

Regular Session, 2011

HOUSE BILL NO. 431

BY REPRESENTATIVE BILLIOT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PROPERTY/VACANT SUBSTAND: Provides relative to the enforcement of certain liens

1 AN ACT

2 To amend and reenact R.S. 33:1236(21)(a)(i), relative to liens; to provide relative to the
3 recordation and enforcement of certain liens; to provide for an award of attorney fees
4 and court costs in certain circumstances; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 33:1236(21)(a)(i) is hereby amended and reenacted to read as
7 follows:

8 §1236. Powers of parish governing authorities

9 The police juries and other parish governing authorities shall have the
10 following powers:

11 * * *

12 (21)(a)(i)~~(aa)~~ To pass ordinances to compel property owners to cut grass and
13 obnoxious weeds on their property, including property with structures located
14 thereon. If the owners of lots located within subdivisions outside municipalities in
15 the parish fail to cut and remove such grass and weeds when requested to do so,
16 within fifteen days after receipt of a registered or certified letter by the police jury
17 of said parish, the police jury shall have authority to have such grass and weeds cut
18 and removed and to charge the property owners therefor in accordance with
19 regulations adopted by the police jury. Upon failure of any such property owner to
20 pay the charges, the police jury may file a certified copy of said charges with the

1 recorder of mortgages, and the same, when so filed and recorded, shall operate as a
 2 lien and privilege in favor of the parish against the property on which said weeds and
 3 grass were cut and removed. The lien and privilege granted under this Paragraph,
 4 when recorded within sixty days from the date of completion of the cutting or
 5 removal, shall have the same ranking as an ad valorem tax lien on immovable
 6 property as provided in R.S. 9:4821(1). Parishes may, at their option, pass
 7 ordinances to add grass cutting charges as heretofore enumerated to the annual ad
 8 valorem tax bill of the property involved if the charges remain unpaid; the ad
 9 valorem tax lien imposed thereby and such rights attendant thereto shall coexist with
 10 those granted under this Item.

11 (bb) If any police jury or other parish governing authority passes an
 12 ordinance pursuant to the provisions of this Paragraph and records or otherwise
 13 enforces a lien pursuant to that ordinance against a person or his property and that
 14 person establishes that he is not the owner of the property subject to the lien, the
 15 police jury or other parish governing authority shall be liable for the payment of the
 16 reasonable attorney fees and court costs incurred for the removal of the wrongfully
 17 recorded lien and for the defense of any action taken for the enforcement of the lien
 18 by the police jury or other parish governing authority.

19 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Billiot HB No. 431

Abstract: Provides for the awarding of attorney fees and court costs incurred in the defense of a wrongfully recorded and enforced grass-cutting lien.

Present law authorizes police juries and other parish governing authorities to pass ordinances to compel property owners to cut grass and obnoxious weeds on their property.

Present law provides that if the owners of lots located within subdivisions outside municipalities in the parish fail to cut and remove the grass and weeds when requested to do so, within 15 days after receipt of a registered or certified letter by the police jury, the police jury shall have authority to have the grass and weeds cut and removed and to charge the property owners for the cutting and removal.

Present law provides that upon failure of the property owner to pay the charges, the police jury may file and record a certified copy of the charges with the recorder of mortgages which shall operate as a lien and privilege in favor of the parish against the property, and that lien and privilege shall have the same ranking as an ad valorem tax lien on immovable property.

Present law authorizes parishes to pass ordinances to add grass-cutting charges to the annual ad valorem tax bill of the property involved if the charges remain unpaid.

Proposed law provides that if any police jury or other parish governing authority passes an ordinance and enforces a lien pursuant to the provisions of present law against a person or his property, and that person establishes that he is not the owner of the property subject to the lien, the police jury or other parish governing authority shall be liable for the payment of the reasonable attorney fees and court costs incurred for the removal of the wrongfully recorded lien and for the defense of any action taken for the enforcement of the lien by the police jury or other parish governing authority.

(Amends R.S. 33:1236(21)(a)(i))