

1 **MUNICIPAL ENFORCEMENT REGARDING PROPERTY**

2 **MAINTENANCE**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Michael T. Morley**

6 Senate Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill amends provisions related to a municipality's authority to regulate the
10 inspection and abatement of property.
11

12 **Highlighted Provisions:**

- 13 This bill:
- 14 ▶ amends provisions related to a municipality's authority to regulate the inspection
 - 15 and abatement of property;
 - 16 ▶ amends provisions related to a municipal inspector;
 - 17 ▶ amends notice provisions;
 - 18 ▶ amends provisions authorizing a municipality to file suit against a property owner or
 - 19 a lien on a property; and
 - 20 ▶ makes technical corrections.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **10-11-1**, as last amended by Laws of Utah 2003, Chapter 292



28 10-11-3, as last amended by Laws of Utah 2005, Chapter 69

29 REPEALS AND REENACTS:

30 10-11-2, as last amended by Laws of Utah 2010, Chapter 378

31 10-11-4, as last amended by Laws of Utah 1993, Chapter 227



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section 10-11-1 is amended to read:

35 **10-11-1. Abatement of weeds, garbage, refuse, and unsightly objects.**

36 A municipal legislative body may:

37 (1) designate[;] and regulate the abatement of[, injurious and noxious weeds, garbage,
38 refuse, or any unsightly or deleterious objects or structures, and may];

39 (a) ~~H→ [the growth and spread of injurious and noxious] ←H~~ weeds;

40 (b) garbage and refuse;

41 (c) ~~H→ [unsightly or deleterious objects] a public nuisance ←H~~ ; or

42 (d) ~~H→ [unsightly or deleterious structures] an illegal object or structure ←H~~ ; and

43 (2) appoint a municipal inspector for the purpose of carrying out and in accordance
44 with the provisions of this chapter.

45 Section 2. Section 10-11-2 is repealed and reenacted to read:

46 **10-11-2. Inspection of property -- Notice.**

47 (1) (a) If a municipality adopts an ordinance describing the duties of a municipal
48 inspector appointed under Section 10-11-1, the ordinance:

49 (i) may, subject to Subsection (1)(b), direct the inspector to examine and investigate
50 real property for:

51 (A) ~~H→ [the growth and spread of injurious and noxious] ←H~~ weeds;

52 (B) garbage and refuse;

53 (C) ~~H→ [unsightly or deleterious objects] a public nuisance ←H~~ ; or

54 (D) ~~H→ [unsightly or deleterious structures] an illegal object or structure ←H~~ ; and

55 (ii) if an inspector conducts an examination and investigation under Subsection (1)(a),
56 shall direct the inspector to deliver written notice of the examination and investigation in
57 accordance with Subsection (2).

58 (b) An ordinance described in Subsection (1)(a) may not direct an inspector or

59 authorize a municipality to abate conditions solely associated with the interior of a structure,
60 unless required for the demolition and removal of the structure.

61 (2) (a) (i) The municipal inspector shall serve written notice to a property owner of
62 record according to the records of the county recorder in accordance with Subsection (2)(b).

63 (ii) The municipal inspector may serve written notice in accordance with Subsection
64 (2)(b) to a non-owner occupant of the property or another person responsible for the property
65 who is not the owner of record, including a manager or agent of the owner, if:

66 (A) the property owner is not an occupant of the property; and

67 (B) the municipality in which the property is located has adopted an ordinance
68 imposing a duty to maintain the property on an occupant who is not the property owner of
69 record or a person other than the property owner of record who is responsible for the property.

70 (b) The municipal inspector may serve the written notice:

71 (i) in person or by mail to the property owner of record as described in Subsection
72 (2)(a)(i), if mailed to the last-known address of the owner according to the records of the
73 county recorder; or

74 (ii) in person or by mail to a non-owner occupant or another person responsible for the
75 property who is not the owner of record as described in Subsection (2)(a)(ii), if mailed to the
76 property address.

77 (c) In the written notice described in Subsection (2)(a), the municipal inspector shall:

78 (i) identify the property owner of record according to the records of the county
79 recorder;

80 (ii) describe the property and the nature and results of the examination and
81 investigation conducted in accordance with Subsection (1)(a); and

82 (iii) require the property owner, occupant, or, if applicable, another person responsible
83 for the property to:

84 (A) eradicate or destroy and remove any identified item examined and investigated
85 under Subsection (1)(a); and

86 (B) comply with Subsection (2)(c)(iii)(A) in a time period designated by the municipal
87 inspector but no less than 10 days after the day on which notice is delivered in person under
88 Subsection (2)(b)(i) or post-marked under Subsection (2)(b)(ii).

89 (d) For a notice of injurious and noxious weeds described in Subsection (2)(a), the

90 municipal inspector is not required to make more than one notice for each annual season of
 91 weed growth for weeds growing on a property.

92 (e) The municipal inspector shall serve the notice required under Subsection (2)(a)(i)
 93 under penalty of perjury.

94 Section 3. Section **10-11-3** is amended to read:

95 **10-11-3. Neglect of property owners -- Removal by municipality -- Costs of**
 96 **removal -- Notice -- File action or lien -- Property owner objection.**

97 (1) (a) If [~~any~~] an owner [or] of, occupant of, or other person responsible for [lands]
 98 real property described in the notice [~~under~~] delivered in accordance with Section 10-11-2 fails
 99 [~~or neglects to eradicate, or destroy and remove, the weeds, garbage, refuse, objects, or~~
 100 ~~structure upon the premises in accordance with the notice, the inspector shall]~~ to comply with
 101 Section 10-11-2, a municipal inspector may:

102 (i) at the expense of the municipality, employ necessary assistance [~~and cause the~~
 103 ~~weeds, garbage, refuse, objects, or structures to be removed or destroyed]~~ to enter the property
 104 and destroy or remove an item identified in a written notice described in Section 10-11-2; and

105 (ii) (A) prepare an itemized statement [of all expenses, including administrative
 106 expenses, incurred in the removal and destruction of the weeds, garbage, refuse, objects, or
 107 structures] in accordance with Subsection (1)(b); and

108 (B) mail to the owner of record according to the records of the county recorder a copy
 109 of the statement [to the owner] demanding payment within 30 days [of the date of mailing]
 110 after the day on which the statement is post-marked.

111 (b) The statement described in Subsection (1)(a)(ii)(A) shall:

112 (i) include:

113 (A) the address of the property described in Subsection (1)(a);

114 (B) an itemized list of and demand for payment for all expenses, including
 115 administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and

116 (C) the address of the municipal treasurer where payment may be made for the
 117 expenses; and

118 (ii) notify the property owner:

119 (A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a

120 lien on the property ~~It~~ **→** [on a parity with and collectible at the same time and in the same manner as

121 ~~general property taxes~~ ~~←H~~ in accordance with Section 10-11-4;

122 (B) that the owner may file a written objection to all or part of the statement within 20
 123 days after the day of the statement post-mark; and

124 (C) where the owner may file the objection, including the municipal office and address.

125 ~~[(b) Each notice under]~~ (c) A statement mailed in accordance with Subsection (1)(a)
 126 ~~[shall be considered]~~ is delivered when mailed by certified mail addressed to the property
 127 owner's of record last-known address according to the records of the county recorder.

128 (d) (i) A municipality may file a notice of a lien, including a copy of the statement
 129 described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the
 130 county recorder of the county in which the property is located.

131 (ii) If a municipality files a notice of a lien indicating that the municipality intends to
 132 certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section
 133 10-11-4, the municipality shall file for record in the county recorder's office a release of the lien
 134 after all amounts owing are paid.

135 (2) (a) If ~~the~~ an owner fails to file a timely written objection as described in
 136 Subsection (1)(b)(ii)(B) or to [make payment of] pay the amount set forth in the statement [to
 137 the municipal treasurer within the required 30 days, the inspector, on behalf of the
 138 municipality,] under Subsection (1)(b)(i)(B), the municipality may:

139 ~~[(i) cause suit to be brought in an appropriate court of law; or]~~

140 ~~[(ii) refer the matter]~~

141 (i) file an action in district court; or

142 (ii) certify the past due costs and expenses to the county treasurer [as provided in
 143 Subsection (2)(c);] of the county in which the property is located in accordance with Section
 144 10-11-4.

145 (b) If a municipality pursues collection of the costs [are pursued through the courts] in
 146 accordance with Subsection (2)(a)(i) or (4)(a), the municipality may:

147 (i) sue for and receive judgment [upon all of the costs of] for all removal and
 148 destruction costs, including administrative costs, [together with] and reasonable [attorneys'
 149 attorney fees, interest, and court costs; and

150 (ii) execute on the judgment in the manner provided by law.

151 ~~[(c) If the inspector elects to refer the matter to the county treasurer for inclusion in the~~

152 tax notice of the property owner, the inspector shall:]

153 ~~[(i) make, in triplicate, an itemized statement of all expenses, including administrative~~
154 ~~expenses, incurred in the removal and destruction of the weeds, garbage, refuse, objects, or~~
155 ~~structures; and]~~

156 ~~[(ii) deliver the three copies of the statement to the county treasurer within 10 days~~
157 ~~after the expiration of the 30-day period provided in the statement under Subsection (1)(a)(ii).]~~

158 (3) (a) If a property owner files an objection in accordance with Subsection (1)(b)(ii),
159 the municipality shall:

160 (i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings
161 Act; and

162 (ii) mail or deliver notice of the hearing date and time to the property owner.

163 (b) At the hearing described in Subsection (3)(a)(i), the municipality shall review and
164 determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i).

165 (c) The property owner shall pay any actual cost due after a decision by the
166 municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within
167 30 days after the day on which the hearing is held.

168 (4) If the property owner fails to pay in accordance with Subsection (3)(c), the
169 municipality may:

170 (a) file an action in district court for the actual cost determined under Subsection
171 (3)(b); or

172 (b) certify the past due costs and expenses to the county treasurer of the county in
173 which the property is located in accordance with Section 10-11-4.

174 (5) This section does not affect or limit:

175 (a) a municipal governing body's power to pass an ordinance as described in Section
176 10-3-702; or

177 (b) a criminal or civil penalty imposed by a municipality in accordance with Section
178 10-3-703.

179 Section 4. Section **10-11-4** is repealed and reenacted to read:

180 **10-11-4. Lien -- Costs of removal to be included in tax notice.**

181 (1) A municipality may certify, to the treasurer of the county in which a property
182 described in Section 10-11-3 is located, the unpaid costs and expenses that the municipality has

183 incurred under Section 10-11-3 with regard to the property.

184 (2) Subject to Subsection (3), the unpaid costs and expenses, upon their certification
185 under Subsection (1) ~~H~~→ [;] :

185a (a) ~~H~~ become a lien on the property ~~H~~→ [on a parity with and collectible at the same
186 time and in the same manner as general property taxes that are a lien on the property.] ; and

186a (b) have the force and effect of a valid judgment of the district court. ~~H~~

187 (3) If the county treasurer is unable to include the costs and expenses in the tax notice
188 for the year in which they are incurred by a municipality, the costs and expenses shall:

189 (a) be carried over to the tax notice for the following year; and

190 (b) become a lien ~~H~~→ [on the property on a parity with and collectible at the same time and
191 in the same manner as general property taxes that are a lien on the property for the year
192 described in Subsection (3)(a).] described in Subsection (2). ~~H~~

193 (4) This section does not apply to any public building, structure, or improvement.

Legislative Review Note
as of 1-28-11 5:22 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 268

SHORT TITLE: **Municipal Enforcement Regarding Property Maintenance**

SPONSOR: **Morley, M.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.