

Senator Daniel W. Thatcher proposes the following substitute bill:

CODE ENFORCEMENT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: _____

LONG TITLE

General Description:

This bill requires local governments to provide certain due process in code enforcement.

Highlighted Provisions:

This bill:

- ▶ prohibits local governments from:
 - imposing non-judicial penalties for certain code violations unless the local government provides certain written notice; and
 - collecting on an outstanding or pending penalty for certain code violations unless the local government imposed the penalty in relation to certain written notice.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-703.7, as repealed and reenacted by Laws of Utah 2012, Chapter 175



26 **17-53-228**, as enacted by Laws of Utah 2013, Chapter 133



27
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section **10-3-703.7** is amended to read:

30 **10-3-703.7. Administrative proceedings -- Penalty for code violation.**

31 (1) A municipality may adopt an ordinance establishing an administrative proceeding
32 to review and decide a violation of a civil municipal ordinance.

33 (2) An ordinance adopted in accordance with Subsection (1) shall provide due process
34 for parties participating in the administrative proceeding.

35 (3) (a) A municipality may not impose a nonjudicial penalty for a violation of a land
36 use regulation or a nuisance ordinance unless the municipality provides to the individual who is
37 subject to the penalty written notice that:

38 (i) identifies the relevant regulation or ordinance at issue;

39 (ii) specifies the violation of the relevant regulation or ordinance; and

40 (iii) provides for a reasonable time to cure the violation, taking into account the cost of
41 curing the violation.

42 (b) A municipality may not collect on a nonjudicial penalty for a violation of a land use
43 regulation or a nuisance ordinance that is outstanding or pending on or after May 14, 2019,
44 unless the municipality imposed the outstanding or pending penalty in relation to a written
45 notice that:

46 (i) identified the relevant regulation or ordinance at issue;

47 (ii) specified the violation of the relevant regulation or ordinance; and

48 (iii) provided for a reasonable time to cure the violation, taking into account the cost of
49 curing the violation.

50 Section 2. Section **17-53-228** is amended to read:

51 **17-53-228. Administrative hearings and procedures -- Penalty for code violation.**

52 (1) A county may adopt an ordinance establishing an administrative hearing process to
53 review and decide matters relating to the violation, enforcement, or administration of a county
54 civil ordinance, including an ordinance related to the following:

55 (a) a building code;

56 (b) planning and zoning;

- 57 (c) animal control;
- 58 (d) licensing;
- 59 (e) health and safety;
- 60 (f) county employment; or
- 61 (g) sanitation.

62 (2) An ordinance adopted in accordance with Subsection (1) shall provide appropriate
63 due process protections for a party participating in an administrative hearing.

64 (3) An administrative hearing held in accordance with an ordinance described in
65 Subsection (1) may be conducted by an administrative law judge.

66 (4) A county may not impose a civil penalty and adjudication for the violation of a
67 county moving traffic ordinance.

68 (5) (a) A county may not impose a nonjudicial penalty for a violation of a land use
69 regulation or a nuisance ordinance unless the county provides to the individual who is subject
70 to the penalty written notice that:

- 71 (i) identifies the relevant regulation or ordinance at issue;
- 72 (ii) specifies the violation of the relevant regulation or ordinance; and
- 73 (iii) provides for a reasonable time to cure the violation, taking into account the cost of
74 curing the violation.

75 (b) A county may not collect on a nonjudicial penalty for a violation of a land use
76 regulation or a nuisance ordinance that is outstanding or pending on or after May 14, 2019,
77 unless the county imposed the outstanding or pending penalty in relation to a written notice
78 that:

- 79 (i) identified the relevant regulation or ordinance at issue;
- 80 (ii) specified the violation of the relevant regulation or ordinance; and
- 81 (iii) provided for a reasonable time to cure the violation, taking into account the cost of
82 curing the violation.