



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 1380

2 AMENDMENT NO. _____. Amend Senate Bill 1380 by replacing
3 everything after the enacting clause with the following:

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. 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

1 which the underlying parcel is located or, if the underlying
2 parcel is registered under the Torrens system, in the office of
3 the Registrar of Titles of that county. The notice must consist
4 of a sworn statement setting out:

5 (1) a description of the underlying parcel that
6 sufficiently identifies the parcel;

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

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

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

14 (c) A lien under this Section is not valid as to: (i) any
15 purchaser whose rights in and to the underlying parcel arose
16 after the removal activity but before the filing of the notice
17 of lien; or (ii) any mortgagee, judgment creditor, or other
18 lienor whose rights in and to the underlying parcel arose
19 before the filing of the notice of lien.

20 (d) The removal cost is not a lien on the underlying parcel
21 unless a notice is personally served on, or sent by certified
22 mail to, the person to whom was sent the tax bill for the
23 general taxes on the property for the taxable year immediately
24 preceding the removal activities. The notice must be delivered
25 or sent after the removal activities have been performed, and
26 it must: (i) state the substance of this Section and the

1 substance of any ordinance of the municipality implementing
2 this Section; (ii) identify the underlying parcel, by common
3 description; and (iii) describe the removal activity.

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

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

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

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

22 (h-5) In any case where a municipality has obtained a lien
23 under subsection (a), the municipality may also bring an action
24 for a money judgment against the owner or owners of the real
25 estate in the amount of the lien in the same manner as provided
26 for bringing causes of action in Article II of the Code of

1 Civil Procedure and, upon obtaining a judgment, file a judgment
2 lien against all of the real estate of the owner or owners and
3 enforce that lien as provided for in Article XII of the Code of
4 Civil Procedure.

5 (i) For the purposes of this Section:

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

8 "Removal activity" means any activity for which a removal
9 cost was incurred.

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

12 "Underlying parcel" means a parcel of private property upon
13 which a removal activity was performed.

14 "Year" means a 365-day period.

15 (j) This Section applies only to liens filed after August
16 14, 2009 (the effective date of Public Act 96-462).

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

19 (Source: P.A. 96-462, eff. 8-14-09; 96-856, eff. 3-1-10;
20 96-1000, eff. 7-2-10.)

21 (65 ILCS 5/11-20-15.1)

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

24 (a) If the municipality elects to incur a removal cost
25 pursuant to subsection (d) of Section 11-20-7, subsection (d)

1 of Section 11-20-8, subsection (d) of Section 11-20-12, or
2 subsection (e) of Section 11-20-13, or a securing or enclosing
3 cost pursuant to Section 11-31-1.01 with respect to an
4 abandoned residential property, then that cost is a lien upon
5 the underlying parcel of that abandoned residential property.
6 This lien is superior to all other liens and encumbrances,
7 except tax liens and as otherwise provided in this Section.

8 (b) To perfect a lien under this Section, the municipality
9 must, within one year after the cost is incurred for the
10 activity, file notice of the lien in the office of the recorder
11 in the county in which the abandoned residential property is
12 located or, if the abandoned residential property is registered
13 under the Torrens system, in the office of the Registrar of
14 Titles of that county, a sworn statement setting out:

15 (1) a description of the abandoned residential
16 property that sufficiently identifies the parcel;

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

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

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

25 If, for any abandoned residential property, the
26 municipality engaged in any activity on more than one occasion

1 during the course of one year, then the municipality may
2 combine any or all of the costs of each of those activities
3 into a single notice of lien.

4 (c) To enforce a lien pursuant to this Section, the
5 municipality must maintain contemporaneous records that
6 include, at a minimum: (i) a dated statement of finding by the
7 municipality that the property for which the work is to be
8 performed has become abandoned residential property, which
9 shall include (1) the date when the property was first known or
10 observed to be unoccupied by any lawful occupant or occupants,
11 (2) a description of the actions taken by the municipality to
12 contact the legal owner or owners of the property identified on
13 the recorded mortgage, or, if known, any agent of the owner or
14 owners, including the dates such actions were taken, and (3) a
15 statement that no contacts were made with the legal owner or
16 owners or their agents as a result of such actions, (ii) a
17 dated certification by an authorized official of the
18 municipality of the necessity and specific nature of the work
19 to be performed, (iii) a copy of the agreement with the person
20 or entity performing the work that includes the legal name of
21 the person or entity, the rate or rates to be charged for
22 performing the work, and an estimate of the total cost of the
23 work to be performed, (iv) detailed invoices and payment
24 vouchers for all payments made by the municipality for such
25 work, and (v) a statement as to whether the work was engaged
26 through a competitive bidding process, and if so, a copy of all

1 proposals submitted by the bidders for such work.

2 (d) A lien under this Section shall be enforceable
3 exclusively at the hearing for confirmation of sale of the
4 abandoned residential property that is held pursuant to
5 subsection (b) of Section 15-1508 of the Code of Civil
6 Procedure and shall be limited to a claim of interest in the
7 proceeds of the sale and subject to the requirements of this
8 Section. Any mortgagee who holds a mortgage on the property, or
9 any beneficiary or trustee who holds a deed of trust on the
10 property, may contest the lien or the amount of the lien at any
11 time during the foreclosure proceeding upon motion and notice
12 in accordance with court rules applicable to motions generally.
13 Grounds for forfeiture of the lien or the superior status of
14 the lien granted by subsection (a) of this Section shall
15 include, but not be limited to, a finding by the court that:
16 (i) the municipality has not complied with subsection (b) or
17 (c) of this Section, (ii) the scope of the work was not
18 reasonable under the circumstances, (iii) the work exceeded the
19 authorization for the work to be performed under subsection (a)
20 of Section 11-20-7, subsection (a) of Section 11-20-8,
21 subsection (a) of Section 11-20-12, subsection (a) of Section
22 11-20-13, or subsection (a) of Section 11-31-1.01, as
23 applicable, or (iv) the cost of the services rendered or
24 materials provided was not commercially reasonable. Forfeiture
25 of the superior status of the lien otherwise granted by this
26 Section shall not constitute a forfeiture of the lien as a

1 subordinate lien.

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

7 (f) Notwithstanding any other provision of this Section, a
8 municipality may not file a lien pursuant to this Section for
9 activities performed pursuant to Section 11-20-7, Section
10 11-20-8, Section 11-20-12, Section 11-20-13, or Section
11 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
12 residential property has provided notice to the municipality
13 that the mortgagee or servicer has performed or will perform
14 the remedial actions specified in the notice that the
15 municipality otherwise might perform pursuant to subsection
16 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
17 subsection (d) of Section 11-20-12, subsection (e) of Section
18 11-20-13, or Section 11-31-1.01, provided that the remedial
19 actions specified in the notice have been performed or are
20 performed or initiated in good faith within 30 days of such
21 notice; or (ii) the municipality has provided notice to the
22 mortgagee or servicer of a problem with the property requiring
23 the remedial actions specified in the notice that the
24 municipality otherwise would perform pursuant to subsection
25 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
26 subsection (d) of Section 11-20-12, subsection (e) of Section

1 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
2 has performed or performs or initiates in good faith the
3 remedial actions specified in the notice within 30 days of such
4 notice.

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

11 (h) For the purposes of this Section and subsection (d) of
12 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
13 (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or
14 Section 11-31-1.01:

15 "Abandoned residential property" means any type of
16 permanent residential dwelling unit, including detached single
17 family structures, and townhouses, condominium units and
18 multifamily rental apartments covering the entire property,
19 and manufactured homes treated under Illinois law as real
20 estate and not as personal property, that has been unoccupied
21 by any lawful occupant or occupants for at least 90 days, and
22 for which after such 90 day period, the municipality has made
23 good faith efforts to contact the legal owner or owners of the
24 property identified on the recorded mortgage, or, if known, any
25 agent of the owner or owners, and no contact has been made. A
26 property for which the municipality has been given notice of

1 the order of confirmation of sale pursuant to subsection (b-10)
2 of Section 15-1508 of the Code of Civil Procedure shall not be
3 deemed to be an abandoned residential property for the purposes
4 of subsection (d) of Section 11-20-7, subsection (d) of Section
5 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
6 Section 11-20-13, and Section 11-31-1.01 of this Code.

7 "MERS program" means the nationwide Mortgage Electronic
8 Registration System approved by Fannie Mae, Freddie Mac, and
9 Ginnie Mae that has been created by the mortgage banking
10 industry with the mission of registering every mortgage loan in
11 the United States to lawfully make information concerning each
12 residential mortgage loan and the property securing it
13 available by Internet access to mortgage originators,
14 servicers, warehouse lenders, wholesale lenders, retail
15 lenders, document custodians, settlement agents, title
16 companies, insurers, investors, county recorders, units of
17 local government, and consumers.

18 (i) Any entity or person who performs a removal, securing,
19 or enclosing activity pursuant to the authority of a
20 municipality under 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, may, in its, his, or her own name, file a lien
24 pursuant to subsection (b) of this Section and appear in a
25 foreclosure action on that lien pursuant to subsection (d) of
26 this Section in the place of the municipality, provided that

1 the municipality shall remain subject to subsection (c) of this
2 Section, and such party shall be subject to all of the
3 provisions in this Section as if such party were the
4 municipality.

5 (i-5) All amounts received by the municipality for costs
6 incurred pursuant to this Section for which the municipality
7 has been reimbursed under Section 7.31 of the Illinois Housing
8 Development Act shall be remitted to the State Treasurer for
9 deposit into the Abandoned Residential Property Municipality
10 Relief Fund.

11 (j) If prior to subsection (d) of Section 11-20-7,
12 subsection (d) of Section 11-20-8, subsection (d) of Section
13 11-20-12, and subsection (e) of Section 11-20-13 becoming
14 inoperative a lien is filed pursuant to any of those
15 subsections, then the lien shall remain in full force and
16 effect after the subsections have become inoperative, subject
17 to all of the provisions of this Section. If prior to the
18 repeal of Section 11-31-1.01 a lien is filed pursuant to
19 Section 11-31-1.01, then the lien shall remain in full force
20 and effect after the repeal of Section 11-31-1.01, subject to
21 all of the provisions of this Section.

22 (k) In any case where a municipality has obtained a lien
23 under subsection (a), the municipality may also bring an action
24 for a money judgment against the owner or owners of the real
25 estate in the amount of the lien in the same manner as provided
26 for bringing causes of action in Article II of the Code of

1 Civil Procedure and, upon obtaining a judgment, file a judgment
2 lien against all of the real estate of the owner or owners and
3 enforce that lien as provided for in Article XII of the Code of
4 Civil Procedure.

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