Conference Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 246

SENATE BILL 1266

AN ACT

AMENDING SECTIONS 9-499, 9-499.01, 11-268 AND 11-269.02, ARIZONA REVISED STATUTES; AMENDING SECTION 11-1133, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2013, CHAPTER 50, SECTION 1; AMENDING SECTION 13-1603, ARIZONA REVISED STATUTES; RELATING TO POLITICAL SUBDIVISIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 2. Section 9-499.01, Arizona Revised Statutes, is amended to read:

9-499.01. Powers of charter and general law cities

Charter cities and general law cities, whether incorporated as cities pursuant to section 9-101 or having assumed a city organization pursuant to section 9-271, shall be vested with all the powers of incorporated towns as set forth in THIS title ~~9~~, in addition to all powers vested in them pursuant to their respective charters, or other provisions of law relating to cities and towns.

Sec. 3. Section 11-268, Arizona Revised Statutes, is amended to read:

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

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

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

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

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

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

(b) In addition to ~~any~~ THE fine ~~which may be~~ THAT IS imposed for a violation of this section, is liable for all costs ~~which~~ THAT may be assessed

pursuant to this section for the removal of the rubbish, trash, filth or debris.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

J. For the purposes of this section: ~~,~~

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

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

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

Sec. 4. Section 11-269.02, Arizona Revised Statutes, is amended to read:

11-269.02. Public facilities; voter approval; exemptions

A. Notwithstanding any other law, a county with a population of more than one million five hundred thousand persons according to the most recent United States decennial census shall not spend public monies, grant tax

concessions or relief, incur debt or exchange property in any combined amount or value totaling more than three million dollars to construct or aid in the construction of an amphitheater, a sports facility, arena or complex or a convention facility, arena or complex without presenting the proposed expenditure to the qualified electors of the county with a population of more than one million five hundred thousand persons according to the most recent United States decennial census and approval of the expenditure by a majority of those voting in the election. If revenue from a secondary property tax levy is the designated source of payment or if the project is constructed with an improvement district, the question shall be submitted to the qualified electors at an election held on the first Tuesday following the first Monday in November.

B. This section does not apply to an expenditure for a park, parkway, trail, recreational area or playground that is established, maintained or administered by a county with a population of more than one million five hundred thousand persons according to the most recent United States decennial census and that was not developed primarily for the commercial use of a private enterprise or ~~collection~~ GROUP of private enterprises.

Sec. 5. Section 11-1133, Arizona Revised Statutes, as amended by Laws 2013, chapter 50, section 1, is amended to read:

11-1133. Affidavit of legal value

A. Each deed evidencing a transfer of title and any contract relating to the sale of real property shall have appended at the time of recording an affidavit of the seller and the buyer to the transaction, or the agent of either the seller or buyer, or both, in a form approved by the department of revenue, who shall declare and jointly certify the following information:

1. The name and address of the buyer and seller.
2. The name and address where a tax statement may be sent.
3. The complete legal description of the property.
4. The situs address, if any, of the property.
5. The date of sale.
6. The total consideration paid for the property, the amount of cash down payment and whether or not the type of financing included cash, a new third party loan, a new loan from the seller, an assumption of an existing loan or an exchange or trade of property.
7. Whether or not the estimated market value of personal property received by the buyer equals five per cent or more of the total consideration.
8. The assessor's parcel number or numbers assigned to the real property by the county assessor or, in the case of a new parcel or parcels not yet assigned a parcel number, the parcel number or numbers of the previous parcel or parcels from which the new parcel or parcels are created.
9. The conditions of the transaction including the relationship, if any, of the parties.

10. The use and description of the property and, in the case of a residential dwelling, whether the property is to be owner-occupied or rented.

11. The name and address of the person to contact regarding information contained on the affidavit.

B. If a beneficiary of a foreclosed trustee's deed receives payment based on private mortgage insurance covering the sale that is in addition to the proceeds of the sale, the beneficiary shall submit, in a form approved by the department of revenue, to the county recorder in the county where the property is located within four months after the date of the trustee's sale a beneficiary's declaration of additional funds received that contains the following:

1. The county assessor's parcel number or numbers assigned as of the date of the trustee's sale.

2. The name and address of the beneficiary submitting the declaration.

3. The date of the trustee's sale.

4. The highest bid amount received by the trustee at the trustee's sale.

5. The recording number of the trustee's deed ~~upon~~ ON sale.

6. The amount of any additional compensation received by the beneficiary within ~~six~~ THREE months after the date of the trustee's sale.

C. The county recorder shall refuse to record any deed and any contract relating to the sale of real property if a complete affidavit of legal value is not appended unless the instrument bears a notation indicating an exemption pursuant to section 11-1134.

D. An affidavit is complete for purposes of this section if all of the required information is stated on the affidavit form or is indicated on the form as "not applicable".

Sec. 6. Section 13-1603, Arizona Revised Statutes, is amended to read:

13-1603. Criminal littering or polluting; classification

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

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

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

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

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

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

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

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

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

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

APPROVED BY THE GOVERNOR JUNE 20, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 21, 2013.

Passed the House May 8, 2013,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Pro Tempore

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 12, 2013,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1266

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House June 14, 2013,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate June 13, 2013,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 17 day of June, 2013,

at 8:25 o'clock A M.

Mikhaila Howard

Secretary to the Governor

Approved this 20th day of

June, 2013,

at 3:17 o'clock P. M.

Janice K. Brewer

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 21st day of June, 2013,

at 9:17 o'clock A. M.

Secretary of State

S.B. 1266