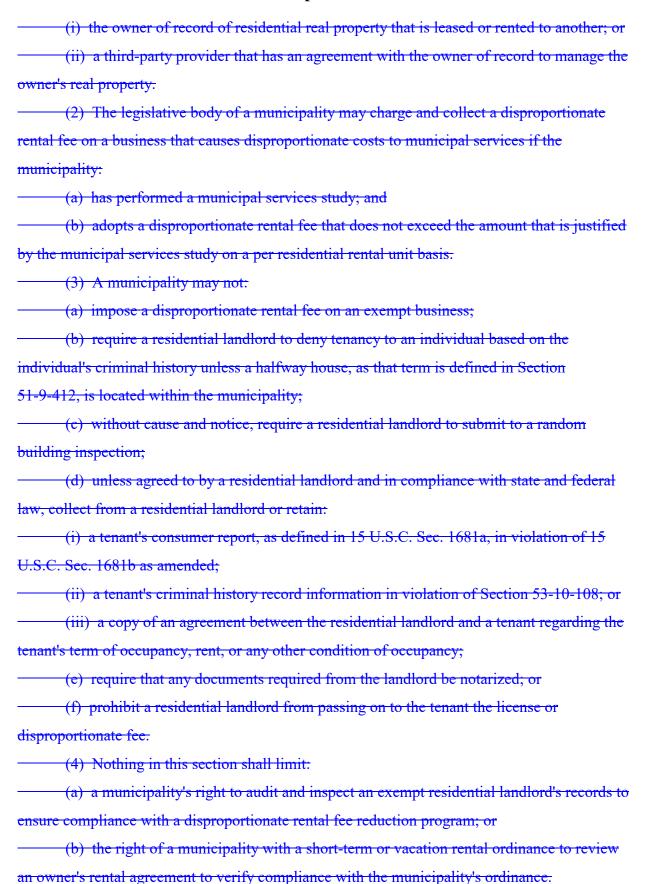
- \{\text{defines terms};}
- modifies the process by which a municipality may designate, inspect, and abate nuisances and} prohibits local governments from:
 - imposing non-judicial penalties for certain code violations (;
- creates a process by which a county may designate, inspect, and abate nuisances
 and} unless the local government provides certain written notice; and
 - collecting on an outstanding or pending penalty for certain code violations

provides requirements for municipal and county inspectors regarding nuisance and code violation complaints and citations; prohibits the collection of penalties incurred before a certain date unless the nuisance or code violation inspection and citation complies with certain requirements; provides for the appeal of a nuisance or code violation citation; and makes technical and conforming changes} unless the local government imposed the penalty in relation to certain written notice. Money Appropriated in this Bill: None **Other Special Clauses:** None **Utah Code Sections Affected:** AMENDS: 10-3-703.7, as repealed and reenacted by Laws of Utah 2012, Chapter 175 {10-1-203.5}17-53-228, as {last amended}enacted by Laws of Utah {2017, Chapter 136 17-24-1, as last amended by Laws of Utah 2017, Chapter 460 59-2-1317, as last amended by Laws of Utah 2018, Chapter 197 **ENACTS:** 10-11-101, Utah Code Annotated 1953 10-11-102, Utah Code Annotated 1953 10-11-107, Utah Code Annotated 1953 10-11-108, Utah Code Annotated 1953 10-11-109, Utah Code Annotated 1953 17-50-601, Utah Code Annotated 1953 17-50-602, Utah Code Annotated 1953 17-50-603, Utah Code Annotated 1953 17-50-604, Utah Code Annotated 1953 17-50-605, Utah Code Annotated 1953 17-50-606, Utah Code Annotated 1953

17-50-607, Utah Code Annotated 1953



(i) completion of any live good landlord training program offered by any other Utah
city that offers a good landlord program;
(ii) that the residential landlord has a current professional designation of "property
manager"; or
(iii) compliance with a requirement described in Subsection (6).
(f) "Good landlord training program" means a program offered by a municipality to
encourage business practices that are designed to reduce the disproportionate cost of municipal
services to residential rental units by offering a disproportionate rental fee reduction for any
residential landlord who:
(i) (A) completes a landlord training program provided by the municipality; or
(B) is an exempt landlord;
(ii) implements measures to reduce crime in rental housing as specified in a municipal
ordinance or policy; and
(iii) operates and manages rental housing in accordance with an applicable municipal
ordinance.
(g) "Municipal services" means:
——————————————————————————————————————
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(iii) fire;
(iv) code enforcement;
(v) storm water runoff;
(vi) traffic control;
(vii) parking;
(viii) transportation;
(ix) beautification; or
(x) snow removal.
(h) "Municipal services study" means a study of the cost of all municipal services to
rental housing that:
(i) are reasonably attributable to the rental housing; and
(ii) exceed the municipality's cost to serve similarly-situated, owner-occupied housing
(i) "Residential landlord" means:



- (5) Notwithstanding Section [10-11-2] 10-11-104, a residential landlord may provide the name and address of a person to whom all correspondence regarding the property shall be sent. If the landlord provides the name and address in writing, the municipality shall provide all further correspondence regarding the property to the designated person. The municipality may also provide copies of notices to the residential landlord.
- (6) In addition to a requirement or qualification described in Subsection (1)(e), a municipality may recognize a good landlord training program described in its ordinance.
- (7) (a) If a municipality adopts a good landlord program, the municipality shall provide an appeal procedure affording due process of law to a residential landlord who is denied a disproportionate rental fee reduction.
- (b) A municipality may not adopt a new disproportionate rental fee unless the municipality provides a disproportionate rental fee reduction.
- (8) A property manager who represents an owner of property that qualifies for a municipal disproportionate rental fee may not be restricted from simultaneously representing another owner of property that does not qualify for a municipal disproportionate rental fee.
- 10-3-703.7. Administrative proceedings 10-3-703.7. Administrative proceedings -- Penalty for code violation.
- (1) A municipality may adopt an ordinance establishing an administrative proceeding to review and decide a violation of a civil municipal ordinance.
- (2) An ordinance adopted in accordance with Subsection (1) shall provide due process for parties participating in the administrative proceeding.
- (3) (a) A municipality may not impose a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance unless the municipality provides to the individual who is subject to the penalty written notice that:
 - (i) identifies the relevant regulation or ordinance at issue;
 - (ii) specifies the violation of the relevant regulation or ordinance; and
- (iii) provides for a reasonable time to cure the violation, taking into account the cost of curing the violation.
- (b) A municipality may not collect on a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance that is outstanding or pending on or after May 14, 2019, unless the municipality imposed the outstanding or pending penalty in relation to a written

notice that: (i) identified the relevant regulation or ordinance at issue; (ii) specified the violation of the relevant regulation or ordinance; and (iii) provided for a reasonable time to cure the violation, taking into account the cost of curing the violation. Section 2. Section {10-11-101 is enacted to read: CHAPTER 11. NUISANCES AND CODE VIOLATIONS 10-11-101. Title. This chapter is known as "Nuisances and Code Violations." Section 3. Section 10-11-102 is enacted to read: 10-11-102. **Definitions.** As used in this chapter: (1) "Abate" means to eradicate, destroy, replace, or repair a nuisance or 17-53-228 is amended to read: 17-53-228. Administrative hearings and procedures -- Penalty for code violation that a municipal inspector cites in accordance with this chapter. (2) "Code violation" means any violation of a code or ordinance a municipality enforces. (3) "Municipal inspector" means an individual who a municipal legislative body appoints for the purpose of carrying out the provisions of this chapter. (4) "Nuisance" means an item identified in a municipal ordinance adopted under Subsection 10-11-103(1), including: (a) the growth and spread of injurious and noxious weeds; (b) garbage and refuse; (c) a public nuisance; and (d) an illegal object or structure. (5) "Property owner" means the owner, according to the records of the county

(6) "Responsible party" means a person other than a property owner who:

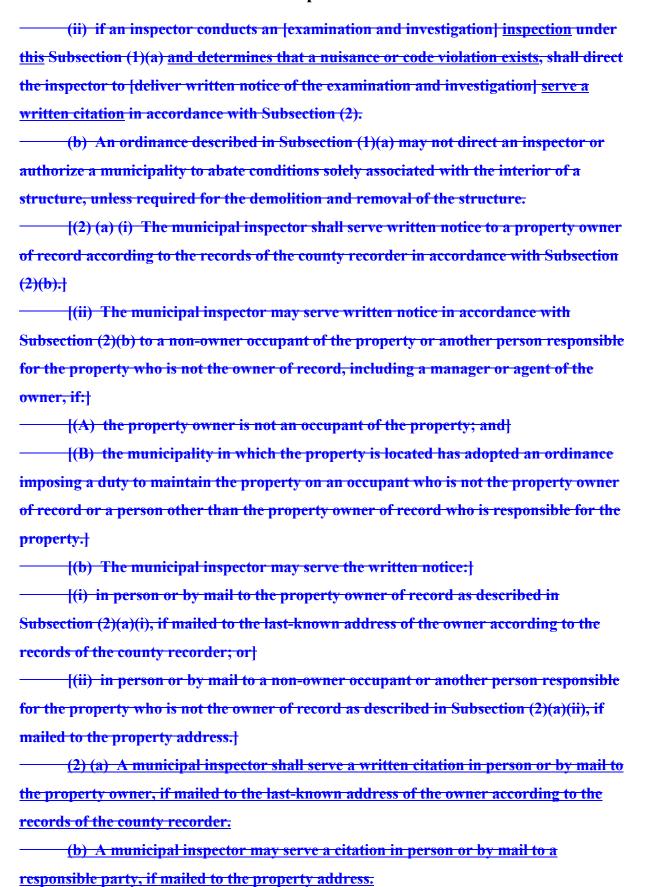
(a) is responsible for real property which is the subject of a complaint or citation

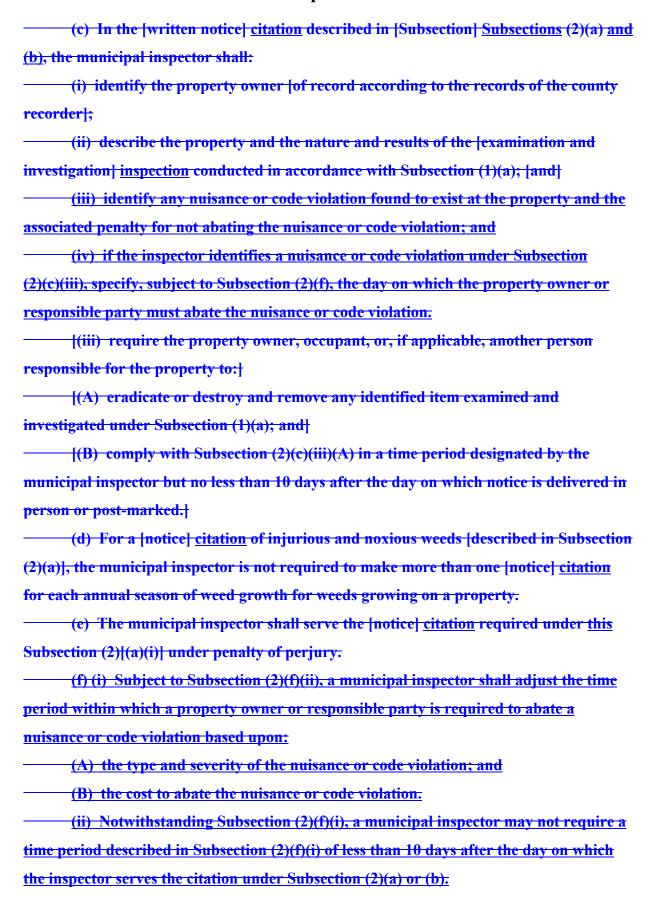
recorder, of real property which is the subject of a complaint or citation under this

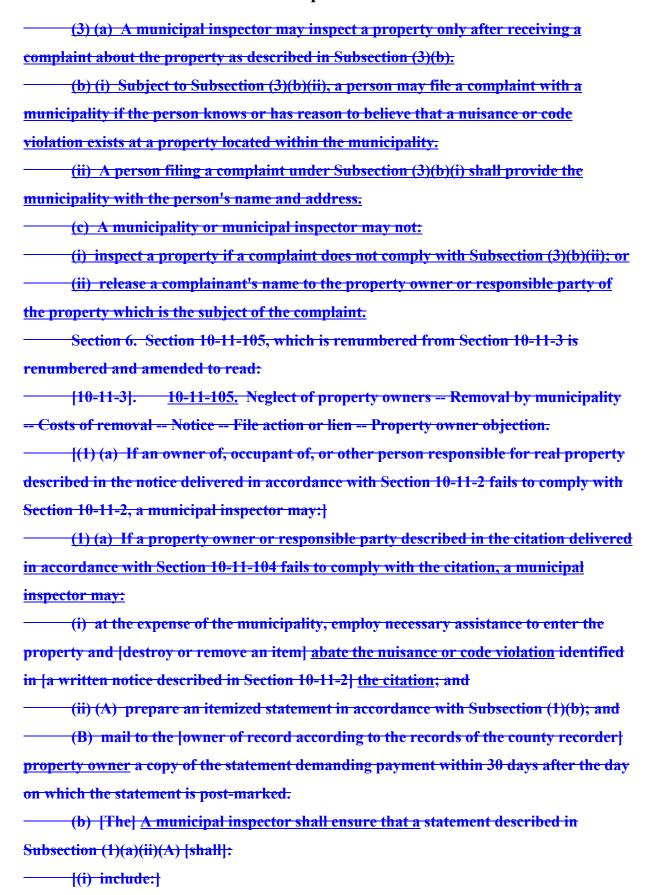
chapter.

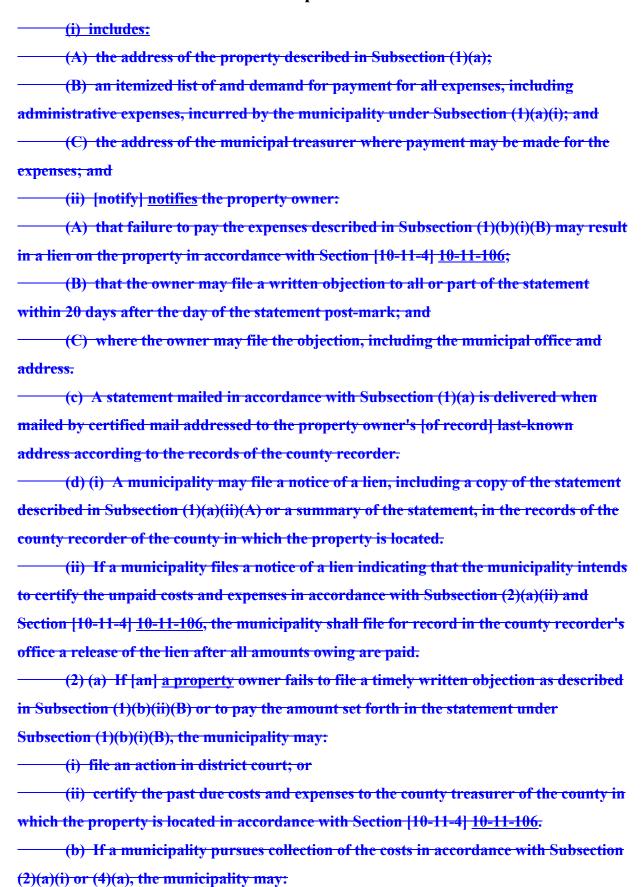
under this chapter; and (b) is an occupant of the property or another person responsible for the property, including a manager or agent of the owner, if: (i) the property owner is not an occupant of the property; and (ii) the municipality in which the property is located has adopted an ordinance imposing a duty to maintain the property on: (A) an occupant who is not the property owner; or (B) a person other than the property owner who is responsible for the property. Section 4. Section 10-11-103, which is renumbered from Section 10-11-1 is renumbered and amended to read: [10-11-1]. <u>10-11-103.</u> Abatement of nuisances and code violations -- Selection of service provider. (1) A municipal legislative body may: (a) designate and regulate the abatement of: (i) the growth and spread of injurious and noxious weeds; (ii) garbage and refuse; [(iii) a public nuisance; or] (iv) an illegal object or structure; and (a) enact an ordinance that: (i) designates and regulates the abatement of a nuisance or code violation; (ii) subject to Section 10-3-703, provides penalties for violations of the ordinance; and (iii) creates an appeal process in accordance with Section 10-11-108; and (b) appoint a municipal inspector [for the purpose of carrying out and in accordance with the provisions of this chapter]. (2) A municipal legislative body may not: (a) prohibit [an owner or occupant of real property] a property owner or responsible party within the municipality's jurisdiction, including [an owner or occupant] a property owner or responsible party who receives a [notice] citation in accordance with Section [10-11-2] 10-11-104, from selecting a person, as defined in Section 10-1-104, to provide an abatement service for [injurious and noxious weeds,

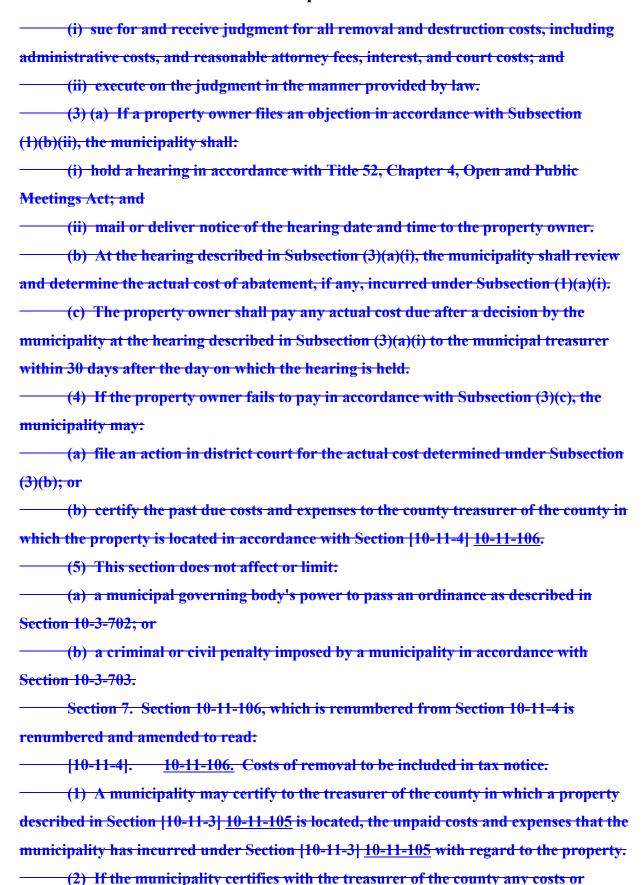
garbage and refuse, a public nuisance, or an illegal object or structure a nuisance or code violation; or (b) require that [an owner or occupant] a property owner or responsible party described in Subsection (2)(a) use the services of the municipal inspector or any assistance employed by the municipal inspector described in Section [10-11-3] 10-11-105 to provide an abatement service described in Subsection (2)(a). (3) A municipality may require that [an owner or occupant] a property owner or responsible party described in Subsection (2)(a) use the abatement services, as described in Section [10-11-3] 10-11-105, of the municipal inspector or any assistance employed by the municipal inspector if: (a) the municipality adopts an ordinance providing a reasonable period of time for [an owner or occupant] a property owner or responsible party to abate [the owner's or occupant's property| a nuisance or code violation after receiving a [notice] citation described in Section [10-11-2] 10-11-104; and (b) the [owner or occupant] property owner or responsible party fails to abate the [property] nuisance or code violation within the reasonable period of time and in accordance with the [notice] citation. Section 5. Section 10-11-104, which is renumbered from Section 10-11-2 is renumbered and amended to read: [10-11-2]. <u>10-11-104.</u> Inspection of property -- Citation. (1) (a) If a municipality adopts an ordinance [describing the duties of a municipal inspector appointed under Section 10-11-1| under Section 10-11-103 and appoints a municipal inspector, the ordinance: (i) may, subject to [Subsection] Subsections (1)(b) and (3), direct the inspector to **[examine and investigate] inspect real property for:** (A) the growth and spread of injurious and noxious weeds; (B) garbage and refuse; (C) a public nuisance; or (D) an illegal object or structure; and (A) a nuisance; and (B) a code violation; and





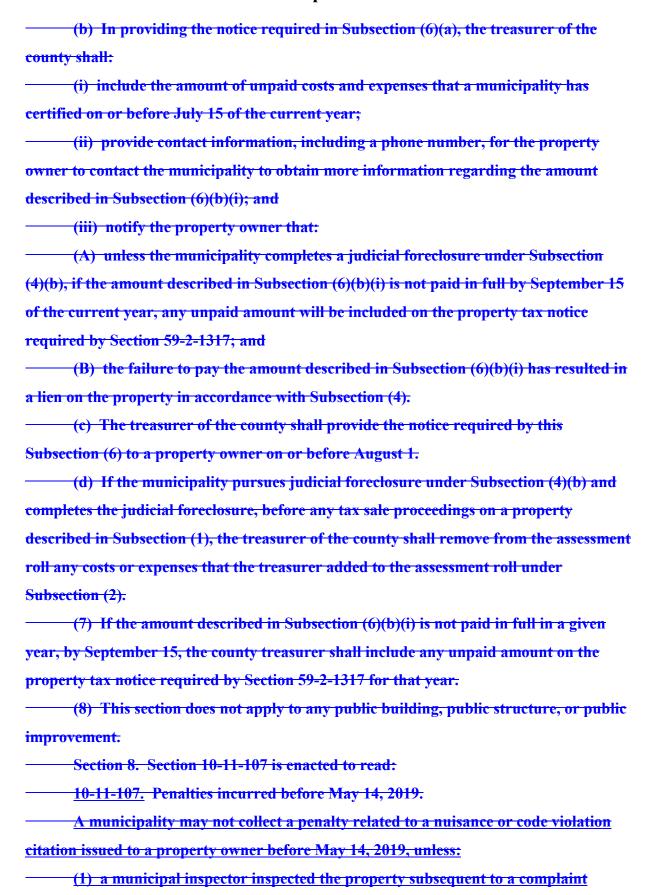




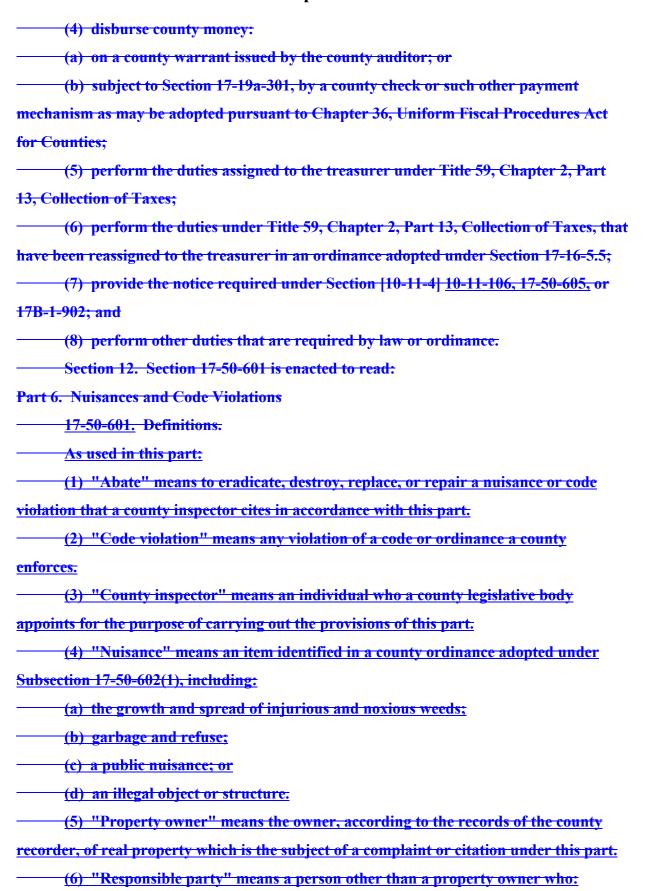


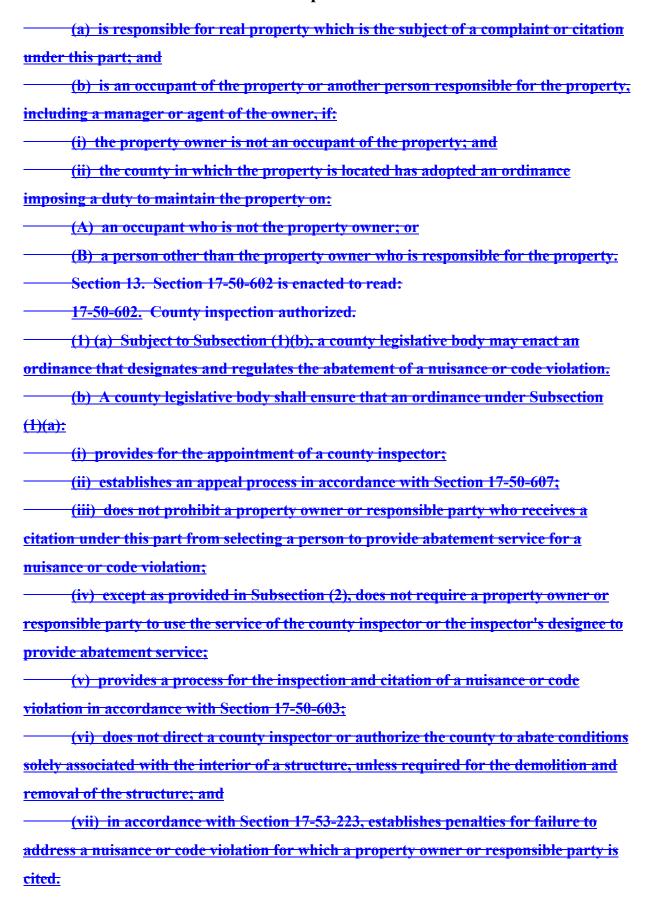
expenses incurred for a property under Section [10-11-3] 10-11-105, the treasurer shall

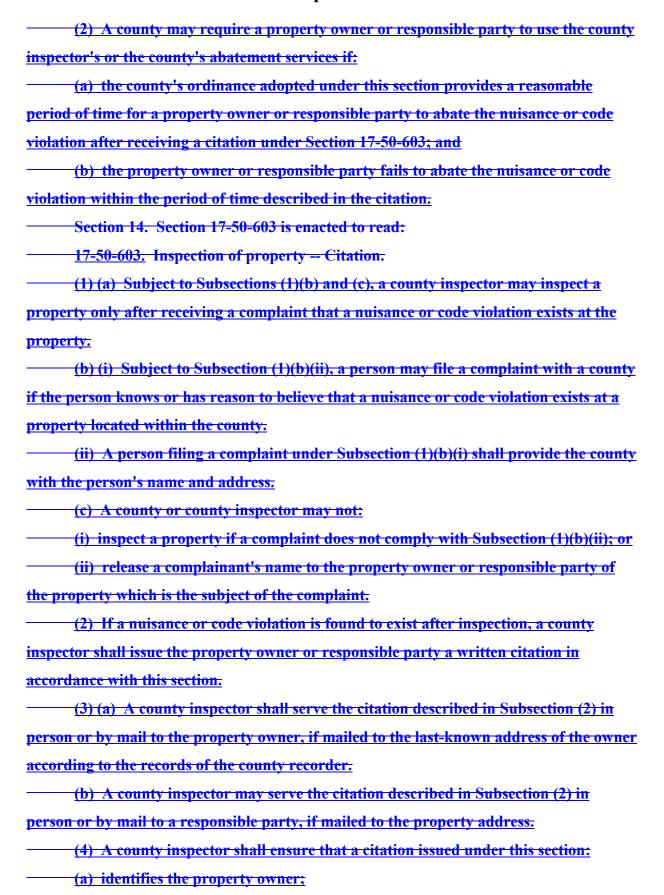
enter the amount of the costs and expenses on the assessment and tax rolls of the county in the column prepared for that purpose. (3) If current tax notices have been mailed, the treasurer of the county may carry the costs and expenses described in Subsection (2) on the assessment and tax rolls to the following year. (4) (a) After entry by the treasurer of the county under Subsection (2): (i) the amount entered is a nonrecurring tax notice charge that constitutes a political subdivision lien, as those terms are defined in Section 11-60-102, upon the property in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority; and (ii) the treasurer of the county in which the property is located shall collect the amount entered at the time of the payment of general taxes. (b) (i) Notwithstanding Subsection (7), the municipality may pursue judicial foreclosure to enforce the lien rather than relying on a tax sale. (ii) If the municipality pursues judicial foreclosure under this Subsection (4)(b): (A) the municipality shall record the lien in the office of the recorder of the county in which the liened property is located; and (B) the priority date of the lien, for the purpose of the judicial foreclosure, is the date on which the municipality records the lien. (5) Upon payment of the costs and expenses that the treasurer of the county enters under Subsection (2): (a) the lien described in Subsection (4) is released from the property; (b) the municipality shall record a release of the lien in the office of the recorder of the county in which the liened property is located; and (c) the treasurer shall acknowledge receipt upon the general tax receipt that the treasurer issues. (6) (a) If a municipality certifies unpaid costs and expenses under this section, the treasurer of the county shall provide a notice, in accordance with this Subsection (6), to the owner of the property for which the municipality has incurred the unpaid costs and expenses.



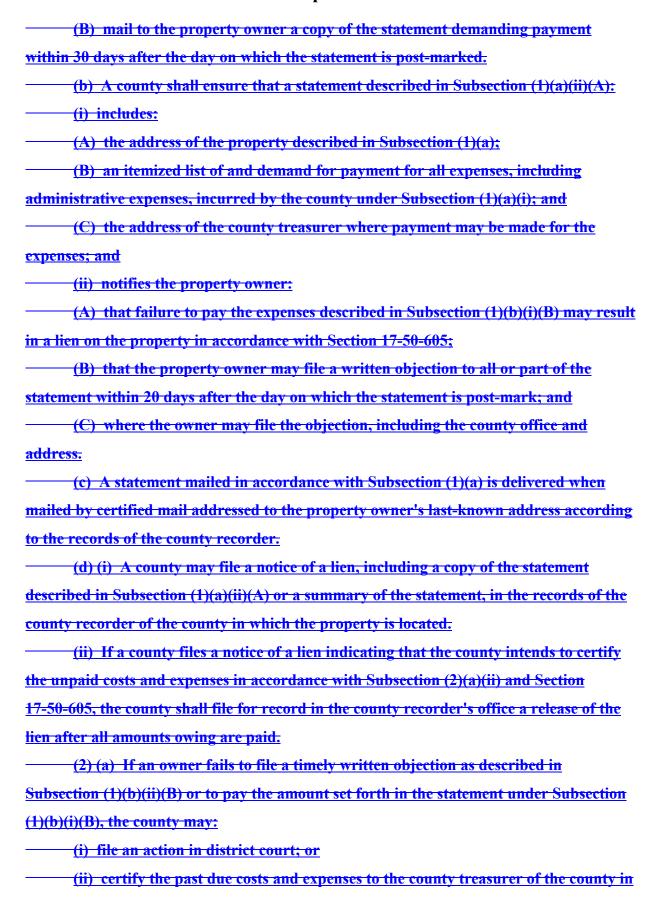
regarding the nuisance or code violation that resulted in the citation; and
(2) the citation:
(a) was delivered in writing to the property owner;
(b) identified the nuisance or code violation that the municipal inspector found to
exist at the property; and
(c) specified the day on which the property owner or responsible party is required
to abate the nuisance or code violation.
Section 9. Section 10-11-108 is enacted to read:
10-11-108. Appeal of a citation.
(1) Each municipality adopting an ordinance under this chapter shall, in the
ordinance, establish an appeal authority to hear and decide appeals from a citation
enforcing the ordinance.
(2) Within 30 days after the day on which a municipal inspector issues a citation
under this chapter, the property owner or responsible party of the property which is the
subject of the citation may file an appeal with the appeal authority described in
Subsection (1).
(3) An appeal authority shall serve as the final arbiter of issues involving the
interpretation or application of an ordinance under this chapter.
Section 10. Section 10-11-109 is enacted to read:
10-11-109. Effect of chapter.
Nothing in this chapter affects a municipal legislative body's ability to enforce a
penalty under Section 10-9a-803.
Section 11. Section 17-24-1 is amended to read:
17-24-1. General duties of treasurer.
The county treasurer shall:
(1) receive all money belonging to the county and all other money by law directed
to be paid to the treasurer, including proceeds of bonds, notes, or other evidences of
indebtedness issued under Title 11, Chapter 14, Local Government Bonding Act;
(2) deposit and invest all money received under Title 51, Chapter 7, State Money
Management Act;
(3) keep a record of the receipts and expenditures of all such money;





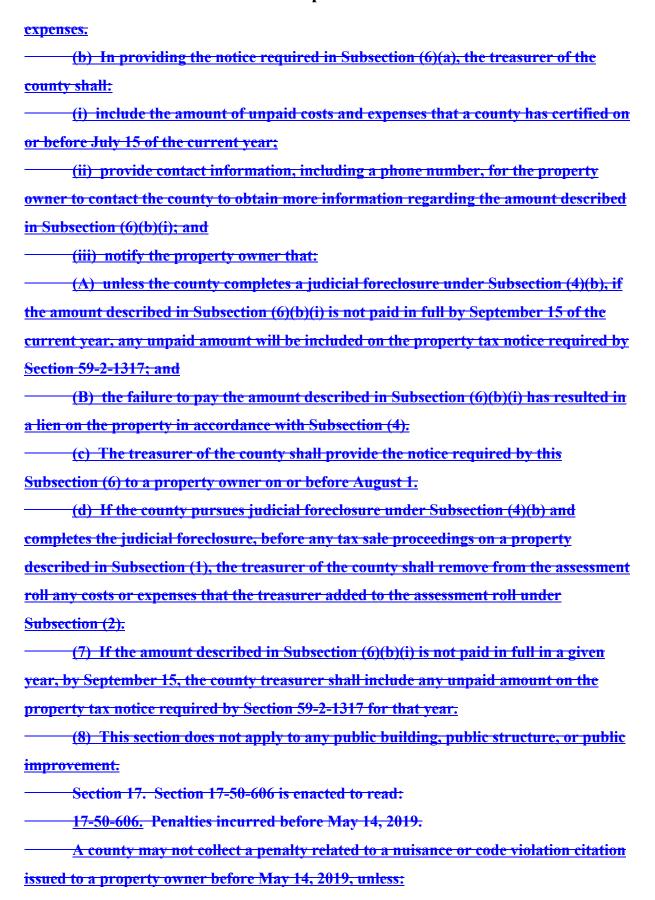


(b) describes the property and results of the inspection, including the nature of
the nuisance or code violation that exists;
(c) subject to Subsection (6), describes the time period within which a property
owner or responsible party has to abate the nuisance or code violation;
(d) identifies any penalties associated with the nuisance or code violation; and
(e) notifies the property owner or responsible party that:
(i) the property owner or responsible party must abate the nuisance or code
violation within the time period described in Subsection (1)(c);
(ii) failure to abate the nuisance or code violation may result in a penalty as
described in Subsection (1)(d); and
(iii) the property owner or responsible party may appeal the citation in
accordance with Section 17-50-607.
(5) A county inspector shall serve a citation under this section under penalty of
<u>perjury.</u>
(6) (a) Subject to Subsection (6)(b), a county inspector shall adjust the time period
within which a property owner or responsible party is required to abate a nuisance or
code violation based upon:
(i) the type and severity of the nuisance or code violation; and
(ii) the cost to abate the nuisance or code violation.
(b) Notwithstanding Subsection (6)(a), a county inspector may not require a time
period described in Subsection (6)(a) of less than 10 days after the day on which the
inspector serves a citation under Subsection (3).
Section 15. Section 17-50-604 is enacted to read:
17-50-604. Neglect of property owners Abatement by county Costs of
abatement Notice File action or lien Property owner objection.
(1) (a) If a property owner or responsible party who receives a citation under
Section 17-50-603 fails to abate the nuisance or code violation in accordance with the
citation, a county inspector may:
(i) at the expense of the county, employ necessary assistance to enter the property
and abate the nuisance or code violation; and
(ii) (A) prepare an itemized statement in accordance with Subsection (1)(b); and



which the property is located in accordance with Section 17-50-605. (b) If a county pursues collection of the costs in accordance with Subsection (2)(a)(i) or (4)(a), the county may: (i) sue for and receive judgment for all removal and destruction costs, including administrative costs, and reasonable attorney fees, interest, and court costs; and (ii) execute on the judgment in the manner provided by law. (3) (a) If a property owner files an objection in accordance with Subsection (1)(b)(ii), the county shall: (i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public **Meetings Act; and** (ii) mail or deliver notice of the hearing date and time to the property owner. (b) At the hearing described in Subsection (3)(a)(i), the county shall review and determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i). (c) The property owner shall pay any actual cost due after a decision by the county at the hearing described in Subsection (3)(a)(i) to the county treasurer within 30 days after the day on which the hearing is held. (4) If the property owner fails to pay in accordance with Subsection (3)(c), the county may: (a) file an action in district court for the actual cost determined under Subsection $\frac{(3)(b)}{(3)}$; or (b) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 17-50-605. (5) This section does not affect or limit a county legislative body's power, as described in Section 17-53-223: (a) to pass an ordinance; or (b) to impose a criminal or civil penalty. Section 16. Section 17-50-605 is enacted to read: 17-50-605. Costs of abatement to be included in tax notice. (1) A county may certify to the treasurer of the county in which a property described in Section 17-50-604 is located, the unpaid costs and expenses that the county has incurred under Section 17-50-604 with regard to the property.

(2) If the county certifies with the treasurer of the county any costs or expenses incurred for a property under Section 17-50-604, the treasurer shall enter the amount of the costs and expenses on the assessment and tax rolls of the county in the column prepared for that purpose. (3) If current tax notices have been mailed, the treasurer of the county may carry the costs and expenses described in Subsection (2) on the assessment and tax rolls to the following year. (4) (a) After entry by the treasurer of the county under Subsection (2): (i) the amount entered is a nonrecurring tax notice charge that constitutes a political subdivision lien, as those terms are defined in Section 11-60-102, upon the property in accordance with Title 11, Chapter 60, Political Subdivision Lien Authority; and (ii) the treasurer of the county in which the property is located shall collect the amount entered at the time of the payment of general taxes. (b) (i) Notwithstanding Subsection (7), the county may pursue judicial foreclosure to enforce the lien rather than relying on a tax sale. (ii) If the county pursues judicial foreclosure under this Subsection (4)(b): (A) the county shall record the lien in the office of the recorder of the county in which the liened property is located; and (B) the priority date of the lien, for the purpose of the judicial foreclosure, is the date on which the county records the lien. (5) Upon payment of the costs and expenses that the treasurer of the county enters under Subsection (2): (a) the lien described in Subsection (4) is released from the property; (b) the county shall record a release of the lien in the office of the recorder of the county in which the liened property is located; and (c) the treasurer shall acknowledge receipt upon the general tax receipt that the treasurer issues. (6) (a) If a county certifies unpaid costs and expenses under this section, the treasurer of the county shall provide a notice, in accordance with this Subsection (6), to the owner of the property for which the county has incurred the unpaid costs and

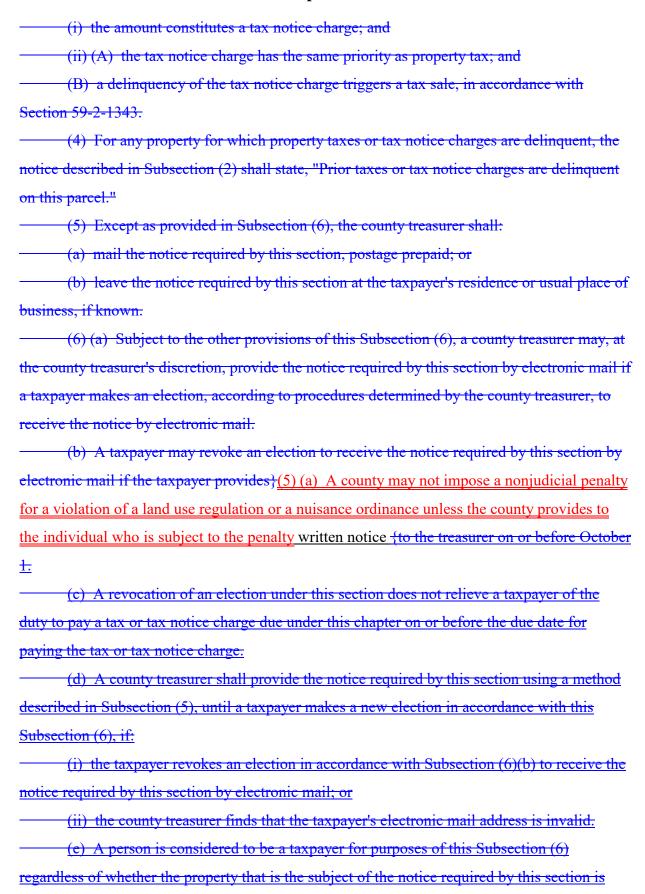


(1) a county inspector inspected the property subsequent to a complaint regarding
the nuisance or code violation that resulted in the citation; and
(2) the citation:
(a) was delivered in writing to the property owner;
(b) identified the nuisance or code violation that the county inspector found to
exist at the property; and
(c) specified the day on which the property owner or responsible party is require
to abate the nuisance or code violation.
Section 18. Section 17-50-607 is enacted to read:
17-50-607. Appeal of a citation.
(1) Each county adopting an ordinance under this part shall, in the ordinance,
establish an appeal authority to hear and decide appeals from a citation enforcing the
ordinance.
(2) Within 30 days after the day on which a county inspector issues a citation
under this part, the property owner or responsible party of the property which is the
subject of the citation may file an appeal with the appeal authority described in
Subsection (1).
(3) An appeal authority shall serve as the final arbiter of issues involving the
interpretation or application of an ordinance under this part.
Section 19. Section 17-50-608 is enacted to read:
<u>17-50-608.</u> Effect of part.
Nothing in this part affects a county legislative body's ability to enforce a penalty
under Section 17-27a-803.
17-53-228. Administrative hearings and procedures}.
(1) A county may adopt an ordinance establishing an administrative hearing process to
review and decide matters relating to the violation, enforcement, or administration of a county
civil ordinance, including an ordinance related to the following:
(a) a building code;
(b) planning and zoning;
(c) animal control;
(d) licensing;

(e) health and safety;

(f) county employment; or (g) sanitation. (2) An ordinance adopted in accordance with Subsection (1) shall provide appropriate due process protections for a party participating in an administrative hearing. (3) An administrative hearing held in accordance with an ordinance described in Subsection (1) may be conducted by an administrative law judge. (4) A county may not impose a civil penalty and adjudication for the violation of a county moving traffic ordinance. {Section 20. Section 59-2-1317 is amended to read: 59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice. (1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102. (2) Subject to the other provisions of this section, the county treasurer shall: (a) collect the taxes and tax notice charges; and (b) provide a notice to each taxpayer that contains the following: (i) the kind and value of property assessed to the taxpayer; (ii) the street address of the property, if available to the county; (iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1: (iv) the amount of taxes levied; (v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose; (vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures; (vii) any tax notice charges applicable to the property, including: (A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30; (B) if applicable, a political subdivision lien for municipal water distribution, as described in Section 10-8-17, or a political subdivision lien for an increase in supply from a

municipal water distribution, as described in Section 10-8-19; (C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section [10-11-4] 10-11-106 or 17-50-605; (D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer; (E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest; (F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506; and (G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007; (viii) a statement that, due to potentially ongoing charges, costs, penalties, and interest, payment of a tax notice charge may not: (A) pay off the full amount the property owner owes to the tax notice entity; or (B) cause a release of the lien underlying the tax notice charge; (ix) the date the taxes and tax notice charges are due; (x) the street address at which the taxes and tax notice charges may be paid; (xi) the date on which the taxes and tax notice charges are delinquent; (xii) the penalty imposed on delinquent taxes and tax notice charges; (xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9); (xiv) other information specifically authorized to be included on the notice under this chapter; and (xv) other property tax information approved by the commission. (3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice. (b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:



exempt from taxation. (7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1. (b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice. (c) The county treasurer is not required to mail a tax receipt acknowledging payment. (8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307. (9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between: (i) the total amount due for property tax; (ii) the amount due for assessments, past due local district fees, and other tax notice charges; and (iii) any other amounts due on the property tax notice. (b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a). (c) The provisions of this Subsection (9) do not: (i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or (ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i). }that: (i) identifies the relevant regulation or ordinance at issue; (ii) specifies the violation of the relevant regulation or ordinance; and (iii) provides for a reasonable time to cure the violation, taking into account the cost of curing the violation. (b) A county may not collect on a nonjudicial penalty for a violation of a land use regulation or a nuisance ordinance that is outstanding or pending on or after May 14, 2019,

unless the county imposed the outstanding or pending penalty in relation to a written notice

that:

- (i) identified the relevant regulation or ordinance at issue;
- (ii) specified the violation of the relevant regulation or ordinance; and
- (iii) provided for a reasonable time to cure the violation, taking into account the cost of curing the violation.