

Bill: 2nd Substitute HB 295 – Municipal Services Fees and Political Subdivision Lien Amendments

Sponsor: Representative Paul A. Cutler
Floor Sponsor: Senator Wayne A. Harper
UASD Position: Tracking

This Bill authorizes municipalities to place a political subdivision lien on property for certain past due services.

Discussion: The 2nd Substitute of HB 295, which limits the municipal services eligible for a lien to storm drain infrastructure, sewer, water, and utility-related services, was adopted by the Committee. It authorizes municipalities that establish fee schedules for these services—whether directly or through a third-party contractor—to bill customers directly or through the contractor. It also grants municipalities the power to place a political subdivision lien on properties for unpaid service fees. The Bill further adjusts the process for special districts to charge interest and costs on overdue fees. Special districts were granted lien authority by the Legislature years ago, and it has proven to be an effective tool for securing payment without cutting off essential services like water or sewer. Representative Cutler noted that about 90% of liens result in payment through property tax collections. The Bill aligns interest rates with other property tax liens by setting a cap at 8% for municipalities and special districts. Millcreek City Manager Mike Winder, presenting with the sponsor, shared examples of challenges faced by municipalities that lack lien authority.

Representative Walter expressed concerns about the ability of municipalities or special districts to foreclose on properties for nonpayment. The sponsor clarified that these entities could charge an 8% fee, collected with property taxes, or impose administrative costs, such as collection and reasonable attorney fees. The sponsor was open to removing the forfeiture authority for these entities. Liens take priority over mortgages, and if a property is sold, the governmental entity is paid. LeGrand Bitter, representing the Utah Association of Special Districts, stated that he is unaware of any special district that has ever initiated a foreclosure. Liens are either paid when property taxes are settled or when the property is sold. Most lien amounts are small, but combined, the numerous small amounts on properties with nonpayment add up to be a significant sum. Property owners should not subsidize those who fail to pay for services. Jared Tingey, representing the Utah League of Cities and Towns, voiced support for the Bill. Taz Bessinger, representing the Utah Homebuilders Association, mentioned that they no longer oppose the Bill after addressing their concerns with the sponsor. That said, he suggested removing the second option on Line 170, which allows political subdivisions to charge attorney fees, and only permit the imposition of liens. He also recommended extending the 30-day notice period before a lien is issued to 60 days. The Committee agreed and amended the Bill to reflect this change. The sponsor expressed willingness to continue refining the Bill's language. Representative Bennion inquired whether the language regarding attorney fees and foreclosures was consistent with the special district portion of the Code, and the sponsor confirmed that it was.

Yeas: 8
Nays: 0
N/V: 2

Outcome: 2nd Substitute HB 295, as amended, passed out of the Committee with a favorable recommendation.

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