

Regular Session, 2012

SENATE BILL NO. 447

BY SENATORS PETERSON, APPEL, MARTINY AND MORRELL AND REPRESENTATIVES ADAMS, BILLIOT, CONNICK, HENRY, LEOPOLD, LIGI, LOPINTO, LORUSSO, TALBOT AND WILLMOTT

MUNICIPALITIES. Authorizes municipalities to enact ordinances relative to the maintenance of property by owners and seizing creditors. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 33:5062 and 5063, relative to ordinances requiring property be

3 maintained in a safe and sanitary condition; to provide for the governing authority

4 of a municipality to require that property is maintained by it's owners; to provide for

5 definitions; to provide for notice; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 33:5062 and 5063 are hereby amended and reenacted to read as

8 follows:

9 §5062. Weed cutting **and maintenance** in municipalities; abutting owner's liability;

10 notice; waiver of notice

11 A. The governing authority of any municipality, except the city of New

12 Orleans, may enact ordinances requiring that property be maintained **by owners** in

13 a safe and sanitary condition, including **but not limited to** ordinances providing for

14 the **maintenance of structures and the** cutting, destruction, or removal of noxious

15 weeds or grass or other deleterious, unhealthful, or noxious growths on any

16 sidewalks or banquettes and on any lot, place, or area within the municipality. The

17 charges, costs, and expenses incurred by the municipal governing authority in

1 enforcing such ordinances, shall, to the extent of the actual cost thereof to the  
2 municipal governing authority, be a charge, cost, or expense of the property abutting  
3 the sidewalk or banquette or of the lot, place, or area, and the owner thereof.

4 (1) For purposes of this Section, "owner" is defined as those in control  
5 of the property at issue including but not limited to seizing creditors and lien  
6 holders of foreclosed property pending title transfer.

7 (2) For purposes of this Section, "maintenance" includes, but is not  
8 limited to, ordinary repair to structures, securing and maintaining swimming  
9 pools, and removal of trash and debris, in comparison with the neighborhood  
10 standard.

11 B. No such work shall be undertaken by the municipal governing authority  
12 pursuant to this Section until the owner of the lot, place, or area, or the owner of the  
13 abutting property where the maintenance must be performed or weeds or growths  
14 are to be removed, as shown on the last assessment roll of the municipality or as  
15 evidenced by a notice of seizure filed in the mortgage and conveyance office, has  
16 an opportunity of doing the work himself within at least five days after notice has  
17 been given him by advertisement in the official journal of the municipality within  
18 which same is located for two consecutive days or after notice has been given him  
19 by registered mail, addressed in accordance with the tax rolls of the municipality.

20 C. However, a municipal governing authority may undertake the  
21 maintenance of the property or the cutting, destruction, or removal of noxious  
22 weeds or grass or other deleterious, unhealthful, or noxious growths on any property  
23 within the municipality on a monthly basis without the notice required in Subsection  
24 B of this Section if the property owner liable has been notified pursuant to said  
25 Subsection at any time during the immediately preceding twelve months and has  
26 failed to do the work himself after opportunity to do so. However, prior to  
27 undertaking such work, the municipal governing authority shall file and record an  
28 affidavit, signed by the mayor of the municipality or his designee, at its  
29 administrative office. Such affidavit shall include the following:

1 (1) A description of the property sufficient to reasonably identify it.

2 (2) A photograph of the property sufficient to reasonably identify its unsafe,  
3 ~~or~~ unsanitary, **or un-maintained** condition and to justify the necessity for  
4 **maintenance**, cutting, destroying, or removing weeds, grass, or other noxious  
5 growths.

6 (3) A statement that the property owner liable has within the past twelve  
7 months failed to do such work after notification and opportunity to do so pursuant  
8 to Subsection B of this Section.

9 \* \* \*

10 §5063. Mailing statement showing expense incurred; addition to tax liability

11 If, after the **maintenance**, cutting, destruction or removal of such **debris**,  
12 weeds, grass, or growths, by the municipality after due notice as above provided, the  
13 cost or expense thereof has not been paid within ten days, the tax collector of the  
14 municipality shall furnish the owner, as shown on the last assessment roll of the  
15 municipality **or as evidenced by a notice of seizure filed in the mortgage and**  
16 **conveyance office**, by registered mail a written statement showing the cost or  
17 expense incurred for the work, and the place or property on which the work was  
18 done. If the said statement is not paid within one month thereafter, the amount  
19 thereof shall be included in and form part of the taxes due by the owner of said  
20 property, and when collected shall be credited to the general fund of said  
21 municipality.

22 Section 2. This Act shall become effective upon signature by the governor or, if not  
23 signed by the governor, upon expiration of the time for bills to become law without signature  
24 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
25 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
26 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Michael Bell.

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DIGEST

Present law provides for the governing authority of any municipality, except the city of New Orleans, to enact ordinances requiring that property be maintained in a safe and sanitary condition.

Proposed law retains present law and adds that the property be maintained by owners in a safe and sanitary condition.

Proposed law provides for the following:

- (1) "Owner" is defined as those in control of the property at issue including but not limited to seizing creditors and lien holders of foreclosed property pending title transfer.
- (2) "Maintenance" includes, but is not limited to, ordinary repair to structures, securing and maintaining swimming pools, and removal of trash and debris, in comparison with the neighborhood standard.

Present law provides that no work shall be undertaken by the municipal governing authority until the owner of the lot, place, or area, or the owner of the abutting property where the weeds or growths are to be removed, as shown on the last assessment roll of the municipality, has an opportunity of doing this himself.

Proposed law retains present law and recognizes a notice of seizure filed in the mortgage and conveyance office as to ownership of property.

Proposed law retains present law and adds maintenance and debris removal as a billable function of the municipality.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 33:5062 and 5063)