



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB2752

by Rep. Jehan A. Gordon-Booth

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-20-15
65 ILCS 5/11-20-15.1

Amends the Municipal Code. Provides that liens obtained for the removal of neglected weeds, grass, trees, and bushes; pest extermination; removal of infected trees; removal of garbage, debris, and graffiti; and the costs of removal, securing, and enclosing on abandoned residential property shall also affix to any real property of the property owner. Further provides that the notice requirements apply to liens against any real property of the property owner. Effective immediately.

LRB099 06477 AWJ 26549 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 11-20-15 and 11-20-15.1 as follows:

6 (65 ILCS 5/11-20-15)

7 Sec. 11-20-15. Lien for removal costs.

8 (a) If the municipality incurs a removal cost under Section
9 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any
10 underlying parcel, then that cost is a lien upon that
11 underlying parcel and any real property of the property owner.
12 These liens are ~~This lien is~~ superior to all other liens and
13 encumbrances, except tax liens and as otherwise provided in
14 subsection (c) of this Section.

15 (b) To perfect a lien under this Section, the municipality
16 must, within one year after the removal cost is incurred, file
17 notice of lien in the office of the recorder in the county in
18 which the underlying parcel is located or, if the underlying
19 parcel is registered under the Torrens system, in the office of
20 the Registrar of Titles of that county. The notice must consist
21 of a sworn statement setting out:

22 (1) a description of the underlying parcel that
23 sufficiently identifies the parcel;

1 (2) the amount of the removal cost; and

2 (3) the date or dates when the removal cost was
3 incurred by the municipality.

4 If, for any one parcel, the municipality engaged in any
5 removal activity on more than one occasion during the course of
6 one year, then the municipality may combine any or all of the
7 costs of each of those activities into a single notice of lien.

8 (c) A lien under this Section is not valid as to: (i) any
9 purchaser whose rights in and to the underlying parcel arose
10 after the removal activity but before the filing of the notice
11 of lien; or (ii) any mortgagee, judgment creditor, or other
12 lienor whose rights in and to the underlying parcel arose
13 before the filing of the notice of lien.

14 (d) The removal cost is not a lien on the underlying parcel
15 or any real property of the property owner unless a notice is
16 personally served on, or sent by certified mail to, the person
17 to whom was sent the tax bill for the general taxes on the
18 property for the taxable year immediately preceding the removal
19 activities. The notice must be delivered or sent after the
20 removal activities have been performed, and it must: (i) state
21 the substance of this Section and the substance of any
22 ordinance of the municipality implementing this Section; (ii)
23 identify the underlying parcel, by common description; and
24 (iii) describe the removal activity.

25 (e) A lien under this Section may be enforced by
26 proceedings to foreclose as in case of mortgages or mechanics'

1 liens. An action to foreclose a lien under this Section must be
2 commenced within 2 years after the date of filing notice of
3 lien.

4 (f) Any person who performs a removal activity by the
5 authority of the municipality may, in his or her own name, file
6 a lien and foreclose on that lien in the same manner as a
7 municipality under this Section.

8 (g) A failure to file a foreclosure action does not, in any
9 way, affect the validity of the lien against the underlying
10 parcel.

11 (h) Upon payment of the lien cost by the owner of the
12 underlying parcel after notice of lien has been filed, the
13 municipality (or its agent under subsection (f)) shall release
14 the lien, and the release may be filed of record by the owner
15 at his or her sole expense as in the case of filing notice of
16 lien.

17 (i) For the purposes of this Section:

18 "Lien cost" means the removal cost and the filing costs for
19 any notice of lien under subsection (b).

20 "Removal activity" means any activity for which a removal
21 cost was incurred.

22 "Removal cost" means a removal cost as defined under
23 Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13.

24 "Underlying parcel" means a parcel of private property upon
25 which a removal activity was performed.

26 "Year" means a 365-day period.

1 (j) This Section applies only to liens filed after August
2 14, 2009 (the effective date of Public Act 96-462).

3 (k) This Section shall not apply to a lien filed pursuant
4 to Section 11-20-15.1.

5 (Source: P.A. 96-462, eff. 8-14-09; 96-856, eff. 3-1-10;
6 96-1000, eff. 7-2-10.)

7 (65 ILCS 5/11-20-15.1)

8 Sec. 11-20-15.1. Lien for costs of removal, securing, and
9 enclosing on abandoned residential property.

10 (a) If the municipality elects to incur a removal cost
11 pursuant to subsection (d) of Section 11-20-7, subsection (d)
12 of Section 11-20-8, subsection (d) of Section 11-20-12, or
13 subsection (e) of Section 11-20-13, or a securing or enclosing
14 cost pursuant to Section 11-31-1.01 with respect to an
15 abandoned residential property, then that cost is a lien upon
16 the underlying parcel of that abandoned residential property
17 and any real property of the property owner. These liens are
18 ~~This lien is~~ superior to all other liens and encumbrances,
19 except tax liens and as otherwise provided in this Section.

20 (b) To perfect a lien under this Section, the municipality
21 must, within one year after the cost is incurred for the
22 activity, file notice of the lien in the office of the recorder
23 in the county in which the abandoned residential property or
24 any real property of the property owner is located or, if the
25 abandoned residential property or any real property of the

1 property owner is registered under the Torrens system, in the
2 office of the Registrar of Titles of that county, a sworn
3 statement setting out:

4 (1) a description of the abandoned residential
5 property that sufficiently identifies the parcel;

6 (2) the amount of the cost of the activity;

7 (3) the date or dates when the cost for the activity
8 was incurred by the municipality; and

9 (4) a statement that the lien has been filed pursuant
10 to subsection (d) of Section 11-20-7, subsection (d) of
11 Section 11-20-8, subsection (d) of Section 11-20-12,
12 subsection (e) of Section 11-20-13, or Section 11-31-1.01,
13 as applicable.

14 If, for any abandoned residential property, the
15 municipality engaged in any activity on more than one occasion
16 during the course of one year, then the municipality may
17 combine any or all of the costs of each of those activities
18 into a single notice of lien.

19 (c) To enforce a lien pursuant to this Section, the
20 municipality must maintain contemporaneous records that
21 include, at a minimum: (i) a dated statement of finding by the
22 municipality that the property for which the work is to be
23 performed has become abandoned residential property, which
24 shall include (1) the date when the property was first known or
25 observed to be unoccupied by any lawful occupant or occupants,
26 (2) a description of the actions taken by the municipality to

1 contact the legal owner or owners of the property identified on
2 the recorded mortgage, or, if known, any agent of the owner or
3 owners, including the dates such actions were taken, and (3) a
4 statement that no contacts were made with the legal owner or
5 owners or their agents as a result of such actions, (ii) a
6 dated certification by an authorized official of the
7 municipality of the necessity and specific nature of the work
8 to be performed, (iii) a copy of the agreement with the person
9 or entity performing the work that includes the legal name of
10 the person or entity, the rate or rates to be charged for
11 performing the work, and an estimate of the total cost of the
12 work to be performed, (iv) detailed invoices and payment
13 vouchers for all payments made by the municipality for such
14 work, and (v) a statement as to whether the work was engaged
15 through a competitive bidding process, and if so, a copy of all
16 proposals submitted by the bidders for such work.

17 (d) A lien under this Section shall be enforceable
18 exclusively at the hearing for confirmation of sale of the
19 abandoned residential property that is held pursuant to
20 subsection (b) of Section 15-1508 of the Code of Civil
21 Procedure and shall be limited to a claim of interest in the
22 proceeds of the sale and subject to the requirements of this
23 Section. Any mortgagee who holds a mortgage on the property, or
24 any beneficiary or trustee who holds a deed of trust on the
25 property, may contest the lien or the amount of the lien at any
26 time during the foreclosure proceeding upon motion and notice

1 in accordance with court rules applicable to motions generally.
2 Grounds for forfeiture of the lien or the superior status of
3 the lien granted by subsection (a) of this Section shall
4 include, but not be limited to, a finding by the court that:
5 (i) the municipality has not complied with subsection (b) or
6 (c) of this Section, (ii) the scope of the work was not
7 reasonable under the circumstances, (iii) the work exceeded the
8 authorization for the work to be performed under subsection (a)
9 of Section 11-20-7, subsection (a) of Section 11-20-8,
10 subsection (a) of Section 11-20-12, subsection (a) of Section
11 11-20-13, or subsection (a) of Section 11-31-1.01, as
12 applicable, or (iv) the cost of the services rendered or
13 materials provided was not commercially reasonable. Forfeiture
14 of the superior status of the lien otherwise granted by this
15 Section shall not constitute a forfeiture of the lien as a
16 subordinate lien.

17 (e) Upon payment of the amount of a lien filed under this
18 Section by the mortgagee, servicer, owner, or any other person,
19 the municipality shall release the lien, and the release may be
20 filed of record by the person making such payment at the
21 person's sole expense as in the case of filing notice of lien.

22 (f) Notwithstanding any other provision of this Section, a
23 municipality may not file a lien pursuant to this Section for
24 activities performed pursuant to Section 11-20-7, Section
25 11-20-8, Section 11-20-12, Section 11-20-13, or Section
26 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned

1 residential property has provided notice to the municipality
2 that the mortgagee or servicer has performed or will perform
3 the remedial actions specified in the notice that the
4 municipality otherwise might perform pursuant to subsection
5 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
6 subsection (d) of Section 11-20-12, subsection (e) of Section
7 11-20-13, or Section 11-31-1.01, provided that the remedial
8 actions specified in the notice have been performed or are
9 performed or initiated in good faith within 30 days of such
10 notice; or (ii) the municipality has provided notice to the
11 mortgagee or servicer of a problem with the property requiring
12 the remedial actions specified in the notice that the
13 municipality otherwise would perform pursuant to subsection
14 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
15 subsection (d) of Section 11-20-12, subsection (e) of Section
16 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
17 has performed or performs or initiates in good faith the
18 remedial actions specified in the notice within 30 days of such
19 notice.

20 (g) This Section and subsection (d) of Section 11-20-7,
21 subsection (d) of Section 11-20-8, subsection (d) of Section
22 11-20-12, subsection (e) of Section 11-20-13, or Section
23 11-31-1.01 shall apply only to activities performed, costs
24 incurred, and liens filed after the effective date of this
25 amendatory Act of the 96th General Assembly.

26 (h) For the purposes of this Section and subsection (d) of

1 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
2 (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or
3 Section 11-31-1.01:

4 "Abandoned residential property" means any type of
5 permanent residential dwelling unit, including detached single
6 family structures, and townhouses, condominium units and
7 multifamily rental apartments covering the entire property,
8 and manufactured homes treated under Illinois law as real
9 estate and not as personal property, that has been unoccupied
10 by any lawful occupant or occupants for at least 90 days, and
11 for which after such 90 day period, the municipality has made
12 good faith efforts to contact the legal owner or owners of the
13 property identified on the recorded mortgage, or, if known, any
14 agent of the owner or owners, and no contact has been made. A
15 property for which the municipality has been given notice of
16 the order of confirmation of sale pursuant to subsection (b-10)
17 of Section 15-1508 of the Code of Civil Procedure shall not be
18 deemed to be an abandoned residential property for the purposes
19 of subsection (d) of Section 11-20-7, subsection (d) of Section
20 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
21 Section 11-20-13, and Section 11-31-1.01 of this Code.

22 "MERS program" means the nationwide Mortgage Electronic
23 Registration System approved by Fannie Mae, Freddie Mac, and
24 Ginnie Mae that has been created by the mortgage banking
25 industry with the mission of registering every mortgage loan in
26 the United States to lawfully make information concerning each

1 residential mortgage loan and the property securing it
2 available by Internet access to mortgage originators,
3 servicers, warehouse lenders, wholesale lenders, retail
4 lenders, document custodians, settlement agents, title
5 companies, insurers, investors, county recorders, units of
6 local government, and consumers.

7 (i) Any entity or person who performs a removal, securing,
8 or enclosing activity pursuant to the authority of a
9 municipality under subsection (d) of Section 11-20-7,
10 subsection (d) of Section 11-20-8, subsection (d) of Section
11 11-20-12, subsection (e) of Section 11-20-13, or Section
12 11-31-1.01, may, in its, his, or her own name, file a lien
13 pursuant to subsection (b) of this Section and appear in a
14 foreclosure action on that lien pursuant to subsection (d) of
15 this Section in the place of the municipality, provided that
16 the municipality shall remain subject to subsection (c) of this
17 Section, and such party shall be subject to all of the
18 provisions in this Section as if such party were the
19 municipality.

20 (i-5) All amounts received by the municipality for costs
21 incurred pursuant to this Section for which the municipality
22 has been reimbursed under Section 7.31 of the Illinois Housing
23 Development Act shall be remitted to the State Treasurer for
24 deposit into the Abandoned Residential Property Municipality
25 Relief Fund.

26 (j) If prior to subsection (d) of Section 11-20-7,

1 subsection (d) of Section 11-20-8, subsection (d) of Section
2 11-20-12, and subsection (e) of Section 11-20-13 becoming
3 inoperative a lien is filed pursuant to any of those
4 subsections, then the lien shall remain in full force and
5 effect after the subsections have become inoperative, subject
6 to all of the provisions of this Section. If prior to the
7 repeal of Section 11-31-1.01 a lien is filed pursuant to
8 Section 11-31-1.01, then the lien shall remain in full force
9 and effect after the repeal of Section 11-31-1.01, subject to
10 all of the provisions of this Section.

11 (Source: P.A. 96-856, eff. 3-1-10; 96-1419, eff. 10-1-10.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.