

REFERENCE TITLE: responsibility of payment; utility services

State of Arizona
Senate
Fifty-second Legislature
First Regular Session
2015

SB 1342

Introduced by
Senator Griffin

AN ACT

AMENDING SECTION 9-499, ARIZONA REVISED STATUTES; AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.34; AMENDING SECTION 9-511.02, ARIZONA REVISED STATUTES; AMENDING TITLE 40, CHAPTER 2, ARTICLE 7, ARIZONA REVISED STATUTES, BY ADDING SECTION 40-376; RELATING TO UTILITY SERVICES.

(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 buildings: removal by city: costs
6 assessed: collection: priority of assessment:
7 responsibility of payment: 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 buildings that constitute a
12 hazard to public health and safety. An ordinance shall require:

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

27 2. Provisions for appeal on both the notice and the assessments,
28 unless the removal or abatement is ordered by a court.

29 3. That any person that recklessly places or causes to be placed any
30 rubbish, trash, filth or debris on any property not owned or under the
31 control of that person:

32 (a) Is guilty of a class 1 misdemeanor or a civil violation unless
33 that person immediately removes or causes to be removed the rubbish, trash,
34 filth or debris from that property. One hundred ~~per-cent~~ PERCENT of any
35 assessed fine or civil penalty shall be deposited in the general fund of the
36 city or town in which the fine or civil penalty was assessed. At least fifty
37 ~~per-cent~~ PERCENT of the fine or civil penalty shall be used by the city or
38 town for the purposes of illegal dumping cleanup.

39 (b) In addition to any fine or penalty imposed for a violation of this
40 section, is liable for all costs that may be assessed pursuant to this
41 section for removing, abating or enjoining the rubbish, trash, filth or
42 debris and for all costs incurred by the owner, lessee, occupant or
43 lienholder of the property in the removal and disposal of the rubbish, trash,
44 filth or debris.

1 (c) If required to remove any rubbish, trash, filth or debris pursuant
2 to this section, shall provide the city or town with a receipt from a
3 disposal facility or other documentation evidencing lawful disposal of the
4 rubbish, trash, filth or debris.

5 B. Any person that places or causes to be placed any rubbish, trash,
6 filth or debris on any property that is more than forty acres in size and
7 that is not owned or under the control of that person retains ownership of
8 the rubbish, trash, filth or debris until the person lawfully disposes of the
9 rubbish, trash, filth or debris.

10 C. The ordinance may provide that if any person with an interest in
11 the property, including an owner, lienholder, lessee or occupant, after
12 notice as required by subsection A, paragraph 1 of this section does not
13 remove or cause to be removed the rubbish, trash, weeds, filth, debris or
14 dilapidated buildings and abate the condition that constitutes a hazard to
15 public health and safety, the city or town may remove, abate, enjoin or cause
16 their removal.

17 D. The governing body of the city or town may prescribe by ordinance a
18 procedure for the removal or abatement, and for making the actual cost of the
19 removal or abatement, including the actual costs of any additional inspection
20 and other incidental connected costs, an assessment on the property from
21 which the rubbish, trash, weeds, ~~structures~~ BUILDINGS or other accumulations
22 are removed or abated.

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

1 F. Assessments that are imposed under this section run against the
2 property until paid and are due and payable in equal annual installments as
3 follows:

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

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

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

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

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

17 G. An assessment that is past due accrues interest at the rate
18 prescribed by section 44-1201.

19 H. A prior assessment for the purposes provided in this section shall
20 not be a bar to a subsequent assessment or assessments for these purposes,
21 and any number of assessments on the same property may be enforced in the
22 same action.

23 I. This section applies to all cities and towns organized and
24 operating under the general law of this state, and cities and towns organized
25 and operating under a special act or charter.

26 J. NOTWITHSTANDING SUBSECTION F OF THIS SECTION, FOR RESIDENTIAL
27 PROPERTY OF FOUR OR FEWER UNITS, A CITY OR TOWN MAY NOT REQUIRE PAYMENT OF
28 THE ASSESSMENTS IMPOSED UNDER THIS SECTION BY ANYONE OTHER THAN THE PERSON
29 WHO PHYSICALLY RESIDES OR RESIDED AT THE PROPERTY AND WHO RECEIVES OR
30 RECEIVED SERVICES FOR THE REMOVAL OF THE RUBBISH, TRASH, FILTH OR DEBRIS.

31 ~~J.~~ K. For the purposes of this section:

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

35 2. Owner does not include a state or federal landowner.

36 3. "Property" includes real property and structures on the real
37 property.

38 Sec. 2. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
39 amended by adding section 9-500.34, to read:

40 9-500.34. Garbage collection services; responsibility of
41 payment

42 FOR RESIDENTIAL PROPERTY OF FOUR OR FEWER UNITS, A GARBAGE COLLECTION
43 SERVICE PROVIDER THAT OPERATES WITHIN A CITY OR TOWN MAY NOT REQUIRE PAYMENT
44 OF GARBAGE COLLECTION SERVICE RATES AND CHARGES BY ANYONE OTHER THAN THE
45 PERSON WHO THE GARBAGE COLLECTION SERVICE PROVIDER HAS CONTRACTED WITH TO

1 PROVIDE THE SERVICE, WHO PHYSICALLY RESIDES OR RESIDED AT THE PROPERTY AND
2 WHO RECEIVES OR RECEIVED THE SERVICE. A PROPERTY OWNER, AN IMMEDIATE FAMILY
3 MEMBER OF THE PERSON WHO DOES NOT RESIDE AT THE PROPERTY OR ANY OTHER ENTITY,
4 AT ITS SOLE DISCRETION, MAY CONTRACT FOR GARBAGE COLLECTION SERVICE WITH A
5 GARBAGE COLLECTION SERVICE PROVIDER AND SHALL PROVIDE PAYMENT.

6 Sec. 3. Section 9-511.02, Arizona Revised Statutes, is amended to
7 read:

8 9-511.02. Utility user fees; lien enforcement; procedures;
9 responsibility of payment; definition

10 A. A city or town may file a lien on property for the nonpayment of
11 utility user fees for services provided to the property if the payment of the
12 fees is delinquent for more than ninety days.

13 B. Before filing the lien, the city or town shall provide written
14 notice to the owner of the property. The notice shall be given at least
15 thirty days before filing the lien and shall include an opportunity for a
16 hearing with a designated city or town official. The notice shall be either
17 personally served or mailed to the property owner, at the last known address
18 by certified mail, or to the address to which the tax bill for the property
19 was last mailed. If the owner does not reside on the property, the notice
20 shall be sent to the last known address.

21 C. The unpaid utility user fees, from the date of recording in the
22 office of the county recorder in the county in which the property is located,
23 are a lien on the property until the fees are paid. The lien is subject and
24 inferior to the lien for general taxes and to all prior recorded mortgages
25 and encumbrances of record. A sale of the property to satisfy a lien
26 obtained under this section shall be made on judgment of foreclosure and
27 order of sale. A city or town may bring an action to enforce the lien in the
28 superior court in the county in which the property is located at any time
29 after the recording, but failure to enforce the lien by this action does not
30 affect its validity. The recorded unpaid utility user fees are prima facie
31 evidence of the truth of all matters recited in the recording and of the
32 regularity of all proceedings before the recording.

33 D. Unpaid utility user fees pursuant to this section accrue interest
34 at the rate prescribed by section 44-1201.

35 E. A prior assessment of unpaid utility user fees for the purposes
36 provided in this section does not bar a subsequent assessment for these
37 purposes and any number of liens on the same lot or tract of land may be
38 enforced in the same action.

39 F. ~~The provisions of~~ Subsection A of this section ~~do~~ DOES not apply to
40 residential property occupied by a lessee where the lessee is responsible for
41 payment of the utility user fees. The city or town shall determine the
42 status of leased residential property prior to filing the lien.

43 G. FOR RESIDENTIAL PROPERTY OF FOUR OR FEWER UNITS, A CITY OR TOWN MAY
44 NOT REQUIRE PAYMENT OF UNPAID UTILITY USER FEES BY ANYONE OTHER THAN THE
45 PERSON WHO THE CITY OR TOWN HAS CONTRACTED WITH TO PROVIDE THE SERVICE, WHO

1 PHYSICALLY RESIDES OR RESIDED AT THE PROPERTY AND WHO RECEIVES OR RECEIVED
2 THE SERVICE. A PROPERTY OWNER, AN IMMEDIATE FAMILY MEMBER OF THE PERSON WHO
3 DOES NOT RESIDE AT THE PROPERTY OR ANY OTHER ENTITY, AT ITS SOLE DISCRETION,
4 MAY CONTRACT FOR UTILITY SERVICE WITH A CITY OR TOWN AND SHALL PROVIDE
5 PAYMENT.

6 ~~G.~~ H. For purposes of this section "utility user fees" means fees
7 charged for the provision of sewer.

8 Sec. 4. Title 40, chapter 2, article 7, Arizona Revised Statutes, is
9 amended by adding section 40-376, to read:

10 40-376. Responsibility of payment: private water companies:
11 sewer corporations

12 FOR RESIDENTIAL PROPERTY OF FOUR OR FEWER UNITS, A PRIVATE WATER
13 COMPANY OR SEWER CORPORATION MAY NOT REQUIRE PAYMENT OF UNPAID WATER AND
14 WASTEWATER SERVICE RATES AND CHARGES OR SEWER UTILITY SERVICE RATES AND
15 CHARGES BY ANYONE OTHER THAN THE PERSON WHO THE PRIVATE WATER COMPANY OR
16 SEWER CORPORATION HAS CONTRACTED WITH TO PROVIDE THE SERVICE, WHO PHYSICALLY
17 RESIDES OR RESIDED AT THE PROPERTY AND WHO RECEIVES OR RECEIVED THE SERVICE.
18 A PROPERTY OWNER, AN IMMEDIATE FAMILY MEMBER OF THE PERSON WHO DOES NOT
19 RESIDE AT THE PROPERTY OR ANY OTHER ENTITY, AT ITS SOLE DISCRETION, MAY
20 CONTRACT FOR WATER AND WASTEWATER SERVICE WITH A PRIVATE WATER COMPANY OR FOR
21 SEWER UTILITY SERVICE WITH A SEWER CORPORATION AND SHALL PROVIDE PAYMENT.