

## Assembly Bill No. 2110

### CHAPTER 58

An act to amend Sections 38772, 38773.2, 38773.6, and 38773.7 of the Government Code, relating to nuisances.

[Approved by Governor June 30, 2000. Filed with  
Secretary of State July 3, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2110, Rod Pacheco. Graffiti abatement.

Existing law authorizes a city, county, or city and county to provide for the abatement of a nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material at the expense of a minor creating, causing, or committing the nuisance. Existing law also authorizes a city, county, or city and county to adopt an ordinance making the expense of abatement a lien against property of the minor or the parent or guardian of the minor and a personal obligation of the minor or the parent or guardian of the minor and specifying the procedures for the recording, abatement, and satisfaction of the lien.

This bill would authorize the extension of these provisions to apply to persons other than minors creating, causing, or committing these nuisances.

*The people of the State of California do enact as follows:*

SECTION 1. Section 38772 of the Government Code is amended to read:

38772. (a) The legislative body of a city, county, or city and county may provide for the summary abatement of any nuisance resulting from the defacement of the property of another by graffiti or any other inscribed material at the expense of the minor or other person creating, causing, or committing the nuisance and by ordinance may make the expense of abatement of the nuisance a lien against property of the minor or other person and a personal obligation against the minor or other person pursuant to Section 38773.2 or 38773.6.

(b) The parent or guardian having custody and control of the minor shall be jointly and severally liable with the minor. The legislative body of a city, county, or city and county may make the expense of abatement of any nuisance, resulting from the defacement by a minor of the property of another by graffiti or any other inscribed material, a lien against the property of a parent or guardian, having custody and control of the minor, and a personal



obligation against the parent or guardian having custody and control of the minor pursuant to Section 38773.2 or 38773.6.

(c) Notwithstanding any other provision of law, the names and addresses of the parent or guardian having custody and control of the minor, if known, shall be reported by the probation officer of the county to the city clerk or other official designated by the legislative body of the city, county, or city and county in which the defaced property is located.

(d) As used in this section, the following terms have the following meanings:

(1) “Expense of abatement” includes, but is not limited to, court costs, attorney’s fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the city, county, or city and county in identifying and apprehending the minor or other person.

(2) “Graffiti or other inscribed material” means any unauthorized inscription, word, figure, mark, or design that is written, marked, etched, scratched, drawn, or painted on any real or personal property.

(3) “Minor” or “other person” means a minor or other person who has confessed to, admitted to, or pled guilty or nolo contendere to a violation of Section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code, or a minor convicted by final judgment of a violation of Section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code, or a minor declared a ward of the Juvenile Court pursuant to Section 602 of the Welfare and Institutions Code by reason of the commission of an act prohibited by Section 594, 594.3, 640.5, 640.6, or 640.7 of the Penal Code.

SEC. 2. Section 38773.2 of the Government Code is amended to read:

38773.2. (a) The legislative body of a city, county, or city and county may, by ordinance, establish a procedure to collect abatement and related administrative costs incurred in the summary abatement of any nuisance resulting from the defacement by a minor or other person of the property of another by graffiti or any other inscribed material. The ordinance shall require notice to the minor or other person prior to the recordation of a lien on the parcel of land owned by the minor or other person. The ordinance shall require notice to the parent or guardian having custody and control of the minor prior to the recordation of a lien on the parcel of land owned by the parent or guardian having custody and control of the minor.

(b) The notice shall be served in the same manner as a summons in a civil action pursuant to Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the minor or other person, after diligent search, cannot be found, the notice may be served by posting a copy of the notice upon the property owned by the minor or other person, in a conspicuous place, for a period of 10 days. The notice shall also be published pursuant to



Section 6062 in a newspaper of general circulation that is published in the county in which the property is located. If the parent or guardian having custody and control of the minor, after diligent search, cannot be found, the notice may be served by posting a copy of the notice upon the property owned by the parent or guardian having custody and control of the minor, in a conspicuous place, for a period of 10 days. The notice shall also be published pursuant to Section 6062 in a newspaper of general circulation that is published in the county in which the property is located.

(c) A graffiti nuisance abatement lien shall be recorded in the county recorder's office in the county in which the parcel of land is located. From the date of recording, the lien shall have the force, effect, and priority of a judgment lien.

(d) A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien; the name of the agency on whose behalf the lien is imposed; the date of the abatement order; the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed; and the name and address of the recorded owner of the parcel.

(e) If the lien is discharged, released, or satisfied, either through payment or foreclosure, notice of the discharge containing the information specified in subdivision (d) shall be recorded by the governmental agency. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

(f) A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the city.

(g) Notwithstanding Section 6103, Section 27383, or any other provision of law, the county recorder may impose a fee on the city, county, or city and county to reimburse the costs of processing and recording the lien and providing notice to the property owner. The city, county, or city and county may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

(h) As used in subdivision (a), "abatement and related administrative costs" include, but are not limited to, court costs, attorney's fees, costs of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, and the law enforcement costs incurred by the city, county, or city and county in identifying and apprehending the minor or other person.

(i) The terms "graffiti or other inscribed material," "minor," and "other person" have the same meaning as specified in Section 38772.

SEC. 3. Section 38773.6 of the Government Code is amended to read:

38773.6. (a) As an alternative to the procedure specified in Section 38773.2, the legislative body of a city, county, or city and county may, by ordinance, establish a procedure for the abatement



of any nuisance resulting from the defacement by a minor or other person of property of another by graffiti or other inscribed material and make the abatement and related administrative costs a special assessment against a parcel of land owned by the minor or other person or by the parent or guardian having custody and control of the minor. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the abatement and related administrative costs relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, then the abatement and related administrative costs shall not result in a lien against the real property but shall instead be transferred to the unsecured roll for collection. Notices or instruments relating to the abatement proceeding or special assessment may be recorded.

(b) The terms “abatement and related administrative costs,” “graffiti or other inscribed material,” “minor,” and “other person” have the same meaning as specified in Sections 38772 and 38773.2.

SEC. 4. Section 38773.7 of the Government Code is amended to read:

38773.7. The legislative body, by ordinance, may provide that upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property or a person described in paragraph (3) of subdivision (d) of Section 38772 is responsible for a condition that may be abated in accordance with an ordinance enacted pursuant to Sections 38773.5 and 38773.6, except for conditions abated pursuant to Section 17980 of the Health and Safety Code, the court may order that person to pay treble the costs of the abatement.

