

HB3391



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3391

Introduced 2/24/2011, by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-20-15

Amends the Illinois Municipal Code. Makes a technical change in a Section concerning liens for removal costs.

LRB097 10896 KMW 51434 b

A BILL FOR

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 Section 11-20-15 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 ~~a~~ removal cost under
9 Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to
10 any underlying parcel, then that cost is a lien upon that
11 underlying parcel. This lien is superior to all other liens and
12 encumbrances, except tax liens and as otherwise provided in
13 subsection (c) of this Section.

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

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

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

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

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

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

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

23 (e) A lien under this Section may be enforced by
24 proceedings to foreclose as in case of mortgages or mechanics'
25 liens. An action to foreclose a lien under this Section must be
26 commenced within 2 years after the date of filing notice of

1 lien.

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

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

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

15 (i) For the purposes of this Section:

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

18 "Removal activity" means any activity for which a removal
19 cost was incurred.

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

22 "Underlying parcel" means a parcel of private property upon
23 which a removal activity was performed.

24 "Year" means a 365-day period.

25 (j) This Section applies only to liens filed after August
26 14, 2009 (the effective date of Public Act 96-462).

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

3 (Source: P.A. 96-462, eff. 8-14-09; 96-856, eff. 3-1-10;
4 96-1000, eff. 7-2-10.)