



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2451

Introduced 2/19/2009, by Rep. Paul D. Froehlich

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-20-7	from Ch. 24, par. 11-20-7
65 ILCS 5/11-20-8	from Ch. 24, par. 11-20-8
65 ILCS 5/11-20-12	from Ch. 24, par. 11-20-12
65 ILCS 5/11-20-13	from Ch. 24, par. 11-20-13
65 ILCS 5/11-20-15 new	

Amends the Illinois Municipal Code. In Sections concerning the removal of nuisances by the corporate authorities of a municipality, provides for a uniform method of filing a lien to recover the costs of removing specified nuisances. Includes the removal costs of (i) cutting and removing neglected weeds, grass, trees, and bushes, (ii) controlling pests, (iii) removing infected trees, and (iv) removing garbage and debris. Makes conforming changes. Effective immediately.

LRB096 08498 RLJ 18618 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 11-20-7, 11-20-8, 11-20-12, and 11-20-13 and
6 by adding Section 11-20-15 as follows:

7 (65 ILCS 5/11-20-7) (from Ch. 24, par. 11-20-7)

8 Sec. 11-20-7. Cutting and removal of neglected weeds,
9 grass, trees, and bushes.

10 (a) The corporate authorities of each municipality may
11 provide for the removal of nuisance greenery from any parcel of
12 private property within ~~cutting of weeds or grass, the trimming~~
13 ~~of trees or bushes, and the removal of nuisance bushes or trees~~
14 ~~in~~ the municipality ~~if, when~~ the owners of that parcel real
15 estate refuse or neglect to remove the nuisance greenery. The
16 municipality may ~~cut, trim, or remove them and to collect,~~ from
17 the owners of that parcel, ~~private property~~ the reasonable
18 removal cost ~~thereof.~~

19 (b) The municipality's removal cost under this Section is a
20 lien upon the underlying parcel in accordance with Section
21 11-20-15.

22 (c) For the purpose of this Section:

23 "Removal of nuisance greenery" or "removal activities"

1 means the cutting of weeds or grass, the trimming of trees or
2 bushes, and the removal of nuisance bushes or trees.

3 "Removal cost" means the total cost of the removal
4 activity.

5 ~~This cost is a lien upon the real estate affected, superior~~
6 ~~to all other liens and encumbrances, except tax liens; provided~~
7 ~~that within 60 days after such cost and expense is incurred the~~
8 ~~municipality, or person performing the service by authority of~~
9 ~~the municipality, in his or its own name, files notice of lien~~
10 ~~in the office of the recorder in the county in which such real~~
11 ~~estate is located or in the office of the Registrar of Titles~~
12 ~~of such county if the real estate affected is registered under~~
13 ~~the Torrens system. The notice shall consist of a sworn~~
14 ~~statement setting out (1) a description of the real estate~~
15 ~~sufficient for identification thereof, (2) the amount of money~~
16 ~~representing the cost and expense incurred or payable for the~~
17 ~~service, and (3) the date or dates when such cost and expense~~
18 ~~was incurred by the municipality. However, the lien of such~~
19 ~~municipality shall not be valid as to any purchaser whose~~
20 ~~rights in and to such real estate have arisen subsequent to the~~
21 ~~cutting of weeds or grass, the trimming of trees or bushes, or~~
22 ~~the removal of nuisance bushes or trees and prior to the filing~~
23 ~~of such notice, and the lien of such municipality shall not be~~
24 ~~valid as to any mortgagee, judgment creditor or other lienor~~
25 ~~whose rights in and to such real estate arise prior to the~~
26 ~~filing of such notice. Upon payment of the cost and expense by~~

1 ~~the owner of or persons interested in such property after~~
2 ~~notice of lien has been filed, the lien shall be released by~~
3 ~~the municipality or person in whose name the lien has been~~
4 ~~filed and the release may be filed of record as in the case of~~
5 ~~filing notice of lien.~~

6 ~~The cost of the cutting, trimming, or removal of weeds,~~
7 ~~grass, trees, or bushes shall not be lien on the real estate~~
8 ~~affected unless a notice is personally served on, or sent by~~
9 ~~certified mail to, the person to whom was sent the tax bill for~~
10 ~~the general taxes on the property for the last preceding year.~~
11 ~~The notice shall be delivered or sent after the cutting,~~
12 ~~trimming, or removal of weeds, grass, trees, or bushes on the~~
13 ~~property. The notice shall state the substance of this Section~~
14 ~~and the substance of any ordinance of the municipality~~
15 ~~implementing this Section and shall identify the property, by~~
16 ~~common description, and the location of the weeds to be cut.~~

17 (Source: P.A. 95-183, eff. 8-14-07.)

18 (65 ILCS 5/11-20-8) (from Ch. 24, par. 11-20-8)

19 Sec. 11-20-8. Pest extermination; liens.

20 (a) The corporate authorities of each municipality may
21 provide pest-control activities on any parcel of private
22 property for the extermination of pests in the municipality if,
23 ~~and charge to and collect from the owners of and persons~~
24 ~~interested in private property the reasonable cost and expense~~
25 ~~of preventing ingress of pests to their property and of pest~~

1 ~~extermination therein,~~ after notification, the owners of that
2 parcel refuse or neglect to prevent the ingress of pests to
3 their property or to exterminate pests on their property. The
4 municipality may collect, from the owners of the underlying
5 parcel, the reasonable removal cost ~~notice to such owners or~~
6 ~~persons as provided by ordinance and failures of such owners or~~
7 ~~persons to comply.~~

8 (b) The municipality's removal cost under this Section is a
9 lien upon the underlying parcel in accordance with Section
10 11-20-15. ~~This cost and expense is a lien upon the real estate~~
11 ~~affected, superior to all other existing liens and~~
12 ~~encumbrances, except tax liens if within 60 days after such~~
13 ~~cost and expense is incurred the municipality, or person~~
14 ~~performing the service by authority of the municipality, in his~~
15 ~~or its own name, files notice of lien in the office of the~~
16 ~~recorder in the county in which the real estate is located or~~
17 ~~in the office of the Registrar of Titles of such county if the~~
18 ~~real estate affected is registered under "An Act concerning~~
19 ~~land titles", approved May 1, 1897, as amended. The notice~~
20 ~~shall consist of a sworn statement setting out (1) a~~
21 ~~description of the real estate sufficient for identification~~
22 ~~thereof, (2) the amount of money representing the cost and~~
23 ~~expense incurred or payable for the service, and (3) the date~~
24 ~~or dates when such cost and expense was incurred by the~~
25 ~~municipality. However, the lien of such municipality shall not~~
26 ~~be valid as to any purchaser, mortgagee, judgment creditor, or~~

1 ~~other lienor whose rights in and to the real estate arise~~
2 ~~subsequent to the pest extermination and prior to the filing of~~
3 ~~the notice of such lien in the office of the recorder, or in~~
4 ~~the office of the Registrar of Titles, as aforesaid. Upon~~
5 ~~payment of the cost and expense by the owner of or persons~~
6 ~~interested in the property after notice of lien has been filed,~~
7 ~~the lien shall be released by the municipality or person in~~
8 ~~whose name the lien has been filed and the release may be filed~~
9 ~~of record as in the case of filing notice of lien. The lien may~~
10 ~~be enforced by proceedings to foreclose as in case of mortgages~~
11 ~~or mechanics' liens. Actions to foreclose this lien shall be~~
12 ~~commenced within one year after the date of filing notice of~~
13 ~~lien.~~

14 (c) For the purpose of this Section:

15 "Pests", ~~as used in this Section 11-20-8,~~ means undesirable
16 arthropods (including certain insects, spiders, mites, ticks,
17 and related organisms), wood infesting organisms, rats, mice,
18 and other obnoxious undesirable animals, but does not include a
19 feral cat, a "companion animal" as that term is defined in the
20 Humane Care for Animals Act (510 ILCS 70/), "animals" as that
21 term is defined in the Illinois Diseased Animals Act (510 ILCS
22 50/), or animals protected by the Wildlife Code (520 ILCS 5/).

23 "Pest-control activity" means the extermination of pests
24 or the prevention of the ingress of pests.

25 "Removal cost" means the total cost of the pest-control
26 activity.

1 (Source: P.A. 94-572, eff. 8-12-05.)

2 (65 ILCS 5/11-20-12) (from Ch. 24, par. 11-20-12)

3 Sec. 11-20-12. Removal of infected trees.

4 (a) The corporate authorities of each municipality may
5 provide for the removal of elm trees infected with Dutch elm
6 disease or ash trees infected with the emerald ash borer
7 (Agrilus planipennis Fairmaire) from any parcel of private
8 property within the municipality if the owners of that parcel
9 refuse or neglect to remove the infected trees. The
10 municipality may collect, from the owners of the parcel, not
11 owned by the municipality or dedicated for public use when the
12 owner of such property refuses or neglects to remove any such
13 tree, and to collect from the property owner the reasonable
14 removal cost thereof.

15 (b) The municipality's removal cost under this Section is a
16 lien upon the underlying parcel in accordance with Section
17 11-20-15.

18 (c) For the purpose of this Section, "removal cost" means
19 the total cost of the removal of the infected trees.

20 ~~This cost is a lien upon the real estate affected, superior~~
21 ~~to all other liens and encumbrances, except tax liens; provided~~
22 ~~that notice has been given as hereinafter described, and~~
23 ~~further provided that within 60 days after such cost and~~
24 ~~expense is incurred the municipality, or person performing the~~
25 ~~service by authority of the municipality, in his or its own~~

1 ~~name, files notice of lien in the office of the recorder in the~~
2 ~~county in which such real estate is located or in the office of~~
3 ~~the Registrar of Titles of such county if the real estate~~
4 ~~affected is registered under "An Act concerning land titles",~~
5 ~~approved May 1, 1897, as amended. The notice shall consist of a~~
6 ~~sworn statement setting out (1) a description of the real~~
7 ~~estate sufficient for identification thereof, (2) the amount of~~
8 ~~money representing the cost and expense incurred or payable for~~
9 ~~the service, and (3) the date or dates when such cost and~~
10 ~~expense was incurred by the municipality. However, the lien of~~
11 ~~such municipality shall not be valid as to any purchaser whose~~
12 ~~rights in and to such real estate have arisen subsequent to the~~
13 ~~tree removal and prior to the filing of such notice, and the~~
14 ~~lien of such municipality shall not be valid as to any~~
15 ~~mortgagee, judgment creditor or other lienor whose rights in~~
16 ~~and to such real estate arise prior to the filing of such~~
17 ~~notice. Upon payment of the cost and expense by the owner of or~~
18 ~~persons interested in such property after notice of lien has~~
19 ~~been filed, the lien shall be released by the municipality or~~
20 ~~person in whose name the lien has been filed and the release~~
21 ~~may be filed of record as in the case of filing notice of lien.~~

22 ~~The cost of such tree removal shall not be a lien upon the~~
23 ~~real estate affected unless a notice shall be personally served~~
24 ~~or sent by registered mail to the person to whom was sent the~~
25 ~~tax bill for the general taxes for the last preceding year on~~
26 ~~the property, such notice to be delivered or sent not less than~~

1 ~~30 days prior to the removal of the tree or trees located~~
2 ~~thereon. The notice shall contain the substance of this~~
3 ~~section, and of any ordinance of the municipality implementing~~
4 ~~its provisions, and identify the property, by common~~
5 ~~description, and the tree or trees affected.~~

6 (Source: P.A. 95-183, eff. 8-14-07.)

7 (65 ILCS 5/11-20-13) (from Ch. 24, par. 11-20-13)

8 Sec. 11-20-13. Removal of garbage, debris, and graffiti.

9 (a) The corporate authorities of each municipality may
10 provide for the removal of garbage, debris, and graffiti from
11 any parcel of private property within the municipality if when
12 the owner of that parcel such property, after reasonable
13 notice, refuses or neglects to remove the such garbage, debris,
14 and graffiti. The municipality and may collect, from the such
15 owner of the parcel, the reasonable removal cost ~~thereof except~~
16 ~~in the case of graffiti.~~

17 (b) The municipality's removal cost under this Section is a
18 lien upon the underlying parcel in accordance with Section
19 11-20-15. This cost is a lien upon the real estate affected,
20 ~~superior to all subsequent liens and encumbrances, except tax~~
21 ~~liens, if within 60 days after such cost and expense is~~
22 ~~incurred the municipality, or person performing the service by~~
23 ~~authority of the municipality, in his or its own name, files~~
24 ~~notice of lien in the office of the recorder in the county in~~
25 ~~which such real estate is located or in the office of the~~

1 ~~Registrar of Titles of such county if the real estate affected~~
2 ~~is registered under "An Act concerning land titles", approved~~
3 ~~May 1, 1897, as amended. The notice shall consist of a sworn~~
4 ~~statement setting out (1) a description of the real estate~~
5 ~~sufficient for identification thereof, (2) the amount of money~~
6 ~~representing the cost and expense incurred or payable for the~~
7 ~~service, and (3) the date or dates when such cost and expense~~
8 ~~was incurred by the municipality. However, the lien of such~~
9 ~~municipality shall not be valid as to any purchaser whose~~
10 ~~rights in and to such real estate have arisen subsequent to~~
11 ~~removal of the garbage and debris and prior to the filing of~~
12 ~~such notice, and the lien of such municipality shall not be~~
13 ~~valid as to any mortgagee, judgment creditor or other lienor~~
14 ~~whose rights in and to such real estate arise prior to the~~
15 ~~filing of such notice. Upon payment of the cost and expense by~~
16 ~~the owner of or persons interested in such property after~~
17 ~~notice of lien has been filed, the lien shall be released by~~
18 ~~the municipality or person in whose name the lien has been~~
19 ~~filed and the release may be filed of record as in the case of~~
20 ~~filing notice of lien. The lien may be enforced by proceedings~~
21 ~~to foreclose as in case of mortgages or mechanics' liens. An~~
22 ~~action to foreclose this lien shall be commenced within 2 years~~
23 ~~after the date of filing notice of lien.~~

24 (c) This amendatory Act of 1973 does not apply to any
25 municipality which is a home rule unit.

26 (d) For the purpose of this Section, "removal cost" means

1 the total cost of the removal of garbage and debris. The term
2 "removal cost" does not include any cost associated with the
3 removal of graffiti.

4 (Source: P.A. 90-292, eff. 1-1-98.)

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

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

7 (a) If the municipality incurs a removal cost under Section
8 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any
9 underlying parcel, then that cost is a lien upon that
10 underlying parcel. This lien is superior to all other liens and
11 encumbrances, except tax liens.

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

19 (1) a description of the underlying parcel that
20 sufficiently identifies the parcel;

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

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

24 If, for any one parcel, the municipality engaged in any
25 removal activity on more than one occasion during the course of

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

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

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

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

24 (f) Any person who performs a removal activity by the
25 authority of the municipality may, in his or her own name, file
26 a lien and foreclose on that lien in the same manner as a

1 municipality under this Section.

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

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

11 (i) For the purposes of this Section:

12 "Lien cost" means the removal cost, the filing costs for
13 any notice of lien under subsection (b), and any reasonable
14 attorney fees associated with the preparation and recording of
15 the lien and the preparation of the release of the lien.

16 "Removal activity" means any activity for which a removal
17 cost was incurred.

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

20 "Underlying parcel" means a parcel of private property upon
21 which a removal activity was performed.

22 "Year" means a 365-day period.

23 (j) This Section applies only to liens filed after the
24 effective date of this amendatory Act of the 96th General
25 Assembly.

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.