

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

HOUSE BILL 2424

AN ACT

AMENDING SECTIONS 9-499, 11-268 AND 13-1603, ARIZONA REVISED STATUTES;
RELATING TO ILLEGAL DUMPING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-499, Arizona Revised Statutes, is amended to
3 read:

4 9-499. Removal of rubbish, trash, weeds, filth, debris and
5 dilapidated structures: removal by city: costs
6 assessed: collection: priority of assessment:
7 definitions

8 A. The governing body of a city or town, by ordinance, shall compel
9 the owner, lessee or occupant of property to remove FROM THE PROPERTY AND ITS
10 CONTIGUOUS SIDEWALKS, STREETS AND ALLEYS ANY rubbish, trash, weeds or other
11 accumulation of filth, debris or dilapidated structures ~~which~~ THAT constitute
12 a hazard to public health and safety ~~from buildings, grounds, lots,~~
13 ~~contiguous sidewalks, streets and alleys~~. An ordinance shall require:

14 1. Written notice to the owner, the owner's authorized agent or the
15 owner's statutory agent and to the occupant or lessee. The notice shall be
16 served either by personal service or by certified mail. If notice is served
17 by certified mail, the notice shall be mailed to the last known address of
18 the owner, the owner's authorized agent or the owner's statutory agent and to
19 the address to which the tax bill for the property was last mailed. The
20 notice shall be given not less than thirty days before the day set for
21 compliance and shall include the legal description of the property and the
22 cost of such removal to the city or town if the owner, occupant or lessee
23 does not comply. The owner shall be given not less than thirty days to
24 comply. The city or town may record the notice in the county recorder's
25 office in the county in which the property is located. If the notice is
26 recorded and compliance with the notice is subsequently satisfied, the city
27 or town shall record a release of the notice.

28 2. Provisions for appeal ~~to and a hearing by the governing body of the~~
29 ~~city or town or a board of citizens that is appointed by the governing body~~
30 on both the notice and the assessments, unless the removal or abatement is
31 ordered by a court.

32 ~~3. That any person, firm or corporation that places any rubbish,~~
33 ~~trash, filth or debris upon any private or public property not owned or under~~
34 ~~the control of that person, firm or corporation is guilty of a class 1~~
35 ~~misdemeanor or a civil violation and, in addition to any fine or penalty~~
36 ~~which may be imposed for a violation of any provision of this section, is~~
37 ~~liable for all costs which may be assessed pursuant to this section for~~
38 ~~removing, abating or enjoining the rubbish, trash, filth or debris.~~

39 3. THAT ANY PERSON THAT PLACES OR CAUSES TO BE PLACED ANY RUBBISH,
40 TRASH, FILTH OR DEBRIS ON ANY PROPERTY NOT OWNED OR UNDER THE CONTROL OF
41 THAT PERSON:

42 (a) IS GUILTY OF A CLASS 1 MISDEMEANOR OR A CIVIL VIOLATION AND SHALL
43 PAY A FINE OR CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND EIGHT HUNDRED
44 DOLLARS. THIS FINE OR CIVIL PENALTY SHALL NOT BE WAIVED OR SUSPENDED. FIFTY
45 PER CENT OF ANY ASSESSED FINE OR CIVIL PENALTY SHALL BE DEPOSITED IN THE

1 GENERAL FUND OF THE CITY OR TOWN IN WHICH THE FINE OR CIVIL PENALTY WAS
2 ASSESSED FOR THE PURPOSES OF ILLEGAL DUMPING CLEANUP.

3 (b) IN ADDITION TO ANY FINE OR PENALTY IMPOSED FOR A VIOLATION OF THIS
4 SECTION, IS LIABLE FOR ALL COSTS THAT MAY BE ASSESSED PURSUANT TO THIS
5 SECTION FOR REMOVING, ABATING OR ENJOINING THE RUBBISH, TRASH, FILTH OR
6 DEBRIS AND FOR ALL COSTS INCURRED BY THE OWNER, LESSEE, OCCUPANT OR
7 LIENHOLDER OF THE PROPERTY IN THE REMOVAL AND DISPOSAL OF THE RUBBISH, TRASH,
8 FILTH OR DEBRIS.

9 (c) IF REQUIRED TO REMOVE ANY RUBBISH, TRASH, FILTH OR DEBRIS PURSUANT
10 TO THIS SECTION, SHALL PROVIDE THE CITY OR TOWN WITH A RECEIPT FROM A
11 DISPOSAL FACILITY OR OTHER DOCUMENTATION EVIDENCING LAWFUL DISPOSAL OF THE
12 RUBBISH, TRASH, FILTH OR DEBRIS.

13 B. ANY PERSON THAT PLACES OR CAUSES TO BE PLACED ANY RUBBISH, TRASH,
14 FILTH OR DEBRIS ON ANY PROPERTY THAT IS MORE THAN FORTY ACRES IN SIZE AND
15 THAT IS NOT OWNED OR UNDER THE CONTROL OF THAT PERSON OR ON ANY STATE TRUST
16 LAND OR FEDERAL LAND AND NOT UNDER THE CONTROL OF THAT PERSON RETAINS
17 OWNERSHIP OF THE RUBBISH, TRASH, FILTH OR DEBRIS UNTIL THE PERSON LAWFULLY
18 DISPOSES OF THE RUBBISH, TRASH, FILTH OR DEBRIS.

19 ~~B.~~ C. The ordinance may provide that if any person with an interest
20 in the property, including an owner, lienholder, lessee or occupant, after
21 notice as required by subsection A, paragraph 1 of this section does not
22 remove ~~such~~ OR CAUSE TO BE REMOVED THE rubbish, trash, weeds, filth, debris
23 or dilapidated structures and abate the condition ~~which~~ THAT constitutes a
24 hazard to public health and safety, the city or town may remove, abate,
25 enjoin or cause their removal.

26 ~~C.~~ D. The governing body of the city or town may prescribe by
27 ordinance a procedure for the removal or abatement, and for making the actual
28 cost of the removal or abatement, including the actual costs of any
29 additional inspection and other incidental connected costs, an assessment
30 ~~upon~~ ON the property from which the rubbish, trash, weeds, STRUCTURES or
31 other accumulations are removed or abated.

32 ~~D.~~ E. The ordinance may provide that the cost of removal, abatement
33 or injunction of ~~such~~ THE rubbish, trash, weeds, filth, debris or dilapidated
34 structures from any ~~lot or tract of land~~ PROPERTY, and associated legal costs
35 for abatement or injunctions, shall be assessed on the property from which
36 the rubbish, trash, weeds, accumulations or dilapidated structures are
37 removed, abated or enjoined. The city or town may record the assessment in
38 the county recorder's office in the county in which the property is located,
39 including the date and amount of the assessment, the legal description of the
40 property and the name of the city or town imposing the assessment. Any
41 assessment recorded after July 15, 1996 is prior and superior to all other
42 liens, obligations, mortgages or other encumbrances, except liens for general
43 taxes. A sale of the property to satisfy an assessment obtained under ~~the~~
44 ~~provisions of~~ this section shall be made ~~upon~~ ON judgment of foreclosure and
45 order of sale. A city or town shall have the right to bring an action to

1 enforce the assessment in the superior court in the county in which the
2 property is located at any time after the recording of the assessment, but
3 failure to enforce the assessment by such action shall not affect its
4 validity. The recorded assessment shall be prima facie evidence of the truth
5 of all matters recited in the assessment and of the regularity of all
6 proceedings ~~prior to~~ BEFORE the recording of the assessment.

7 ~~E.~~ F. Assessments that are imposed under ~~subsection D of~~ this section
8 run against the property until paid and are due and payable in equal annual
9 installments as follows:

10 1. Assessments of less than five hundred dollars shall be paid within
11 one year after the assessment is recorded.

12 2. Assessments of five hundred dollars or more but less than one
13 thousand dollars shall be paid within two years after the assessment is
14 recorded.

15 3. Assessments of one thousand dollars or more but less than five
16 thousand dollars shall be paid within three years after the assessment is
17 recorded.

18 4. Assessments of five thousand dollars or more but less than ten
19 thousand dollars shall be paid within six years after the assessment is
20 recorded.

21 5. Assessments of ten thousand dollars or more shall be paid within
22 ten years after the assessment is recorded.

23 ~~F.~~ G. An assessment that is past due accrues interest at the rate
24 prescribed by section 44-1201.

25 ~~G.~~ H. A prior assessment for the purposes provided in this section
26 shall not be a bar to a subsequent assessment or assessments for these
27 purposes, and any number of assessments on the same ~~lot or tract of land~~
28 **PROPERTY** may be enforced in the same action.

29 ~~H.~~ I. This section applies to all cities and towns organized and
30 operating under the general law of this state, ~~and~~ cities and towns
31 organized and operating under a special act or charter.

32 ~~I.~~ J. For **THE** purposes of this section:

33 1. "Property" includes ~~buildings, grounds, lots and tracts of land~~
34 **REAL PROPERTY AND STRUCTURES ON THE REAL PROPERTY.**

35 2. "Structures" includes buildings, improvements and other structures
36 that are constructed or placed on land.

37 Sec. 2. Section 11-268, Arizona Revised Statutes, is amended to read:

38 **11-268.** Removal of rubbish, trash, weeds, filth, debris and
39 dilapidated buildings; violation; classification;
40 removal by county; costs assessed; collection;
41 priority of lien; definitions

42 A. The board of supervisors, by ordinance, shall compel the owner,
43 lessee or occupant of buildings, grounds or lots located in the
44 unincorporated areas of the county to remove rubbish, trash, weeds, filth,
45 debris or dilapidated buildings ~~which~~ **THAT** constitute a hazard to public

1 health and safety from buildings, grounds, lots, contiguous sidewalks,
2 streets and alleys. Any such ordinance shall require and include:

3 1. Reasonable written notice to the owner, any lienholder, **THE**
4 occupant or **THE** lessee. The notice shall be given not less than thirty days
5 before the day set for compliance and shall include the estimated cost to the
6 county for the removal if the owner, occupant or lessee does not comply. The
7 notice shall be either personally served or mailed by certified mail to the
8 owner, occupant or lessee at his last known address, or the address to which
9 the tax bill for the property was last mailed. If the owner does not reside
10 on the property, a duplicate notice shall also be sent to the owner at the
11 owner's last known address.

12 2. Provisions for appeal ~~to the board of supervisors~~ on both the
13 notice and the assessments.

14 3. That any person, firm or corporation that places any rubbish,
15 trash, filth or debris ~~upon~~ **ON** any private or public property located in the
16 unincorporated areas of the county not owned or under the control of the
17 person, firm or corporation:

18 (a) Is guilty of a class 1 misdemeanor and **SHALL PAY A FINE OF NOT**
19 **LESS THAN ONE THOUSAND EIGHT HUNDRED DOLLARS. FIFTY PER CENT OF ANY ASSESSED**
20 **FINE SHALL BE DEPOSITED IN THE GENERAL FUND OF THE COUNTY IN WHICH THE FINE**
21 **WAS ASSESSED FOR THE PURPOSES OF ILLEGAL DUMPING CLEANUP. ,—**

22 (b) In addition to ~~any~~ **THE** fine ~~which may be~~ **THAT IS** imposed for a
23 violation of ~~any provision of~~ this section, is liable for all costs ~~which~~
24 **THAT** may be assessed pursuant to this section for the removal of the rubbish,
25 trash, filth or debris.

26 B. The ordinance may provide that if any person with an interest in
27 the property, including an owner, lienholder, lessee or occupant of the
28 buildings, grounds or lots, after notice as required by subsection A,
29 paragraph 1 **OF THIS SECTION**, does not remove the rubbish, trash, weeds,
30 filth, debris or dilapidated buildings and abate the condition ~~which~~ **THAT**
31 constitutes a hazard to public health and safety, the county ~~may~~, at the
32 expense of the owner, lessee or occupant, **MAY** remove, abate, enjoin or cause
33 the removal of the rubbish, trash, weeds, filth, debris or dilapidated
34 buildings.

35 C. The board of supervisors may prescribe by the ordinance a procedure
36 for such removal or abatement and for making the actual cost of such removal
37 or abatement, including the actual costs of any additional inspection and
38 other incidental costs in connection with the removal or abatement, an
39 assessment ~~upon~~ **ON** the lots and tracts of land from which the rubbish, trash,
40 weeds, filth, debris or dilapidated buildings are removed.

41 D. The ordinance may provide that the cost of removal, abatement or
42 injunction of the rubbish, trash, weeds, filth, debris or dilapidated
43 buildings from any lot or tract of land located in the unincorporated areas
44 of the county and associated legal costs be assessed in the manner and form
45 prescribed by ordinance of the county ~~upon~~ **ON** the property from which the

1 rubbish, trash, weeds, filth, debris or dilapidated buildings are removed,
2 abated or enjoined. The county shall record the assessment in the county
3 recorder's office in the county in which the property is located, including
4 the date and amount of the assessment and the legal description of the
5 property. Any assessment recorded after ~~the effective date of this amendment~~
6 ~~to this section~~ AUGUST 6, 1999 is prior and superior to all other liens,
7 obligations or other encumbrances, except liens for general taxes and prior
8 recorded mortgages. A sale of the property to satisfy an assessment obtained
9 under this section shall be made on judgment of foreclosure and order of
10 sale. The county may bring an action to enforce the lien in the superior
11 court in the county in which the property is located at any time after the
12 recording of the assessment, but failure to enforce the lien by such action
13 does not affect its validity. The recorded assessment is prima facie
14 evidence of the truth of all matters recited in the assessment and of the
15 regularity of all proceedings before the recording of the assessment.

16 E. Assessments that are imposed under subsection D OF THIS SECTION run
17 against the property until they are paid and are due and payable in equal
18 annual installments as follows:

19 1. Assessments of less than five hundred dollars shall be paid within
20 one year after the assessment is recorded.

21 2. Assessments of five hundred dollars or more but less than one
22 thousand dollars shall be paid within two years after the assessment is
23 recorded.

24 3. Assessments of one thousand dollars or more but less than five
25 thousand dollars shall be paid within three years after the assessment is
26 recorded.

27 4. Assessments of five thousand dollars or more but less than ten
28 thousand dollars shall be paid within six years after the assessment is
29 recorded.

30 5. Assessments of ten thousand dollars or more shall be paid within
31 ten years after the assessment is recorded.

32 F. A prior assessment for the purposes provided in this section is not
33 a bar to a subsequent assessment or assessments for such purposes, and any
34 number of liens on the same lot or tract of land may be enforced in the same
35 action.

36 G. Before the removal of a dilapidated building the board of
37 supervisors shall consult with the state historic preservation officer to
38 determine if the building is of historical value.

39 H. If a county removes a dilapidated building pursuant to this
40 section, the county assessor shall adjust the valuation of the property on
41 the property assessment tax rolls from the date of removal.

42 I. IF A PERSON, FIRM OR CORPORATION IS REQUIRED TO REMOVE ANY RUBBISH,
43 TRASH, FILTH OR DEBRIS PURSUANT TO SUBSECTION A, PARAGRAPH 3 OF THIS SECTION,
44 THE PERSON, FIRM OR CORPORATION SHALL PROVIDE THE COUNTY WITH A RECEIPT FROM

1 A DISPOSAL FACILITY TO INDICATE THAT THE RUBBISH, TRASH, FILTH OR DEBRIS HAS
2 BEEN DISPOSED OF AS REQUIRED BY LAW.

3 ~~I. As used in this section occupant does not include any corporation~~
4 ~~or association operating or maintaining rights of way for and on behalf of~~
5 ~~the United States government, either under contract or under federal law.~~

6 J. ~~As used in~~ FOR THE PURPOSES OF this section: ,—

7 1. "Dilapidated building" means any real property structure that is in
8 such disrepair or is damaged to the extent that its strength or stability is
9 substantially less than a new building or it is likely to burn or collapse
10 and its condition endangers the life, health, safety or property of the
11 public.

12 2. "OCCUPANT" DOES NOT INCLUDE ANY CORPORATION OR ASSOCIATION
13 OPERATING OR MAINTAINING RIGHTS-OF-WAY FOR AND ON BEHALF OF THE UNITED STATES
14 GOVERNMENT, EITHER UNDER CONTRACT OR UNDER FEDERAL LAW.

15 Sec. 3. Section 13-1603, Arizona Revised Statutes, is amended to read:

16 13-1603. Criminal littering or polluting; classification

17 A. A person commits criminal littering or polluting if ~~such~~ THE person
18 without lawful authority does any of the following:

19 1. Throws, places, drops or permits to be dropped on public property
20 or property of another ~~which~~ THAT is not a lawful dump any litter,
21 destructive or injurious material ~~which—he~~ THAT THE PERSON does not
22 immediately remove.

23 2. Discharges or permits to be discharged any sewage, oil products or
24 other harmful substances into any waters or onto any shorelines within ~~the~~
25 THIS state.

26 3. Dumps any earth, soil, stones, ores or minerals on any land.

27 B. Criminal littering or polluting is ~~punished~~ PUNISHABLE as follows:

28 1. A class 6 felony if THE ACT IS a knowing violation of subsection A
29 in which the amount of litter or other prohibited material or substance
30 exceeds three hundred pounds in weight or one hundred cubic feet in volume or
31 is done in any quantity for a commercial purpose.

32 2. A CLASS 1 MISDEMEANOR IF THE ACT IS A KNOWING VIOLATION OF
33 SUBSECTION A, PARAGRAPH 1 IN WHICH THE AMOUNT OF LITTER OR PROHIBITED
34 MATERIAL OR SUBSTANCE IS THREE HUNDRED POUNDS OR LESS IN WEIGHT OR ONE
35 HUNDRED CUBIC FEET OR LESS IN VOLUME AND IS NOT DONE FOR A COMMERCIAL
36 PURPOSE.

37 ~~2-~~ 3. A class 1 misdemeanor if the act is not punishable under
38 paragraph 1 of this subsection and involves placing any destructive or
39 injurious material on or within fifty feet of a highway, beach or shoreline
40 of any body of water used by the public.

1 ~~3.~~ 4. A class 2 misdemeanor if THE ACT IS not punishable under
2 paragraph 1, ~~or~~ 2 OR 3 of this subsection.

3 C. A VIOLATION OF SUBSECTION A, PARAGRAPH 1 OR 2 IS PUNISHABLE BY A
4 FINE OF NOT LESS THAT TWO THOUSAND FIVE HUNDRED DOLLARS, AND THE FINE SHALL
5 NOT BE WAIVED OR SUSPENDED. FIFTY PER CENT OF ANY ASSESSED FINE SHALL BE
6 DEPOSITED IN THE GENERAL FUND OF THE COUNTY IN WHICH THE FINE WAS ASSESSED
7 FOR THE PURPOSES OF ILLEGAL DUMPING CLEANUP.