

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

# SENATE BILL 1266

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

42 (a) IS GUILTY OF A CLASS 1 MISDEMEANOR OR A CIVIL VIOLATION UNLESS  
43 THAT PERSON IMMEDIATELY REMOVES OR CAUSES TO BE REMOVED THE RUBBISH, TRASH,  
44 FILTH OR DEBRIS FROM THAT PROPERTY. ONE HUNDRED PER CENT OF ANY ASSESSED

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

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

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

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

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

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

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

1 ~~provisions of~~ this section shall be made ~~upon~~ ON judgment of foreclosure and  
2 order of sale. A city or town shall have the right to bring an action to  
3 enforce the assessment in the superior court in the county in which the  
4 property is located at any time after the recording of the assessment, but  
5 failure to enforce the assessment by such action shall not affect its  
6 validity. The recorded assessment ~~shall be~~ IS prima facie evidence of the  
7 truth of all matters recited in the assessment and of the regularity of all  
8 proceedings ~~prior to~~ BEFORE the recording of the assessment. THE ASSESSMENT  
9 PROVIDED FOR IN THIS SUBSECTION SHALL NOT BE LEVIED AGAINST STATE OR FEDERAL  
10 PROPERTY.

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

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

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

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

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

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

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

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

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

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

37 1. "OWNER" DOES NOT INCLUDE A STATE OR FEDERAL LANDOWNER.

38 2. "Property" includes ~~buildings, grounds, lots and tracts of land~~  
39 REAL PROPERTY AND STRUCTURES ON THE REAL PROPERTY.

40 3. "Structures" includes buildings, improvements and other structures  
41 that are constructed or placed on land.

1           Sec. 2. Section 11-268, Arizona Revised Statutes, is amended to read:  
2           11-268. Removal of rubbish, trash, weeds, filth, debris and  
3           dilapidated buildings; violation; classification;  
4           removal by county; costs assessed; collection;  
5           priority of lien; definitions

6           A. The board of supervisors, by ordinance, shall compel the owner,  
7           lessee or occupant of buildings, grounds or lots located in the  
8           unincorporated areas of the county to remove rubbish, trash, weeds, filth,  
9           debris or dilapidated buildings ~~which~~ THAT constitute a hazard to public  
10          health and safety from buildings, grounds, lots, contiguous sidewalks,  
11          streets and alleys. Any such ordinance shall require and include:

12          1. Reasonable written notice to the owner, any lienholder, the  
13          occupant or the lessee. The notice shall be given ~~not less than~~ AT LEAST  
14          thirty days before the day set for compliance and shall include the estimated  
15          cost to the county for the removal if the owner, occupant or lessee does not  
16          comply. The notice shall be either personally served or mailed by certified  
17          mail to the owner, occupant or lessee at his last known address, or the  
18          address to which the tax bill for the property was last mailed. If the owner  
19          does not reside on the property, a duplicate notice shall also be sent to the  
20          owner at the owner's last known address.

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

23          3. That any person, firm or corporation that RECKLESSLY places any  
24          rubbish, trash, filth or debris ~~upon~~ ON any private or public property  
25          located in the unincorporated areas of the county not owned or under the  
26          control of the person, firm or corporation:

27          (a) Is guilty of a class 1 misdemeanor ~~and~~ UNLESS THAT PERSON, FIRM OR  
28          CORPORATION IMMEDIATELY REMOVES OR CAUSES TO BE REMOVED THE RUBBISH, TRASH,  
29          FILTH OR DEBRIS FROM THAT PROPERTY. ONE HUNDRED PER CENT OF ANY ASSESSED  
30          FINE SHALL BE DEPOSITED IN THE GENERAL FUND OF THE COUNTY IN WHICH THE FINE  
31          WAS ASSESSED. AT LEAST FIFTY PER CENT OF THE FINE SHALL BE USED BY THE  
32          COUNTY FOR THE PURPOSES OF ILLEGAL DUMPING CLEANUP. ~~—~~

33          (b) In addition to ~~any~~ THE fine ~~which may be~~ THAT IS imposed for a  
34          violation of this section, is liable for all costs ~~which~~ THAT may be assessed  
35          pursuant to this section for the removal of the rubbish, trash, filth or  
36          debris.

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

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

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

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

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

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

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

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

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

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

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

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

11 ~~I. For the purposes of this section, occupant does not include any~~  
12 ~~corporation or association operating or maintaining rights-of-way for and on~~  
13 ~~behalf of the United States government, either under contract or under~~  
14 ~~federal law.~~

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

20 J. For the purposes of this section: ~~—~~

21 1. "Dilapidated building" means any real property structure that is  
22 likely to burn or collapse and its condition endangers the life, health,  
23 safety or property of the public.

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

27 3. "OWNER" DOES NOT INCLUDE A STATE OR FEDERAL LANDOWNER.

28 Sec. 3. Section 13-1603, Arizona Revised Statutes, is amended to read:  
29 13-1603. Criminal littering or polluting; classification

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

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

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

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

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

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

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

7           ~~2.~~ 3. A class 1 misdemeanor if the act is not punishable under  
8 paragraph 1 of this subsection and involves placing any destructive or  
9 injurious material on or within fifty feet of a highway, beach or shoreline  
10 of any body of water used by the public.

11           ~~3.~~ 4. A class 2 misdemeanor if THE ACT IS not punishable under  
12 paragraph 1, ~~or~~ 2 OR 3 of this subsection.

13           C. IF A FINE IS ASSESSED FOR A VIOLATION OF SUBSECTION A, PARAGRAPH 1  
14 OR 2, ONE HUNDRED PER CENT OF ANY ASSESSED FINE SHALL BE DEPOSITED IN THE  
15 GENERAL FUND OF THE COUNTY IN WHICH THE FINE WAS ASSESSED. AT LEAST FIFTY  
16 PER CENT OF THE FINE SHALL BE USED BY THE COUNTY FOR THE PURPOSES OF ILLEGAL  
17 DUMPING CLEANUP.