

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

SENATE BILL 1196

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. ONE
45 HUNDRED PER CENT OF ANY ASSESSED FINE OR CIVIL PENALTY SHALL BE DEPOSITED IN

1 THE GENERAL FUND OF THE CITY OR TOWN IN WHICH THE FINE OR CIVIL PENALTY WAS
2 ASSESSED. AT LEAST FIFTY PER CENT OF THE FINE OR CIVIL PENALTY SHALL BE USED
3 BY THE CITY OR TOWN FOR THE PURPOSES OF ILLEGAL DUMPING CLEANUP.

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

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

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

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

27 D. The ordinance may provide that the cost of removal, abatement or
28 injunction of ~~such~~ THE rubbish, trash, weeds, filth, debris or dilapidated
29 structures from any ~~lot or tract of land~~ PROPERTY, and associated legal costs
30 for abatement or injunctions, shall be assessed on the property from which
31 the rubbish, trash, weeds, accumulations or dilapidated structures are
32 removed, abated or enjoined. The city or town may record the assessment in
33 the county recorder's office in the county in which the property is located,
34 including the date and amount of the assessment, the legal description of the
35 property and the name of the city or town imposing the assessment. Any
36 assessment recorded after July 15, 1996 is prior and superior to all other
37 liens, obligations, mortgages or other encumbrances, except liens for general
38 taxes. A sale of the property to satisfy an assessment obtained under ~~the~~
39 ~~provisions of~~ this section shall be made ~~upon~~ ON judgment of foreclosure and
40 order of sale. A city or town shall have the right to bring an action to
41 enforce the assessment in the superior court in the county in which the
42 property is located at any time after the recording of the assessment, but
43 failure to enforce the assessment by such action shall not affect its
44 validity. The recorded assessment shall be prima facie evidence of the truth
45 of all matters recited in the assessment and of the regularity of all

1 proceedings ~~prior to~~ BEFORE the recording of the assessment. THE ASSESSMENT
2 PROVIDED FOR IN THIS SUBSECTION SHALL NOT BE LEVIED AGAINST STATE OR FEDERAL
3 PROPERTY.

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

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

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

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

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

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

20 F. An assessment that is past due accrues interest at the rate
21 prescribed by section 44-1201.

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

26 H. This section applies to all cities and towns organized and
27 operating under the general law of this state, and cities and towns
28 organized and operating under a special act or charter.

29 I. FOR THE PURPOSES OF THIS SECTION, OWNER DOES NOT INCLUDE A STATE OR
30 FEDERAL LANDOWNER.

31 ~~I.~~ J. For THE purposes of this section:

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

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

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

37 11-268. Removal of rubbish, trash, weeds, filth, debris and
38 dilapidated buildings; violation; classification;
39 removal by county; costs assessed; collection;
40 priority of lien; definition

41 A. The board of supervisors, by ordinance, shall compel the owner,
42 lessee or occupant of buildings, grounds or lots located in the
43 unincorporated areas of the county to remove rubbish, trash, weeds, filth,
44 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 ~~OR A CIVIL VIOLATION~~ and ~~SHALL~~
19 ~~PAY A FINE OR CIVIL PENALTY OF NOT LESS THAN ONE THOUSAND EIGHT HUNDRED~~
20 ~~DOLLARS. THE FINE OR CIVIL PENALTY SHALL NOT BE WAIVED OR SUSPENDED. ONE~~
21 ~~HUNDRED PER CENT OF ANY ASSESSED FINE OR CIVIL PENALTY SHALL BE DEPOSITED IN~~
22 ~~THE GENERAL FUND OF THE COUNTY IN WHICH THE FINE OR CIVIL PENALTY WAS~~
23 ~~ASSESSED. AT LEAST FIFTY PER CENT OF THE FINE OR CIVIL PENALTY SHALL BE USED~~
24 ~~BY THE COUNTY FOR THE PURPOSES OF ILLEGAL DUMPING CLEANUP.~~ ~~—~~

25 (b) In addition to ~~any~~ ~~THE~~ fine ~~which may be~~ ~~OR CIVIL PENALTY THAT IS~~
26 imposed for a violation of ~~any provision of~~ this section, is liable for all
27 costs ~~which~~ ~~THAT~~ may be assessed pursuant to this section for the removal of
28 the rubbish, trash, filth or debris.

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

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

43 D. The ordinance may provide that the cost of removal, abatement or
44 injunction of the rubbish, trash, weeds, filth, debris or dilapidated
45 buildings from any lot or tract of land located in the unincorporated areas

1 of the county and associated legal costs be assessed in the manner and form
2 prescribed by ordinance of the county ~~upon~~ ON the property from which the
3 rubbish, trash, weeds, filth, debris or dilapidated buildings are removed,
4 abated or enjoined. The county shall record the assessment in the county
5 recorder's office in the county in which the property is located, including
6 the date and amount of the assessment and the legal description of the
7 property. Any assessment recorded after ~~the effective date of this amendment~~
8 ~~to this section~~ AUGUST 6, 1999 is prior and superior to all other liens,
9 obligations or other encumbrances, except liens for general taxes and prior
10 recorded mortgages. A sale of the property to satisfy an assessment obtained
11 under this section shall be made on judgment of foreclosure and order of
12 sale. The county may bring an action to enforce the lien in the superior
13 court in the county in which the property is located at any time after the
14 recording of the assessment, but failure to enforce the lien by such action
15 does not affect its validity. The recorded assessment is prima facie
16 evidence of the truth of all matters recited in the assessment and of the
17 regularity of all proceedings before the recording of the assessment. **THE**
18 **ASSESSMENT PROVIDED FOR IN THIS SUBSECTION SHALL NOT BE LEVIED AGAINST STATE**
19 **OR FEDERAL PROPERTY.**

20 E. Assessments that are imposed under subsection D run against the
21 property until they are paid and are due and payable in equal annual
22 installments as follows:

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

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

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

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

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

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

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

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

1 I. IF A PERSON, FIRM OR CORPORATION IS REQUIRED TO REMOVE ANY RUBBISH,
2 TRASH, FILTH OR DEBRIS PURSUANT TO SUBSECTION A, PARAGRAPH 3, THE PERSON,
3 FIRM OR CORPORATION SHALL PROVIDE THE COUNTY WITH A RECEIPT FROM A DISPOSAL
4 FACILITY TO INDICATE THAT THE RUBBISH, TRASH, FILTH OR DEBRIS HAS BEEN
5 DISPOSED OF AS REQUIRED BY LAW.

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

7 1. Occupant does not include any corporation or association operating
8 or maintaining rights-of-way for and on behalf of the United States
9 government, either under contract or under federal law.

10 2. OWNER DOES NOT INCLUDE A STATE OR FEDERAL LANDOWNER.

11 ~~J.~~ K. ~~As used in~~ FOR THE PURPOSES OF this section, "dilapidated
12 building" means any real property structure that is in such disrepair or is
13 damaged to the extent that its strength or stability is substantially less
14 than a new building or it is likely to burn or collapse and its condition
15 endangers the life, health, safety or property of the public.

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

17 13-1603. Criminal littering or polluting; classification

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

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

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

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

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

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

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

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

43 ~~3.~~ 4. A class 2 misdemeanor if THE ACT IS not punishable under
44 paragraph 1, ~~or~~ 2 OR 3 of this subsection.

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