

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. 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 (h-5) In any case where a municipality has obtained a lien
16 under subsection (a), the municipality may also bring an action
17 for a money judgment against the owner or owners of the real
18 estate in the amount of the lien in the same manner as provided
19 for bringing causes of action in Article II of the Code of
20 Civil Procedure and, upon obtaining a judgment, file a judgment
21 lien against all of the real estate of the owner or owners and
22 enforce that lien as provided for in Article XII of the Code of
23 Civil Procedure.

24 (i) For the purposes of this Section:

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

1 "Removal activity" means any activity for which a removal
2 cost was incurred.

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

5 "Underlying parcel" means a parcel of private property upon
6 which a removal activity was performed.

7 "Year" means a 365-day period.

8 (j) This Section applies only to liens filed after August
9 14, 2009 (the effective date of Public Act 96-462).

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

12 (Source: P.A. 96-462, eff. 8-14-09; 96-856, eff. 3-1-10;
13 96-1000, eff. 7-2-10.)

14 (65 ILCS 5/11-20-15.1)

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

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

1 (b) To perfect a lien under this Section, the municipality
2 must, within one year after the cost is incurred for the
3 activity, file notice of the lien in the office of the recorder
4 in the county in which the abandoned residential property is
5 located or, if the abandoned residential property is registered
6 under the Torrens system, in the office of the Registrar of
7 Titles of that county, a sworn statement setting out:

8 (1) a description of the abandoned residential
9 property that sufficiently identifies the parcel;

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

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

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

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

23 (c) To enforce a lien pursuant to this Section, the
24 municipality must maintain contemporaneous records that
25 include, at a minimum: (i) a dated statement of finding by the
26 municipality that the property for which the work is to be

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

21 (d) A lien under this Section shall be enforceable
22 exclusively at the hearing for confirmation of sale of the
23 abandoned residential property that is held pursuant to
24 subsection (b) of Section 15-1508 of the Code of Civil
25 Procedure and shall be limited to a claim of interest in the
26 proceeds of the sale and subject to the requirements of this

1 Section. Any mortgagee who holds a mortgage on the property, or
2 any beneficiary or trustee who holds a deed of trust on the
3 property, may contest the lien or the amount of the lien at any
4 time during the foreclosure proceeding upon motion and notice
5 in accordance with court rules applicable to motions generally.
6 Grounds for forfeiture of the lien or the superior status of
7 the lien granted by subsection (a) of this Section shall
8 include, but not be limited to, a finding by the court that:
9 (i) the municipality has not complied with subsection (b) or
10 (c) of this Section, (ii) the scope of the work was not
11 reasonable under the circumstances, (iii) the work exceeded the
12 authorization for the work to be performed under subsection (a)
13 of Section 11-20-7, subsection (a) of Section 11-20-8,
14 subsection (a) of Section 11-20-12, subsection (a) of Section
15 11-20-13, or subsection (a) of Section 11-31-1.01, as
16 applicable, or (iv) the cost of the services rendered or
17 materials provided was not commercially reasonable. Forfeiture
18 of the superior status of the lien otherwise granted by this
19 Section shall not constitute a forfeiture of the lien as a
20 subordinate lien.

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

26 (f) Notwithstanding any other provision of this Section, a

1 municipality may not file a lien pursuant to this Section for
2 activities performed pursuant to Section 11-20-7, Section
3 11-20-8, Section 11-20-12, Section 11-20-13, or Section
4 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
5 residential property has provided notice to the municipality
6 that the mortgagee or servicer has performed or will perform
7 the remedial actions specified in the notice that the
8 municipality otherwise might perform pursuant to subsection
9 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
10 subsection (d) of Section 11-20-12, subsection (e) of Section
11 11-20-13, or Section 11-31-1.01, provided that the remedial
12 actions specified in the notice have been performed or are
13 performed or initiated in good faith within 30 days of such
14 notice; or (ii) the municipality has provided notice to the
15 mortgagee or servicer of a problem with the property requiring
16 the remedial actions specified in the notice that the
17 municipality otherwise would perform pursuant to subsection
18 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
19 subsection (d) of Section 11-20-12, subsection (e) of Section
20 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
21 has performed or performs or initiates in good faith the
22 remedial actions specified in the notice within 30 days of such
23 notice.

24 (g) This Section and subsection (d) of Section 11-20-7,
25 subsection (d) of Section 11-20-8, subsection (d) of Section
26 11-20-12, subsection (e) of Section 11-20-13, or Section

1 11-31-1.01 shall apply only to activities performed, costs
2 incurred, and liens filed after the effective date of this
3 amendatory Act of the 96th General Assembly.

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

8 "Abandoned residential property" means any type of
9 permanent residential dwelling unit, including detached single
10 family structures, and townhouses, condominium units and
11 multifamily rental apartments covering the entire property,
12 and manufactured homes treated under Illinois law as real
13 estate and not as personal property, that has been unoccupied
14 by any lawful occupant or occupants for at least 90 days, and
15 for which after such 90 day period, the municipality has made
16 good faith efforts to contact the legal owner or owners of the
17 property identified on the recorded mortgage, or, if known, any
18 agent of the owner or owners, and no contact has been made. A
19 property for which the municipality has been given notice of
20 the order of confirmation of sale pursuant to subsection (b-10)
21 of Section 15-1508 of the Code of Civil Procedure shall not be
22 deemed to be an abandoned residential property for the purposes
23 of subsection (d) of Section 11-20-7, subsection (d) of Section
24 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
25 Section 11-20-13, and Section 11-31-1.01 of this Code.

26 "MERS program" means the nationwide Mortgage Electronic

1 Registration System approved by Fannie Mae, Freddie Mac, and
2 Ginnie Mae that has been created by the mortgage banking
3 industry with the mission of registering every mortgage loan in
4 the United States to lawfully make information concerning each
5 residential mortgage loan and the property securing it
6 available by Internet access to mortgage originators,
7 servicers, warehouse lenders, wholesale lenders, retail
8 lenders, document custodians, settlement agents, title
9 companies, insurers, investors, county recorders, units of
10 local government, and consumers.

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

24 (i-5) All amounts received by the municipality for costs
25 incurred pursuant to this Section for which the municipality
26 has been reimbursed under Section 7.31 of the Illinois Housing

1 Development Act shall be remitted to the State Treasurer for
2 deposit into the Abandoned Residential Property Municipality
3 Relief Fund.

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

15 (k) In any case where a municipality has obtained a lien
16 under subsection (a), the municipality may also bring an action
17 for a money judgment against the owner or owners of the real
18 estate in the amount of the lien in the same manner as provided
19 for bringing causes of action in Article II of the Code of
20 Civil Procedure and, upon obtaining a judgment, file a judgment
21 lien against all of the real estate of the owner or owners and
22 enforce that lien as provided for in Article XII of the Code of
23 Civil Procedure.

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