

Regular Session, 2013

SENATE BILL NO. 51

BY SENATOR LONG

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CIVIL PROCEDURE. Provides relative to municipal and parish actions, liens, and proceedings for blighted or abandoned property and for violations of public health, housing and certain other ordinances. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 13:2575(A), (B), (C)(2), (D), (F) and (H) and
3 2576(A)(introductory paragraph) and to enact R.S. 13:2576(A)(7), relative to
4 administrative adjudication procedures for blighted or abandoned property, public
5 health, housing, fire code, environmental and other ordinance violations; to provide
6 certain municipal and parish population requirements and restrictions; to provide
7 certain terms, conditions, requirements, and procedures; to provide for the
8 enforcement of ordinances through administrative adjudication procedures and other
9 procedures, including liens, actions and tax sales; to provide for the effects of such
10 procedures and judgments; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 13:2575(A), (B), (C)(2), (D), (F) and (H) and 2576(A)(introductory
13 paragraph) are hereby amended and reenacted and R.S. 13:2576(A)(7) is hereby enacted to
14 read as follows:

15 §2575. ~~Municipalities with populations in excess of three hundred thousand;~~
16 **Blighted or abandoned property**; public health, housing, **fire code**,
17 **building code and certain other ordinance** ~~and environmental~~

1 violations; administrative adjudication; procedure; appeal; penalties

2 A.(1) Any municipality or parish may prescribe civil fines for **blighted**
3 **property, abandoned property, or** violation of public health, housing, fire code,
4 environmental, and historic district ordinances in the municipality or parish by
5 owners of immovable property, their agents, tenants, or representatives pursuant to
6 the procedures for administrative adjudication provided in this Chapter. For the
7 purposes of this Chapter, "housing violations" shall encompass only those conditions
8 in privately owned structures which are determined to constitute a threat or danger
9 to the public health, safety or welfare and/or to the environment, or a historic district.
10 In municipalities with a population of seventy thousand or more, the term "housing
11 violation" as used in this Chapter shall also encompass building codes, zoning,
12 vegetation, and nuisance ordinances. However, nothing in this Section shall be
13 construed to affect activities which occur on the premises of manufacturing facilities
14 and which are regulated by Title 30 of the Louisiana Revised Statutes of 1950.

15 **(2) For purposes of this Chapter, except in any parish with a population**
16 **of more than three hundred thousand and less than four hundred thousand**
17 **according to the latest federal decennial census, "blighted property" shall have**
18 **the same meaning as provided in R.S. 33:1374, and "abandoned property" shall**
19 **have the same meaning as provided in R.S. 33:4720.59.**

20 B.(1) Any municipality or parish may adopt an ordinance or ordinances
21 establishing an administrative adjudication hearing procedure under the provisions
22 of this Chapter. The ordinance or ordinances shall provide for a time period for
23 persons charged with **owning blighted or abandoned property, or** violating a
24 public health, housing, fire code, environmental, and historic district ordinance to
25 have a hearing under the provisions of this Chapter. The ordinance shall provide for
26 the appointment of one or more hearing officers who may be the director of health
27 of the municipality or parish or the health officer of the parish in which the
28 municipality is located or the designee of such official or, in the discretion of the
29 governing authority, who may be a person who shall have been licensed to practice

1 law in Louisiana for two years.

2 (2) **Except in any parish with a population of more than three hundred**
3 **thousand and less than four hundred thousand according to the latest federal**
4 **decennial census, any municipality or parish that adopts an ordinance**
5 **establishing an administrative adjudication hearing procedure for determining**
6 **property to be blighted or abandoned, shall provide notice to the property**
7 **owners and to all mortgage holders as provided in Subparagraphs (D)(2) and**
8 **(F)(2) of this Section.**

9 (3) Each municipality or parish shall have the authority to empower the
10 hearing officer with authority to:

11 * * *

12 C. (1)

13 * * *

14 (2) Any liens placed against such immovable property shall be included in
15 the next annual ad valorem tax bill and shall be paid along with such taxes, subject,
16 however, to any valid homestead exemption. Failure to pay the liens shall cause the
17 immovable property in or on which the violation occurred to be subject to the same
18 provisions of law as govern tax sales of immovable property, except that in
19 municipalities with populations in excess of three hundred thousand according to the
20 latest federal decennial census, when the immovable property has been declared
21 blighted or a public nuisance by an administrative hearing officer acting in
22 accordance with this Section, the property owners and other parties having interests
23 in the property shall not have a right of redemption. However, if the immovable
24 property has been sold for nonpayment of taxes to a tax sale purchaser other than the
25 municipality, and if the right of redemption from the tax sale has not elapsed at least
26 one year prior to the sale pursuant to this Section, the tax sale purchaser shall have
27 a right of redemption from the sale pursuant to this Section until one year after the
28 right of redemption from the tax sale elapses. In addition, ~~in municipalities with~~
29 ~~populations in excess of three hundred thousand according to the latest federal~~

1 ~~decennial census~~, failure to pay the liens shall also cause such liens and privileges
2 to be subject to enforcement in accordance with R.S. 13:2576. Any liens placed
3 against immovable property that has a legal homestead exemption from taxes will
4 become payable ninety days after the death of the owner thereof or immediately
5 upon recordation of any conventional mortgage on the immovable property or
6 transfer of title to a new owner, whichever occurs first.

7 D.(1) Prior to holding an administrative hearing for public health, housing,
8 fire code, environmental, and historic district violations, the municipality or parish
9 shall notify the property owner at least fifteen days in advance of the date that such
10 a hearing is scheduled. This notification shall state the time, date, and location of the
11 hearing, the alleged violations, and it shall be sent by certified or registered United
12 States mail to the violator or personally served on the violator at the address as listed
13 in the assessor's office of the municipality or parish. The date of the postmark shall
14 be deemed to be the date of delivery. Any notification so sent and returned by the
15 United States Post Office shall be considered as having fulfilled the notification
16 requirement. Failure of any person charged with a violation to appear at the hearing
17 shall be considered an admission of liability for the charged violation. Any order
18 compelling the attendance of witnesses or the production of documents may be
19 enforced by the city or municipal court of the municipality or the parish court in
20 whose jurisdiction the municipality is located, or in the parish court of the parish
21 initiating the action.

22 **(2) Except in any parish with a population of more than three hundred**
23 **thousand and less than four hundred thousand according to the latest federal**
24 **decennial census, prior to holding an administrative hearing for the**
25 **determination of blight or abandonment of property, the municipality or parish**
26 **shall notify the property owner and all current mortgage holders holding a**
27 **mortgage recorded in the parish mortgage records, at least fifteen days in**
28 **advance of the date of the administrative hearing. The notification shall state**
29 **the time, date, and location of the hearing, the location of the subject property,**

1 and an explanation that the hearing is for the purpose of making a
 2 determination whether the subject property is blighted or abandoned. The
 3 notice shall be sent by certified or registered United States mail or personally
 4 served on the property owner at the address listed in the assessor's office of the
 5 municipality or parish, and on each mortgage holder at the address provided
 6 in the recorded mortgage.

7 * * *

8 F.(1) The hearing officer shall issue an order within thirty days, excluding
 9 legal holidays, of the hearing stating whether or not the person charged is liable for
 10 the violation, and the amount of any fine, penalty, costs, or fee assessed against him,
 11 and a date by which the violation shall be corrected. In addition to the enforcement
 12 procedure and authority set forth in Paragraph (B)(2) of this Section, any order
 13 assessing a fine, penalty, costs, or fee or stipulating a correction date may be
 14 enforced by the city or municipal court of the municipality or the parish court in
 15 whose jurisdiction the municipality is located, or in the parish court of the parish
 16 initiating the action.

17 (2) Except in any parish with a population of more than three hundred
 18 thousand and less than four hundred thousand according to the latest federal
 19 decennial census, within thirty days, excluding legal holidays, after the hearing
 20 to determine whether a property is blighted or abandoned, the hearing officer
 21 shall send written post hearing notice to the property owner and current
 22 mortgage holders explaining whether the hearing officer determined the subject
 23 property to be blighted or abandoned and state whether any fine, penalty, costs,
 24 or fees are assessed. The post hearing notice shall be sent to the property owner
 25 and current mortgage holders in the manner provided for in Subparagraph
 26 (D)(2) of this Section.

27 * * *

28 H. Any property owner or mortgage holder of property determined to
 29 be blighted or abandoned property, or any person determined by the hearing

1 officer to be in violation of a public health, housing, fire code, environmental, or
 2 historic district ordinance may appeal this determination to the appropriate district
 3 court. Such appeal shall be instituted by filing, within thirty calendar days of the
 4 hearing officer's order, a petition with the clerk of court for the district court along
 5 with payment of such reasonable costs as may be required by the clerk. After filing
 6 a petition for appeal, the clerk of court of the district court shall schedule a hearing
 7 and notify all parties of the date, time, and place of such hearing. Service of notice
 8 of appeal under this Subsection shall not stay the enforcement and collection of the
 9 judgment unless the person who files the appeal furnishes security prior to filing
 10 notice of appeal with the agency of the municipality or parish designated by
 11 ordinance to accept such payments in the amount to be fixed by the hearing officer
 12 sufficient to assure satisfaction of the finding of the hearing officer relative to the
 13 fine, fee, penalty, costs of the hearing, and costs, if any, of correcting the violation.

14 * * *

15 §2576. Administrative adjudication of **blighted or abandoned property**, public
 16 health, housing, fire code, environmental, and historic district
 17 violations; ~~municipalities with a population in excess of three~~
 18 ~~hundred thousand~~

19 A. In each ~~any~~ **municipality or parish** having a population of ~~three hundred~~
 20 ~~thousand or more according to the latest federal decennial census~~, the failure to pay
 21 the liens, privileges, ~~and~~ judicial mortgages, and any fines, fees, penalties, or hearing
 22 costs imposed pursuant to R.S. 13:2575 shall cause the liens, privileges, ~~and~~ judicial
 23 mortgages, and any fines, fees, penalties, or hearing costs to be enforceable pursuant
 24 to the following provisions, in addition to those provided for in R.S. 13:2575:

25 * * *

26 **(7) If property for which tax sale title was acquired and held by a**
 27 **political subdivision pursuant to R.S. 47:2196 is sold pursuant to this Chapter,**
 28 **upon recordation of such sale the property shall no longer be deemed**
 29 **adjudicated property. For purposes of any rights of redemption required**

accordance with R.S. 13:2576.

Proposed law removes present reference to municipalities with populations in excess of 300,000, so that failure to pay certain liens in any municipality or parish shall cause such liens and privileges to be subject to enforcement in accordance with R.S. 13:2576.

Present law provides that prior to holding an administrative hearing for public health, housing, fire code, environmental, and historic district violations, the municipality or parish shall notify the property owner at least 15 days in advance of the date that such a hearing is scheduled. Further provides for the requirements of the notification.

Proposed law provides that, except in any parish with a population of more than 300,000 and less than 400,000 according to the latest federal decennial census, prior to holding an administrative hearing for determination of blight or abandonment of property, the municipality or parish shall notify the property owner at least 15 days in advance of the date that such a hearing is scheduled. Further provides for the requirements of the notification.

Present law provides that hearing officer will issue an order within 30 days, excluding legal holidays, of the hearing stating whether or not the person charged is liable for the violation, and the amount of any fine, penalty, costs, or fee assessed against him, and a date by which the violation shall be corrected.

Proposed law provides that, except in any parish with a population of more than 300,000 and less than 400,000 according to the latest federal decennial census, within 30 days, excluding legal holidays, after the hearing to determine whether a property is blighted or abandoned, the hearing officer shall send written post hearing notice to the property owner and current mortgage holders explaining whether the hearing officer determined the subject property to be blighted or abandoned and state whether any fine, penalty, costs, or fees are assessed.

Present law provides that any person determined by the hearing officer to be in violation of a public health, housing, fire code, environmental, or historic district ordinance may appeal this determination to the appropriate district court and provides for the appeal process.

Proposed law retains present law and adds blighted or abandoned property determination to the present law appeal process.

Present law references administrative adjudication of public health, housing, fire code, environmental and historic district violations.

Proposed law adds references to administrative adjudication of blighted or abandoned property.

Present law provides that in each municipality having a population of 300,000 or more, the failure to pay liens, privileges, judicial mortgages and any fines, fees, penalties or hearing costs imposed pursuant to R.S. 13:2575 shall cause the lien, privileges, judicial mortgages and any fines, fees, penalties or hearing costs to be enforceable pursuant to certain provisions listed.

Proposed law removes reference to municipalities having a population of 300,000 or more, making present law applicable to any municipality or parish.

Proposed law provides that if property for which tax sale title was acquired and held by a political subdivision pursuant to R.S. 47:2196 is sold pursuant to the present and proposed law, upon recordation of such sale the property shall no longer be deemed adjudicated property. For purposes of any rights of redemption required pursuant to state law, the redemption period shall be deemed to have commenced on the date of the recordation of the initial adjudication to the political subdivision and not on the date of sale pursuant to the present and proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 13:2575(A), (B), (C)(2), (D), (F) and (H) and 2576(A)(intro para); adds R.S. 13:2576(A)(7))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the engrossed bill

1. Exempts any parish whose populations is more than 300,000 and less than 400,000 from the provisions of proposed law.
2. Adds definitions.
3. Adds a hearing procedure for blighted or abandoned property, including pre-hearing notice, post-hearing determination, and appeals process.