

DISASTER RECOVERY LIENS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen H. Urquhart

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts provisions relating to a lien for disaster recovery services.

Highlighted Provisions:

This bill:

- ▶ gives a person that provides certain disaster recovery services to an owner of damaged property a lien on the proceeds of the insurance policy that covers the disaster recovery service for the balance owed to the provider under the governing service agreement;
- ▶ establishes prerequisites to a provider obtaining a lien described in this bill; and
- ▶ provides for enforcement of a lien described in this bill.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

38-14-101, Utah Code Annotated 1953

38-14-102, Utah Code Annotated 1953

38-14-103, Utah Code Annotated 1953

38-14-104, Utah Code Annotated 1953



28 38-14-105, Utah Code Annotated 1953



30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section 38-14-101 is enacted to read:

32 **CHAPTER 14. DISASTER RECOVERY SERVICE LIEN ACT**

33 **Part 1. General Provisions**

34 **38-14-101. Title.**

35 (1) This chapter is known as the "Disaster Recovery Service Lien Act."

36 (2) This part is known as "General Provisions."

37 Section 2. Section 38-14-102 is enacted to read:

38 **38-14-102. Definitions.**

39 As used in this chapter:

40 (1) "Claims office" means an insurer's office that adjusts an owner's claim for damaged
41 property.

42 (2) "Damaged property" means real property that is damaged by a disaster.

43 (3) "Disaster" means a situation causing, or threatening to cause, widespread damage,
44 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,
45 natural phenomena, or technological hazard.

46 (4) "Disaster recovery service" means labor or material provided to perform a
47 mitigation or emergency service to remedy damaged property.

48 (5) "Disaster recovery service lien" means a lien on insurance proceeds for the unpaid
49 balance owing to a provider under a service agreement.

50 (6) "Mitigation or emergency service" means labor or material provided for the purpose
51 of performing:

52 (a) urgent repairs necessary to prevent further damage; or

53 (b) services or repairs to mitigate the damage caused by the disaster, including cleanup.

54 (7) "Insurance proceeds" means money payable by an insurer under an insurance policy
55 for a disaster recovery service.

56 (8) "Insurer" means an insurance company that provides insurance coverage for
57 damage to real property caused by a disaster.

58 (9) "Provider" means a person who provides a disaster recovery service under a service

59 agreement.

60 (10) "Service agreement" means a written agreement between an owner of property
61 damaged by a disaster and a provider, under which the provider agrees to perform a disaster
62 recovery service for the owner's damaged property.

63 Section 3. Section **38-14-103** is enacted to read:

64 **38-14-103. Disaster recovery service lien -- Requirements.**

65 A provider that performs a disaster recovery service under a service agreement has a
66 disaster recovery service lien on the insurance proceeds related to the disaster recovery service
67 if:

68 (1) the service agreement under which the provider performs the disaster recovery
69 service requires the owner of the damaged property to pay at least \$5,000 for the provider's
70 disaster recovery service;

71 (2) the owner of the damaged property has not paid the provider the amount owed
72 under the service contract for the disaster recovery service; and

73 (3) the provider gives notice to the insurer under Section 38-14-104.

74 Section 4. Section **38-14-104** is enacted to read:

75 **38-14-104. Notice of a disaster recovery service lien.**

76 (1) Within three business days after the day on which a provider completes a disaster
77 recovery service governed by a service agreement, the provider shall send written notice, as
78 described in Subsection (2), to the claims office of the insurer by certified mail, postage
79 prepaid.

80 (2) A notice described in Subsection (1) shall:

81 (a) notify the insurer that the provider claims a disaster recovery service lien;

82 (b) state the name, address, and telephone number of the owner of the damaged
83 property;

84 (c) state the date of the service agreement;

85 (d) state the amount that the owner of the damaged property is required to pay under
86 the service agreement;

87 (e) describe the disaster recovery service that the provider performed;

88 (f) state the date on which the provider completed the disaster recovery service; and

89 (g) state the unpaid balance owing to the provider under the service agreement as of the

90 date on which the notice is sent.

91 Section 5. Section **38-14-105** is enacted to read:

92 **38-14-105. Insurer liable under lien -- Enforcement of lien.**

93 (1) An insurer that pays insurance proceeds to an owner of damaged property after
94 notice to the insurer is provided under Section 38-14-104 is liable to the provider for the
95 amount owing to the provider under the disaster recovery service lien, not to exceed the
96 amount of insurance proceeds the insurer pays to the owner after the insurer is provided notice.

97 (2) A provider may enforce a disaster recovery service lien by an action filed in a court
98 of competent jurisdiction.

99 (3) A provider that prevails in an action described in Subsection (2) is entitled to an
100 award of costs and reasonable attorney fees.

Legislative Review Note
as of **2-19-13 4:44 PM**

Office of Legislative Research and General Counsel