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→ § **14-54-901**. Authorization

Incorporated towns and cities of the first and second class are empowered to order the owner of lots and other real property within their towns or cities to cut weeds; to remove garbage, rubbish, and other unsightly and unsanitary articles and things upon the property; and to eliminate, fill up, or remove stagnant pools of water or any other unsanitary thing, place, or condition which might become a breeding place for mosquitoes, flies, and germs harmful to the health of the community, after the town or city has provided therefor by an ordinance to that effect.

CREDIT(S)

Acts of 1943, Act 100, § 1.

PRIOR COMPILATIONS

Formerly A.S.A. 1947, § 19-2325.

CROSS REFERENCES

Authority to regulate unsanitary conditions, see § 14-14-813.

LIBRARY REFERENCES

Municipal Corporations ¶607.

Westlaw Key Number Search: 268k607.

A.C.A. § **14-54-901**, AR ST § **14-54-901**

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→ § 14-54-902. Notice

(a) In case the owner of any lot or other real property is unknown or his whereabouts is not known or he is a nonresident of this state, then a copy of the written notice referred to in § 14-54-903 shall be posted upon the premises. Before any action to enforce the lien shall be had, the recorder of the town or the city clerk shall make an affidavit setting out the facts as to unknown address or whereabouts of nonresidents.

(b) Thereupon, service of the publication, as provided for by law against nonresident defendants, may be had. An attorney ad litem shall be appointed to notify the defendant by registered letter addressed to his last known place of residence if it can be found.

(c) Except as provided in subsection (b) of this section, notices required by this subchapter shall be published, mailed, or delivered by the municipal recorder or clerk or such other person as designated by the governing body of the municipality.

CREDIT(S)

Acts of 1943, Act 100, § 3; Acts of 1989, Act 239, § 2.

PRIOR COMPILATIONS

Formerly A.S.A. 1947, § 19-2327.

LIBRARY REFERENCES

Municipal Corporations  607.

Westlaw Key Number Search: 268k607.

A.C.A. § 14-54-902, AR ST § 14-54-902

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→ § 14-54-903. Refusal of owner to comply

(a) As used in this section:

(1)(A) "Clean-up lien" means a lien securing the cost of work undertaken by a town or city to remove, abate, or eliminate a condition in violation of local codes.

(B) A clean-up lien may have priority against other lienholders as provided in this section;

(2) "Court lien" means a lien securing the fines or penalties imposed by a court of competent jurisdiction against the owner of an unsafe and vacant structure or weed lot for failure to comply with applicable building codes that have been secured by a court lien by action of the local governing body;

(3) "Priority clean-up lien" means a clean-up lien for work undertaken by a city or town on an unsafe and vacant structure or weed lot that is given priority status over other lienholders following notice and hearing;

(4) "Unsafe and vacant structure" means a structure located on previously platted and subdivided property that is not fit for human habitation and has been declared unsafe and vacant by the city or town in which it is located in violation of an applicable ordinance; and

(5) "Weed lot" means a previously platted and subdivided lot that is vacant or upon which an unsafe and vacant structure is located and that contains debris, rubbish, or grass which is higher than that permitted by local ordinance.

(b) If the owner or lienholder of any lot or other real property within an incorporated town or city shall neglect or refuse to remove, abate, or eliminate any condition as may be provided for under an ordinance passed by the city or town as provided for in § 14-54-901, after having been given seven (7) days' notice in writing to do so, then the town or city is authorized to do whatever is necessary to correct the condition and to charge the cost thereof to the owner of the lots or other real property.

(c)(1) The town or city is given a lien against the property for the costs, including all administrative and collection costs.

(2) The town or city shall file the lien with the circuit clerk no later than one hundred twenty (120) days after the town or city completes the clean-up work on the property.

(3) The town or city may perfect its clean-up lien as a lien against the property if the property:

(A) Contains an unsafe and vacant structure; or

(B) Has been cited as a weed lot.

(4) The clean-up lien amount shall equal costs, including administrative costs, that the city or town incurs to help bring the property into compliance with local ordinances because the owner or lienholder failed to remove or repair an unsafe and vacant structure or failed to correct the conditions that caused the property to become a weed lot within the time required by the notice.

(5)(A) If a court of competent jurisdiction levies fines or penalties against the owner of an unsafe and vacant structure or weed lot for failure to comply with applicable building codes, then the local governing body, by majority vote, from time to time and subject to notice and hearing provided by this section may secure any outstanding court fines or penalties resulting from the owner's failure to clean up an unsafe and vacant structure or weed lot with a court lien against the property for the full value of all the outstanding fines and penalties.

(B) A court lien does not have first priority status over prior recorded liens and may be imposed in addition to clean-up liens.

(6)(A) Notices shall be sent by regular mail and by certified mail, return receipt requested.

(B) Notice to an owner shall be sufficient if sent to the owner's address of record with the applicable county treasurer or collector.

(7)(A) If the city or town wishes to secure a clean-up lien, it shall provide seven (7) business days' notice to lienholders before undertaking any work at the property.

(B) Notice is sufficient if the notice is sent to the lienholder's address shown in the relevant land records.

(C) Cities and towns are not required to give notices to holders of unrecorded liens or to unrecorded assignees of lienholders.

(D) Any lienholder receiving notice under this section shall send, within seven (7) business days from receipt of the notice, a written response to the city or town indicating whether the owner of the property is in default under the terms of the note or mortgage.

(d) Any notice required under this section may be issued by a:

(1) Police officer employed by the city or town;

(2) City or town attorney; or

(3) Code enforcement officer employed by the city or town.

(e)(1) After the work has been completed, the city or town shall provide second notice to the owner and lienholders of record of the total amount of the clean-up lien, including administrative and filing costs.

(2) Cities and towns are not required to give notice of court liens to prior lienholders.

(3) Notice of the amount of a clean-up lien or a court lien may be combined with the notice of the hearing before the governing body to create and impose the clean-up lien or court lien.

(f) The amount of any clean-up lien or court lien provided in this section may be determined at a public hearing before the governing body of the city or town held after thirty (30) days' written notice by mail, return receipt requested, to the owner of the property if the name and address of the owner are known and to the lienholders of record.

(g) If the name of the owner cannot be determined, then the amount of the clean-up lien or court lien shall be determined at a public hearing before the governing body of the city or town only after publication of notice of the hearing in a newspaper having a bona fide circulation in the county where the property is located for one (1) insertion per week for four (4) consecutive weeks.

(h)(1) The determination of the governing body confirming the amount of any clean-up lien or court lien and creating and imposing any clean-up lien or court lien under this section is subject to appeal by the property owner or by any lienholder of record in the circuit court, filed within forty-five (45) days after the determination is made.

(2) If the owner or lienholder fails to appeal in this time, the lien amount shall be deemed fully perfected and not subject to further contest or appeal.

(i) The city or town shall file its lien with the circuit clerk no later than sixty (60) days after the governing body of the city or town confirms the lien amount, or if the lien is appealed, within sixty (60) days after the city or town wins on appeal.

(j)(1) If the city or town wishes to secure a first-priority status for any clean-up lien created and imposed in accordance with this section, it shall file an action with the circuit court within which the property is located seeking a declaration that the clean-up lien is entitled to priority over previously recorded liens and naming the holders of the recorded liens as defendants.

(2) Priority status shall be awarded to the clean-up lien with respect to any previously recorded lien if the court determines that such lienholder has failed to exercise its rights to foreclose its lien when the obligation it secures becomes in default or has failed to pay the costs of work undertaken by a city or town that comprise the clean-up lien. However, the amount as to which the clean-up lien shall have priority shall be such an amount as the court deems to be reasonable and, in any event, shall be limited to:

(A) No more than one thousand dollars (\$1,000) for grass or weed cutting;

(B) No more than five thousand dollars (\$5,000) to board and secure the property;

(C) No more than seven thousand five hundred dollars (\$7,500) to demolish any structures on the property; or

(D) No more than fifteen thousand dollars (\$15,000) for environmental remediation.

CREDIT(S)

Acts of 1943, Act 100, § 2; Acts of 1989, Act 239, § 1; Acts of 2005, Act 887, § 1, eff. Aug. 12, 2005; Acts of 2007, Act 854, § 1, eff. July 31, 2007.

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→ § 14-54-904. Enforcement of lien for clearance by municipality

(a) The liens provided for in § 14-54-903 may be enforced and collected at any time within ten (10) years after a lien has been filed in either one (1) of the following manners:

(1) By an action for foreclosure in the circuit court by the city or town, or if the city or town has established a land bank, by a land bank that has been assigned the lien; or

(2)(A) The amount so determined at the hearing, plus ten percent (10%) penalty for collection, shall be certified by the governing body of the municipality to the tax collector of the county where the municipality is located and placed by him or her on the tax books as delinquent taxes and collected accordingly.

(B) The amount, less three percent (3%) thereof, when so collected shall be paid to the municipality by the county tax collector.

(b)(1)(A) In any situation in which a city of the first class or city of the second class issues an order for the removal, repair to return the structure to compliance with minimum building code standards, or razing of a building or house under the provisions of § 14-56-203 and such order is not complied with by the owner of the building or house and the city then removes, repairs, or razes the building or house, a lien is granted and given against the real property for the cost of the removal, repair, or razing.

(B) If the city determines to repair the building or house to meet the minimum building code standards, the city shall comply with all necessary requirements under § 14-58-303 for competitive bidding for purchases of supplies and materials or for contracts for work or labor needed to complete the repairs on the building or house.

(2) The lien granted by this subsection shall also be enforced pursuant to the lien enforcement procedures set forth in subsection (a) of this section.

(c) In all suits brought to enforce the liens described in this section, the reimbursement of costs, including title search fees and reasonable attorney's fees, shall be awarded to the municipality.

CREDIT(S)

Acts of 1943, Act 100, § 4; Acts of 1979, Act 339, § 1; Acts of 1983, Act 80, § 1; Acts of 2001, Act 1538, § 1, eff. Aug. 13, 2001; Acts of 2005, Act 887, § 2, eff. Aug. 12, 2005; Acts of 2007, Act 854, § 2, eff. July 31, 2007.

PRIOR COMPILATIONS

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