

POLITICAL SUBDIVISION LIEN AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: _____

LONG TITLE**Committee Note:**

The Political Subdivisions Interim Committee recommended this bill.

General Description:

This bill amends a provision regarding the priority of certain political subdivision liens to be consistent with existing code.

Highlighted Provisions:

This bill:

- amends a provision regarding the priority of certain political subdivision liens to be consistent with existing code.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-60-103, as enacted by Laws of Utah 2018, Chapter 197

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **11-60-103** is amended to read:**11-60-103. Political subdivision liens -- Status -- Limitations.**

(1) Unless expressly granted in statute, a political subdivision has no lien authority or lien rights when a property owner fails to pay a direct charge for:

- (a) a service that the political subdivision renders; or
- (b) a product, an item, or goods that the political subdivision delivers.

(2) A political subdivision lien other than a lien described in Subsection (3):

- (a) (i) is not equivalent to and does not have the same priority as property tax; and
- (ii) is not subject to the same collection and tax sale procedures as a property tax;
- (b) is effective as of the date on which the lienholder records the lien in the office of the recorder of the county in which the property is located;
- (c) is subordinate in priority to all encumbrances on the property existing on the date on which the ~~[municipality]~~ lienholder records the lien; and
- (d) is invalid and does not attach to the property if:
 - (i) the lienholder does not record the lien; or
 - (ii) a subsequent bona fide purchaser purchases the lien property for value before the lienholder records the lien.

(3) (a) A political subdivision lien that is included on the property tax notice in accordance with Section 59-2-1317 or another express statutory provision:

(i) under Subsection 59-2-1317(3), has the same priority as a property tax and is subject to collection in a tax sale in accordance with Title 59, Chapter 2, Part 13, Collection of Taxes, if:

(A) in order to hold the lien, statute requires the lienholder to record the lien or a resolution, notice, ordinance, or order, and the lienholder makes the required recording; or

(B) statute does not require the lienholder to record the lien or a resolution, notice, ordinance, or order; and

(ii) except as provided in Subsection (3)(b):

(A) attaches to the property; and

(B) is valid against a subsequent bona fide purchaser of the property.

(b) Notwithstanding Subsection (3)(a)(ii), a nonrecurring tax notice charge does not attach to the property and is invalid against a subsequent bona fide purchaser if the recording of a document conveying title to the subsequent bona fide purchaser occurs before the earlier of:

- (i) the recording of the lien or a notice of lien in the office of the recorder of the county

59 in which the lien property is located; or

60 (ii) the mailing of the property tax notice that includes the nonrecurring tax notice
61 charge.

62 (4) If the holder of a political subdivision lien records the lien or a notice of lien, upon
63 payment of the amount that constitutes the lien:

64 (a) the lien is released from the property; and

65 (b) the lienholder shall record a release of the lien or the notice of lien in the same
66 recorder's office in which the lienholder recorded the lien or the notice of the lien.

67 (5) Unless otherwise expressly stated in statute, a partial payment of an amount
68 constituting a political subdivision lien, including all costs, charges, interest, and amounts
69 accrued since the unpaid amount was certified to the county treasurer, is not a release of any
70 assessment to be paid in accordance with Title 11, Chapter 42, Assessment Area Act, or Title
71 11, Chapter 42a, Commercial Property Assessed Clean Energy Act.

72 (6) Nothing in this section limits a political subdivision's lien authority, lien rights, or
73 remedies otherwise provided in statute, a contract, a judgment, or another property interest.