



<b>TECHNICAL REVIEW:</b>	No	
<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	No
	<b>SENATE:</b>	Yes    Community & Urban Affairs Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

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CL/MM

§§6,7  
C.54:5-98.1  
and 54:5-98.2  
§10  
T & E and Note  
to C.54:5-97.1  
and C.54:5-104.42  
§11  
Note to §§1-9

P.L. 2024, CHAPTER 39, *approved July 10, 2024*  
Assembly, No. 3772 (*First Reprint*)

1 AN ACT revising the process for a property tax lien holder to  
2 foreclose the right to redeem a property tax lien, amending  
3 various parts of the statutory law, and supplementing chapter 5  
4 of Title 54 of the Revised Statutes and P.L.1948, c.96 (C.54:5-  
5 104.29 et seq.).  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

10 1. R.S.54:5-33 is amended to read as follows:

11 54:5-33. a. Payment for the sale shall be made before the  
12 conclusion of the sale, or the property shall be resold. Any  
13 premium payment shall be held by the collector and returned to the  
14 purchaser of the fee if and when redemption is made. If redemption  
15 is not made within five years from date of sale the premium  
16 payment shall be turned over to the treasurer of the municipality  
17 and become a part of the funds of the municipality. In the event  
18 that a petition of bankruptcy has been filed by the property owner,  
19 the five year limitation shall be extended for each day that the  
20 foreclosure action is precluded by that bankruptcy filing.

21 b. <sup>1</sup>**["If the tax sale certificate is redeemed through"]** In the event  
22 a property is required to be sold at<sup>1</sup> a judicial sale as in the manner  
23 of the foreclosure of a mortgage or <sup>1</sup>**["through"]**<sup>1</sup> an Internet auction  
24 through the office of the county sheriff, <sup>1</sup>**["and the redemption is**  
25 **made]** the premium shall be refunded to the lienholder if,<sup>1</sup> within  
26 five years of the date of the tax sale, <sup>1</sup>**["the tax collector shall refund**  
27 **the premium to the holder of the tax sale certificate]** the writ of  
28 execution is sent to the county sheriff's office to schedule the  
29 judicial sale or Internet auction.<sup>1</sup>

30 In the event that the holder of the tax sale certificate, or an  
31 assignee, is the successful bidder at the judicial sale <sup>1</sup>**["as in the**

**EXPLANATION** – Matter enclosed in bold-faced brackets **["thus"]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted June 24, 2024.

1 manner of the foreclosure of a mortgage]<sup>1</sup> or <sup>1</sup>[an] the<sup>1</sup> Internet  
2 auction <sup>1</sup>[through the office of the county sheriff]<sup>1</sup>, the tax  
3 collector shall not refund any premium.

4 <sup>1</sup>Any premium that is due to escheat to the municipality in 2024  
5 shall be extended one year.<sup>1</sup>  
6 (cf: P.L.2009, c.320, s.7)

7  
8 <sup>1</sup>2. R.S.54:5-86 is amended to read as follows:

9 54:5-86. a. When the municipality is the purchaser of a tax sale  
10 certificate, the municipality, or its assignee or transferee, may, at  
11 any time after the expiration of the term of six months from the date  
12 of sale, institute an action to foreclose the right of redemption.  
13 Except as provided in subsection a. of section 39 of P.L.1996, c.62  
14 (C.55:19-58) or as provided in subsection b. of this section, for all  
15 other persons that do not acquire a tax sale certificate from a  
16 municipality, an action to foreclose the right of redemption may be  
17 instituted at any time after the expiration of the term of two years  
18 from the date of sale of the tax sale certificate. On instituting the  
19 action the right to redeem shall exist and continue until barred by  
20 the judgment of the Superior Court, except as set forth in R.S.54:5-  
21 87.

22 b. Any person or municipality holding a tax sale certificate on  
23 a property that meets the definition of abandoned property as set  
24 forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the  
25 tax sale or thereafter, may at any time file an action with the  
26 Superior Court in the county wherein said municipality is situate,  
27 demanding that the right of redemption on such property be barred,  
28 pursuant to the "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax  
29 Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.).  
30 The filing shall include a certification by the public officer or the  
31 tax collector that the property is abandoned, provided pursuant to  
32 subsection d. of section 6 of P.L.2003, c.210 (C.55:19-83). In the  
33 event that the certificate holder has unsuccessfully sought such  
34 certification from the public officer or tax collector, as the case may  
35 be, the certificate holder may submit to the court evidence that the  
36 property is abandoned, accompanied by a report and sworn  
37 statement by an individual holding appropriate licensure or  
38 professional qualifications, and shall provide a copy of those  
39 documents submitted to the court to the public officer and the tax  
40 collector. On the basis of this submission and any submission  
41 provided by the public officer or tax collector, as the case may be,  
42 the court shall determine whether the property meets the definition  
43 of abandoned property.

44 c. Any person holding a tax sale certificate on a property that  
45 meets the definition of abandoned property as set forth in P.L.2003,  
46 c.210 (C.55:19-78 et al.), either at the time of the tax sale or  
47 thereafter, may enter upon that property at any time after written  
48 notice to the owner by certified mail return receipt requested in

1 order to make repairs, or abate, remove or correct any condition  
2 harmful to the public health, safety and welfare, or any condition  
3 that is materially reducing the value of the property.

4 d. Any sums incurred or advanced pursuant to subsection c. of  
5 this section may be added to the unpaid balance due the holder of  
6 the tax sale certificate at the statutory interest rate for subsequent  
7 liens.<sup>1</sup>

8 (cf: P.L.2015, c.16, s.1)

9

10 <sup>1</sup>**[2.] 3.**<sup>1</sup> R.S.54:5-87 is amended to read as follows:

11 54:5-87. a. The Superior Court, in an action to foreclose the  
12 right of redemption <sup>1</sup>brought pursuant to subsection b. of R.S.54:5-  
13 86<sup>1</sup>, may give full and complete relief under this chapter, in  
14 accordance with other statutory authority of the court, to bar the  
15 right of redemption<sup>1</sup>, to bar claims to surplus equity,<sup>1</sup> and to  
16 foreclose all prior or subsequent alienations and descents of the  
17 lands and encumbrances thereon, except subsequent municipal  
18 liens, and to adjudge an absolute and indefeasible estate of  
19 inheritance in fee simple, to be vested in the purchaser. The  
20 judgment shall be final upon the defendants, their heirs, devisees  
21 and personal representatives, and their or any of their heirs,  
22 devisees, executors, administrators, grantees, assigns or successors  
23 in right, title or interest and no application shall be entertained to  
24 reopen the judgment after three months from the date thereof, and  
25 then only upon the grounds of lack of jurisdiction or fraud in the  
26 conduct of the suit. Such judgment and recording thereof shall not  
27 be deemed a sale, transfer, or conveyance of title or interest to the  
28 subject property under the provisions of the "Uniform Voidable  
29 Transactions Act," R.S.25:2-20 et seq. <sup>1</sup>An action brought pursuant  
30 to subsection b. of R.S.54:5-86 shall not require a judicial sale as in  
31 the manner of the foreclosure of a mortgage or an Internet auction  
32 through the office of the county sheriff.<sup>1</sup>

33 b. In <sup>1</sup>an action brought pursuant to subsection a. of R.S.54:5-  
34 86, in<sup>1</sup> order to preserve any equity that may exist in the property  
35 being foreclosed, the owner, or the owner's heirs, shall have the  
36 right to demand, by written request to the Superior Court <sup>1</sup>**[no later**  
37 than 45 days after being served with the foreclosure complaint]  
38 before the date that the final judgment is entered<sup>1</sup> , that the holder  
39 of the tax sale certificate foreclose the right to redeem that  
40 certificate in the same manner as a mortgage, through a judicial sale  
41 as in the manner of the foreclosure of a mortgage of the property  
42 through the office of the county sheriff, or in the alternative,  
43 through an Internet auction of the property through the office of the  
44 county sheriff. The final judgment shall provide for a writ of  
45 execution to the sheriff of the county in which the property is  
46 located, and the holding of either a judicial sale <sup>1</sup>**[as in the manner**  
47 of the foreclosure of a mortgage.]<sup>1</sup> or an Internet auction. In the

1 event that the owner or the owner's heirs do not demand a judicial  
2 sale '【as in the manner of the foreclosure of a mortgage,】' or an  
3 Internet auction, the owner of the tax sale certificate may proceed  
4 under subsection a. of this section and foreclose without a judicial  
5 sale '【as in the manner of the foreclosure of a mortgage,】 or an  
6 Internet auction,' and the owner and the owner's heirs shall have no  
7 claim against the holder of the tax sale certificate for any equity in  
8 the property. The amount received through the judicial sale '【as in  
9 the manner of the foreclosure of a mortgage,】' or '【through】' the  
10 Internet auction, as appropriate, shall be conclusively presumed to  
11 be the fair market value of the property. In the event that no one  
12 bids on the property through the judicial sale '【as in the manner of  
13 the foreclosure of a mortgage】' or '【at】' the Internet auction, and  
14 the owner of the tax sale certificate obtains fee title from the sheriff,  
15 it shall be conclusively presumed that there is no equity in the  
16 property. In the event that the sheriff has not established an Internet  
17 auction, the '【defendant】 owner or the owner's heirs' shall only be  
18 entitled to a judicial sale as in the manner of the foreclosure of a  
19 mortgage.

20 The sheriff of the county shall deposit with the clerk of the  
21 Superior Court any surplus funds derived from the judicial sale '【as  
22 in the manner of the foreclosure of a mortgage】' or the Internet  
23 auction, as appropriate, after the holder of the tax sale certificate  
24 has been paid the redemption moneys, allowable costs, and  
25 attorney's fees as set forth by the court in the final judgment of  
26 foreclosure. The sheriff shall deduct the costs to the office of the  
27 county sheriff of holding the judicial sale '【as in the manner of the  
28 foreclosure of a mortgage】' or 'the' Internet auction, as  
29 appropriate, 'which shall' have been withheld by the sheriff from  
30 those funds. '【All subsequent lienholders named in the foreclosure  
31 shall have the right to file a motion in the Superior Court for any  
32 surplus funds, in the order of their priority, not later than the first  
33 day of the seventh month next following the issuance of the  
34 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
35 any remaining surplus, and shall be entitled to file a motion to the  
36 court for the payment of the surplus. After five years from the date  
37 of the judicial sale as in the manner of the foreclosure of a  
38 mortgage, the clerk of the court shall pay any unclaimed monies to  
39 the holder of the tax sale certificate. If the holder of the tax sale  
40 certificate is unable to be located, the funds shall revert to the  
41 municipality wherein the property is located, and shall be paid by  
42 the clerk of the court to the chief financial officer of the  
43 municipality.】 The process set forth in this section shall be the  
44 exclusive method through which the owner, or the owner's heirs,  
45 may assert a claim to any surplus funds by motion to the Superior  
46 Court.

1     Application for, and distribution of, surplus moneys held by the  
2 clerk of the court shall be made in accordance with N.J.S.2A:50-37  
3 and the applicable Rules of Court.

4     Notwithstanding the provisions of N.J.S.2A:50-64, interest shall  
5 continue to accrue on the tax sale certificate pursuant to R.S.54:4-  
6 67 through the date of actual payment.<sup>1</sup>

7     As used in this section, “surplus funds” shall mean and include  
8 any funds derived from the judicial sale as in the manner of the  
9 foreclosure of a mortgage or <sup>1</sup>the<sup>1</sup> Internet auction through the  
10 office of the county sheriff of a property pursuant to this section,  
11 after the holder of the tax sale certificate has been fully redeemed,  
12 and paid moneys due and owing to the holder of the tax sale  
13 certificate. The redemption amount shall also include any costs  
14 charged by the sheriff to the holder of the tax sale certificate to  
15 conduct the judicial sale as in the manner of the foreclosure of a  
16 mortgage or the Internet auction.

17     c. In the event that any federal statute or regulation requires a  
18 judicial sale as in the manner of the foreclosure of a mortgage of the  
19 property in order to debar and foreclose a mortgage interest or any  
20 other lien held by the United States or any agency or  
21 instrumentality thereof, then the tax lien may be foreclosed in the  
22 same manner as a mortgage, and the final judgment shall provide  
23 for the issuance of a writ of execution to the sheriff of the county  
24 wherein the property is situated and the holding of a judicial sale as  
25 in the manner of the foreclosure of a mortgage.

26 (cf: P.L.2021, c.92, s.23)

27  
28     <sup>1</sup>**[3.** Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to  
29 read as follows:

30     7. **[No search fee, counsel fee or other fee related to certified**  
31 **mailings shall be allowed a plaintiff other than a municipality in the**  
32 **foreclosure of a tax lien unless, prior to the filing of the complaint,**  
33 **the plaintiff shall have given] At least 30 [days’ written notice to**  
34 **the parties entitled to redeem whose interests appear of record at the**  
35 **time of the tax sale,] days prior to the filing of a complaint, the**  
36 **holder of a tax sale certificate shall send all parties having a right to**  
37 **redeem a notice of intention to file a complaint. The notice to the**  
38 **owner, or the owner’s heirs, shall be addressed to the last known**  
39 **address contained in the municipal records. The notice to any other**  
40 **parties having a right to redeem shall be sent to the address**  
41 **contained in any document recorded with the county clerk or**  
42 **register. The notice shall be sent by certified mail with postage**  
43 **prepaid thereon [, addressed to the last known address of such**  
44 **persons, of intention to file such complaint]. The notice shall also**  
45 **contain the amount [due on such] necessary to redeem the**  
46 **outstanding tax [lien] sale certificate [as of the date of the notice].**  
47 **The notice shall also advise the owner, or the owner’s heirs, that the**

1 owner, or the owner's heirs, shall have the right to request a judicial  
2 sale as in the manner of the foreclosure of a mortgage or an Internet  
3 auction of the property through the office of the county sheriff, to  
4 preserve any equity that may be in the property. A copy of **[such]**  
5 the notice shall also be filed with the municipal tax collector's  
6 office. **[Upon the filing and service of such notice, a plaintiff shall**  
7 **be entitled to such fees and expenses.]**

8 A municipality, by ordinance, may authorize the tax collector to  
9 charge to a lienholder a fee not to exceed \$50 for the calculation of  
10 the amount due to redeem the tax lien required to be provided  
11 pursuant to this section. Any request for a redemption calculation  
12 shall specify the date to be used for the calculation, which shall be  
13 the date of the notice. Neither the tax collector or the municipality  
14 shall be liable for an incorrect calculation. The fee paid to the  
15 municipality shall not become part of the lien and shall not be  
16 passed on to any party entitled to redeem pursuant to R.S.54:5-54.  
17 (cf: P.L.2009, c.320, s.11)**】<sup>1</sup>**

18  
19 <sup>1</sup>4. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to  
20 read as follows:

21 7. No search fee, counsel fee or other fee related to certified  
22 mailings shall be allowed a plaintiff other than a municipality in the  
23 foreclosure of a tax lien unless, prior to the filing of the complaint,  
24 the plaintiff shall have given at least 30 days' written notice to the  
25 parties entitled to redeem whose interests appear of record at the  
26 time of the tax sale**[,]** . The notice shall be sent by certified mail  
27 with postage prepaid thereon, addressed to the last known address  
28 of such persons, **[of intention to file such complaint]** and the  
29 owner's address based upon the last deed of record with the county  
30 clerk. The notice shall also contain the amount **[due on such]**  
31 necessary to redeem the outstanding tax [lien] sale certificate as of  
32 the date of the notice. The notice shall also advise the owner that  
33 the owner, or the owner's heirs, shall have the right to request a  
34 judicial sale as in the manner of the foreclosure of a mortgage or an  
35 Internet auction of the property through the office of the county  
36 sheriff, to preserve any equity that may be in the property, except if  
37 the property meets the definition of abandoned property. A copy of  
38 **[such]** the notice shall also be filed with the municipal tax  
39 collector's office. Upon the filing and service of such notice, a  
40 plaintiff shall be entitled to such fees and expenses.

41 A municipality, by ordinance, may authorize the tax collector to  
42 charge to a lienholder a fee not to exceed \$50 for the calculation of  
43 the amount due to redeem the tax lien required to be provided  
44 pursuant to this section. Any request for a redemption calculation  
45 shall specify the date to be used for the calculation, which shall be  
46 the date of the notice. Neither the tax collector or the municipality  
47 shall be liable for an incorrect calculation. **[The fee paid to the**

1 municipality shall not become part of the lien and shall not be  
2 passed on to any party entitled to redeem pursuant to R.S.54:5-54.】<sup>1</sup>  
3 (cf: P.L.2009, c.320, s.11)

4

5 <sup>1</sup>5. R.S.54:5-98 is amended to read as follows:

6 54:5-98. a. After the complaint has been filed redemption shall  
7 be made in that cause only, provided notice of the suit has been  
8 filed in the office of the tax collector. Such redemption shall be  
9 subject to the fixing of attorney's fees and costs at any time during  
10 the course of the action. In such proceedings the court may order  
11 that the redemption shall be made to the tax collector of the  
12 municipality at his official office during business hours, except in  
13 cases where the tax collector is a part-time official with no regular  
14 municipal office, in which case it may order that the redemption  
15 shall be made to the clerk of the county in which the premises lie.

16 b. After the notice of intention to file a complaint has been  
17 served pursuant to section 7 of P.L.1965, c.187 (C.54:5-97.1) but  
18 before the foreclosure complaint is filed, the holder of the tax sale  
19 certificate shall be reimbursed for the following expenses actually  
20 incurred, which expenses shall be added to the amount required to  
21 redeem the tax sale certificate and certified by the holder of the tax  
22 sale certificate to the tax collector:

23 (1) a foreclosure or title search fee, not to exceed \$350;

24 (2) the postage and certified mailing costs for notices required  
25 under section 7 of P.L.1965, c.187 (C.54:5-97.1);

26 (3) reasonable attorney's fees, not to exceed \$150; and

27 (4) any fees paid to a municipality for the calculation of the  
28 amount due to redeem the tax lien.

29 c. If an action to foreclose the right of redemption has been  
30 filed, the plaintiff or the holder of the tax sale certificate shall be  
31 reimbursed the following amounts for each property to be  
32 foreclosed, which amounts shall be added to the amount required to  
33 redeem the tax sale certificate:

34 (1) attorney's fees in the amount of \$2,500, which amount shall  
35 be deemed reasonable for both the preparation and the filing of the  
36 action to foreclose the right to redeem the tax sale certificate;

37 (2) in exceptional circumstances or in the event of litigation or  
38 bankruptcy, any additional reasonable attorney's fees that are  
39 incurred and specifically requested by the plaintiff or holder of a tax  
40 sale certificate and approved by the court, on a case-by-case basis,  
41 through the date on which any litigation has finally concluded; and

42 (3) the following reasonable expenses, provided that the counsel  
43 of the plaintiff or the holder of a tax sale certificate provides a  
44 signed affidavit attesting that such expenses actually were incurred  
45 by the plaintiff or the tax sale certificate holder:

46 (a) all filing fees charged by the court;

1       (b) all reasonable service of process fees, or fees for service of  
2 any pleadings require by the Rules of Court or by the court,  
3 including fees for attempting to serve process;

4       (c) all reasonable fees incurred for skip traces, registered agent  
5 searches, and other reasonable fees incurred to locate any party for  
6 service of process;

7       (d) a title or foreclosure search fee not to exceed \$350, except in  
8 circumstances of an exceptionally complicated title, an application  
9 may be made to the court to increase the title or foreclosure search  
10 fee;

11       (e) if a second, updated title or foreclosure search is conducted,  
12 an update search fee not to exceed \$100;

13       (f) publication fees charged by a newspaper of general  
14 circulation in the county in which the property is located or  
15 otherwise required by the Rules of Court or order of the court;

16       (g) posting fees;

17       (h) estate search costs;

18       (i) postage, certified mail, and photocopying expenses;

19       (j) actual cost to record and discharge notice of lis pendens and  
20 in rem complaint;

21       (k) all sheriff's office fees, including, but not limited to,  
22 commission or expense for scheduling a sheriff's sale of the  
23 property;

24       (l) abandoned property certification reports not to exceed \$350;

25       (m) any fees paid to a municipality for the calculation of the  
26 amount due to redeem the tax lien;

27       (n) in exceptional circumstances or in the event of litigation or  
28 bankruptcy, any additional reasonable expenses that are incurred  
29 and specifically requested by the plaintiff or holder of a tax sale  
30 certificate and approved by a court, on a case-by-case basis through  
31 the date on which any litigation is concluded; and

32       (o) any other reasonable expenses incurred by the plaintiff or the  
33 holder of the tax sale certificate in locating and effectuating service  
34 on any party named as a defendant in the complaint.<sup>1</sup>

35 (cf: P.L.1965, c.187, s.8)

36  
37       <sup>1</sup>[4.] 6.<sup>1</sup> (New section) a. <sup>1</sup>[The] In actions commenced  
38 pursuant to subsection a. of R.S.54:5-86, the<sup>1</sup> holder of the tax sale  
39 certificate shall provide to the owner of the property, in writing,  
40 with the summons and complaint for foreclosure, information  
41 prominently displayed in bold face type that states that the owner of  
42 the property being foreclosed has the right to demand, in writing <sup>1</sup>to  
43 the Superior Court before the date that the final judgment is  
44 entered<sup>1</sup>, that the foreclosure proceed to a judicial sale as in the  
45 manner of the foreclosure of a mortgage or an Internet auction of  
46 the property, through the office of the county sheriff.

47       <sup>1</sup>[If the holder of the tax sale certificate has complied with this  
48 subsection and the provisions of section 7 of P.L.1965, c.187

1 (C.54:5-97.1), that person shall be entitled to recover all reasonable  
2 attorney's fees and costs of foreclosure, including all costs  
3 associated with the judicial sale as in the manner of the foreclosure  
4 of a mortgage.】<sup>1</sup> In the event that all costs and reasonable  
5 attorney's fees are not recovered through the judicial sale as in the  
6 manner of the foreclosure of a mortgage or the Internet auction  
7 through the office of the county sheriff, the holder of the tax sale  
8 certificate shall have a first lien paramount to any other lien on any  
9 surplus funds and shall be entitled to apply to the Superior Court to  
10 recover any unpaid costs or attorney's fees. <sup>1</sup>The attorney shall be  
11 required to record a Statewide judgment lien for the outstanding  
12 attorney's fees.<sup>1</sup>

13 b. In the event that the owner, or the owner's heirs, has  
14 demanded a judicial sale as in the manner of the foreclosure of a  
15 mortgage or an Internet auction through the office of the county  
16 sheriff, the holder of the tax sale certificate, whether a municipality  
17 or third party investor, shall be entitled to a first lien on any surplus  
18 funds that are deposited in the Superior Court by the sheriff, in the  
19 amount of 10 percent of the surplus funds, to cover administrative  
20 costs related to the foreclosure action, not to exceed \$5,000.

21 c. As used in this section, "surplus funds" shall have the same  
22 meaning as set forth in R.S.54:5-87.

23  
24 <sup>1</sup>**[5.] 7.**<sup>1</sup> (New section) <sup>1</sup>**[The]** In actions commenced by a  
25 municipality pursuant to subsection a. of R.S.54:5-86, the<sup>1</sup> notice of  
26 foreclosure required to be served on the owner and published in the  
27 newspaper shall conspicuously state in boldface type that the owner  
28 and the owner's heirs shall have the right to demand a judicial sale  
29 as in the manner of the foreclosure of a mortgage, or an Internet  
30 auction through the office of the county sheriff, of the property  
31 subject to the tax lien foreclosure to preserve any equity that they  
32 may have in the property.

33 The notice shall state that the owner, or the owner's heirs, has  
34 <sup>1</sup>**[45 days from the date of service of the foreclosure complaint]**  
35 until the date of entry of a final judgment<sup>1</sup> to file the written request  
36 <sup>1</sup>with the Superior Court<sup>1</sup> for a judicial sale as in the manner of the  
37 foreclosure of a mortgage or an Internet auction through the office  
38 of the county sheriff with the Superior Court.

39  
40 <sup>1</sup>**[6.] 8.**<sup>1</sup> Section 31 of P.L.1948, c.96 (C.54:5-104.59) is  
41 amended to read as follows:

42 31. a. <sup>1</sup>**[All]** In an action commenced by a municipality, all<sup>1</sup>  
43 costs and reasonable attorney fees <sup>1</sup>, as determined by order of the  
44 court,<sup>1</sup> incurred in **[the]** an in rem foreclosure action shall be  
45 equitably apportioned and allocated to the several **[parcels of land**  
46 **affected by the action]** schedules of the complaint, and added to the  
47 amount required to redeem.

1       b. For the purposes of this section, "all costs and reasonable  
2 attorney fees" includes all costs incurred for a standard title  
3 search with respect to the in rem foreclosure proceeding and all  
4 reasonable attorney fees incurred in the action, including any<sup>1</sup> and all<sup>1</sup>  
5 costs incurred for a judicial sale as in the manner of the  
6 foreclosure of a mortgage<sup>1</sup> or an Internet auction through the  
7 office of the county sheriff<sup>1</sup> of the property subject to the in  
8 rem foreclosure<sup>1</sup>, which amounts shall be determined by the court  
9 and shall fully compensate the holder of the tax sale certificate for  
10 all such reasonable incurred expenses<sup>1</sup>.

11       In the event that the holder of the tax sale certificate shall have  
12 incurred any costs or attorney's fees in the judicial sale <sup>1</sup>as in the  
13 manner of the foreclosure of a mortgage<sup>1</sup> or <sup>1</sup>the Internet auction  
14 <sup>1</sup>through the office of the county sheriff<sup>1</sup> that were not  
15 reimbursed in the redemption monies received from the sheriff, the  
16 holder of the tax sale certificate shall have a first lien on any  
17 surplus funds for reimbursement of those costs and reasonable  
18 attorney's fees. As used in this section, "surplus funds" shall have  
19 the same meaning as set forth in R.S.54:5-87.

20       <sup>1</sup>c. In the event that a complaint is filed by a municipality that  
21 contains not more than one tax sale certificate, the municipality  
22 shall be entitled to the reimbursement of attorney's fees and costs  
23 pursuant to R.S.54:5-98.

24       d. In the event that a complaint is filed by the holder of a tax  
25 sale certificate for an abandoned property pursuant to subsection b.  
26 of R.S.54:5-86, the holder shall be entitled to the reimbursement of  
27 attorney's fees and costs pursuant to R.S.54:5-98.<sup>1</sup>

28 (cf: P.L.1993, c.278, s.1)

29

30       <sup>1</sup>[7.] 9.<sup>1</sup> Section 36 of P.L.1948, c.96 (C.54:5-104.64) is  
31 amended to read as follows:

32       36. (a) <sup>1</sup>[The] In an action commenced by any person or a  
33 municipality holding a tax sale certificate for an abandoned  
34 property pursuant to subsection b. of R.S.54:5-86, the<sup>1</sup> judgment  
35 shall give full and complete relief, in accordance with the  
36 provisions of [this act] P.L.1948, c.96 (C.54:5-104.29 et seq.), and  
37 in accordance with any other statutory authority, to bar the right of  
38 redemption, <sup>1</sup>to bar claims to surplus equity,<sup>1</sup> and to foreclose all  
39 prior or subsequent alienations and descents of the lands and  
40 encumbrances thereon, and to adjudge an absolute and indefeasible  
41 estate of inheritance in fee simple in the lands therein described, to  
42 be vested in the plaintiff <sup>1</sup>, except as set forth in subsection d. of  
43 this section<sup>1</sup>.

44       (b) Such judgment shall be binding and final upon all persons  
45 having a vested or contingent title or interest in or lien or claim  
46 upon or against said lands, including the State of New Jersey, and

1 any agency and political subdivision thereof, and their heirs,  
2 devisees and personal representatives, and their, or any of their  
3 heirs, devisees, executors, administrators, grantees, assigns or  
4 successors in right, title or interest, notwithstanding any infancy or  
5 incompetency of such person or persons, and upon all other persons,  
6 their heirs, devisees and personal representatives and their or any of  
7 their heirs, devisees, executors, administrators, grantees, assigns or  
8 successors in right, title or interest.

9 <sup>1</sup>In order to preserve any equity that may exist in the property  
10 being foreclosed, the owner, or the owner's heirs, shall have the  
11 right to demand, by written request to the Superior Court, no later  
12 than 45 days after being served with the foreclosure complaint, or  
13 the publication of the notice concerning the foreclosure, whichever  
14 is later, that the holder of the tax sale certificate be foreclosed with  
15 a judicial sale as in the manner of the foreclosure of a mortgage of  
16 the property through the office of the county sheriff, or, in the  
17 alternative, an Internet auction of the property through the office of  
18 the county sheriff. If there is more than one schedule in the in rem  
19 foreclosure complaint and a request is made for a judicial sale as in  
20 the manner of the foreclosure of a mortgage, or an Internet auction  
21 through the office of the county sheriff, the schedule shall be  
22 severed and the final judgment shall provide for a writ of execution  
23 to the sheriff of the county where the property is located and the  
24 holding of either a judicial sale as in the manner of the foreclosure  
25 of a mortgage or an Internet auction, as appropriate.

26 In the event that the owner or the owner's heirs do not demand a  
27 judicial sale as in the manner of the foreclosure of a mortgage, or an  
28 Internet auction through the office of the county sheriff, the holder  
29 of the tax sale certificate may proceed in rem without a judicial sale  
30 as in the manner of the foreclosure of a mortgage, or an Internet  
31 auction through the office of the county sheriff, and the owner or  
32 his heirs shall have no claim against the holder of the tax sale  
33 certificate for any loss of equity in the property. The amount  
34 received at a judicial sale as in the manner of the foreclosure of a  
35 mortgage, or an Internet auction through the office of the county  
36 sheriff, shall be conclusively presumed to be the fair market value  
37 of the property. In the event that no one bids at the judicial sale as  
38 in the manner of the foreclosure of a mortgage or the Internet  
39 auction through the office of the county sheriff above the amount to  
40 redeem or there is no bidding at all, it shall be conclusively  
41 presumed that there is no equity in the property.

42 The sheriff of the county shall deposit with the clerk of the  
43 Superior Court any surplus funds derived from the judicial sale as  
44 in the manner of the foreclosure of a mortgage or the Internet  
45 auction, after all of the costs to the office of the county sheriff of  
46 holding the judicial sale as in the manner of the foreclosure of a  
47 mortgage or the Internet auction, have been withheld by the sheriff  
48 from those funds of the sale, after paying the amount of the

1 judgment plus any costs to the holder of the tax sale certificate. All  
2 subsequent lienholders named in the foreclosure shall have the right  
3 to apply to the Superior Court, in writing, for payment of their lien  
4 in the order of their priority. All subsequent lienholders named in  
5 the foreclosure shall have the right to apply to the Superior court for  
6 any surplus funds, in the order of their priority, not later than the  
7 first day of the seventh month next following the issuance of the  
8 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
9 any remaining surplus funds and shall be entitled to make written  
10 application to the court for the payment of the surplus. After five  
11 years from the date of the judicial sale as in the manner of the  
12 foreclosure of a mortgage, the clerk of the court shall make  
13 payment of any unclaimed monies to the holder of the tax sale  
14 certificate. If the holder of the tax sale certificate is unable to be  
15 located, the funds shall revert to the municipality wherein the  
16 property is located, and shall be paid by the clerk of the court to the  
17 chief financial officer of the municipality.

18 As used in this subsection, "surplus funds" shall have the same  
19 meaning as set forth in R.S.54:5-87.] An action brought by the  
20 holder of a tax sale certificate for an abandoned property shall not  
21 require a judicial sale as in the manner of the foreclosure of a  
22 mortgage or an Internet auction through the office of the county  
23 sheriff.<sup>1</sup>

24 (c) In the event that any federal statute or regulation requires a  
25 judicial sale as in the manner of the foreclosure of a mortgage of the  
26 property in order to debar and foreclose a mortgage interest or any  
27 other lien held by the United States or any agency or  
28 instrumentality thereof, then the tax lien may be foreclosed in the  
29 same manner as a mortgage, and the final judgment shall provide  
30 for the issuance of a writ of execution to the sheriff of the county  
31 wherein the property is situated and the holding of a judicial sale as  
32 in the manner of the foreclosure of a mortgage.

33 <sup>1</sup>(d) In an action brought by a municipality, in order to preserve  
34 any equity that may exist in the property being foreclosed, the  
35 owner, or the owner's heirs, shall have the right to demand, by  
36 written request to the Superior Court before the date that final  
37 judgment is entered, that the municipal tax sale certificate be  
38 foreclosed with a judicial sale as in the manner of the foreclosure of  
39 a mortgage of the property through the office of the county sheriff,  
40 or, in the alternative, an Internet auction of the property through the  
41 office of the county sheriff. If there is more than one schedule in  
42 the in rem foreclosure complaint and a request is made for a judicial  
43 sale or an Internet auction, the schedule shall be severed and the  
44 final judgment shall provide for a writ of execution to the sheriff of  
45 the county where the property is located and the holding of either a  
46 judicial sale or an Internet auction, as appropriate.

47 In the event that the owner or the owner's heirs do not demand a  
48 judicial sale as in the manner of the foreclosure of a mortgage, or an

1 Internet auction through the office of the county sheriff, the  
2 municipality may proceed in rem without a judicial sale or an  
3 Internet auction, and the owner or his heirs shall have no claim  
4 against the municipality for any loss of equity in the property. The  
5 amount received at a judicial sale or an Internet auction shall be  
6 conclusively presumed to be the fair market value of the property.  
7 In the event that no one bids at the judicial sale or the Internet  
8 auction above the amount to redeem, or there is no bidding at all, it  
9 shall be conclusively presumed that there is no equity in the  
10 property.

11 The sheriff of the county shall deposit with the clerk of the  
12 Superior Court any surplus funds derived from the judicial sale or  
13 the Internet auction, after all of the costs to the office of the county  
14 sheriff for holding the judicial sale or the Internet auction have been  
15 withheld by the sheriff from those funds of the sale, after paying the  
16 amount of the judgment plus any costs to the municipality.

17 Application for and distribution of surplus moneys held by the  
18 clerk of court shall be made in accordance with N.J.S.2A:50-37 and  
19 the applicable Rules of Court.

20 As used in this subsection, “surplus funds” shall have the same  
21 meaning as set forth in R.S.54:5-87.<sup>1</sup>

22  
23 <sup>1</sup>**[8.] 10.<sup>1</sup>** (New section) <sup>1</sup>**[With]** Except for actions involving  
24 a property that meets the definition of abandoned property pursuant  
25 to P.L.2003, c.210 (C.55:19-78 et al.), with<sup>1</sup> respect to any <sup>1</sup>in rem  
26 or in personam<sup>1</sup> property tax lien foreclosure <sup>1</sup>**[actions]** action filed  
27 by a municipality or third party<sup>1</sup> pending on the date of enactment  
28 of the amendatory and supplementary provisions of P.L. ,  
29 c. (C. ) (pending before the Legislature as this bill), a  
30 property owner shall be <sup>1</sup>**[personally]**<sup>1</sup> served <sup>1</sup>**[in writing]** by  
31 regular and certified mail<sup>1</sup> with a notice of their right to demand a  
32 judicial sale as in the manner of the foreclosure of a mortgage, or an  
33 Internet auction by the office of the county sheriff, and shall have  
34 <sup>1</sup>**[45 days after such service]** until the date before the final  
35 judgment is entered<sup>1</sup> to notify the <sup>1</sup>**[court]** Superior Court<sup>1</sup> of their  
36 demand for a judicial sale as in the manner of the foreclosure of a  
37 mortgage or an Internet auction by the office of the county sheriff.  
38 If the property owner <sup>1</sup>or the owner’s heir<sup>1</sup> demands a judicial sale  
39 as in the manner of the foreclosure of a mortgage, or an Internet  
40 auction by the office of the county sheriff, in a timely manner, the  
41 <sup>1</sup>**[foreclosure complaint shall be amended by the tax lien holder to**  
42 require such a sale or auction] Superior Court shall order the entry  
43 of a final judgment and writ of execution directing that the property  
44 be sold at a judicial sale<sup>1</sup>. If no timely demand is made for a  
45 judicial sale as in the manner of the foreclosure of a mortgage or an  
46 <sup>1</sup>**[internet]** Internet<sup>1</sup> auction by the office of the county sheriff, the  
47 foreclosure action shall proceed without a judicial sale <sup>1</sup>**[as in the**

1 manner of the foreclosure of a mortgage<sup>1</sup> or an Internet auction  
2 through the office of the county sheriff.

3

4 <sup>1</sup>~~[9.]~~ 11.<sup>1</sup> This act shall take effect immediately, and shall apply  
5 to any <sup>1</sup>~~[property tax lien foreclosure complaint filed on or after~~  
6 ~~May 25, 2023]~~ tax lien for which the right of redemption has not  
7 been foreclosed as of the effective date of this act<sup>1</sup>. This act shall  
8 have no effect on any foreclosure action in which a final judgment  
9 has been entered prior to the effective date of this act.

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14 \_\_\_\_\_  
15 Revises process for property tax lien holder to foreclose right to  
16 redeem property tax lien; allows property owner to protect  
remaining equity.

## CHAPTER 39

**AN ACT** revising the process for a property tax lien holder to foreclose the right to redeem a property tax lien, amending various parts of the statutory law, and supplementing chapter 5 of Title 54 of the Revised Statutes and P.L.1948, c.96 (C.54:5-104.29 et seq.).

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. R.S.54:5-33 is amended to read as follows:

Payment; resale; redemption.

54:5-33. a. Payment for the sale shall be made before the conclusion of the sale, or the property shall be resold. Any premium payment shall be held by the collector and returned to the purchaser of the fee if and when redemption is made. If redemption is not made within five years from date of sale the premium payment shall be turned over to the treasurer of the municipality and become a part of the funds of the municipality. In the event that a petition of bankruptcy has been filed by the property owner, the five year limitation shall be extended for each day that the foreclosure action is precluded by that bankruptcy filing.

b. In the event a property is required to be sold at a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff, the premium shall be refunded to the lienholder if, within five years of the date of the tax sale, the writ of execution is sent to the county sheriff's office to schedule the judicial sale or Internet auction.

In the event that the holder of the tax sale certificate, or an assignee, is the successful bidder at the judicial sale or the Internet auction, the tax collector shall not refund any premium.

Any premium that is due to escheat to the municipality in 2024 shall be extended one year.

2. R.S.54:5-86 is amended to read as follows:

Action by municipality to foreclose right of redemption.

54:5-86. a. When the municipality is the purchaser of a tax sale certificate, the municipality, or its assignee or transferee, may, at any time after the expiration of the term of six months from the date of sale, institute an action to foreclose the right of redemption. Except as provided in subsection a. of section 39 of P.L.1996, c.62 (C.55:19-58) or as provided in subsection b. of this section, for all other persons that do not acquire a tax sale certificate from a municipality, an action to foreclose the right of redemption may be instituted at any time after the expiration of the term of two years from the date of sale of the tax sale certificate. On instituting the action the right to redeem shall exist and continue until barred by the judgment of the Superior Court, except as set forth in R.S.54:5-87.

b. Any person or municipality holding a tax sale certificate on a property that meets the definition of abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale or thereafter, may at any time file an action with the Superior Court in the county wherein said municipality is situate, demanding that the right of redemption on such property be barred, pursuant to the "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.). The filing shall include a certification by the public officer or the tax collector that the property is abandoned, provided pursuant to subsection d. of section 6 of P.L.2003, c.210 (C.55:19-83). In the event that the certificate holder has unsuccessfully sought such certification from the public officer or tax collector, as the case may be, the certificate holder may submit to the court evidence that the property is abandoned, accompanied by a report and sworn statement by an individual holding appropriate licensure or professional qualifications, and shall provide a copy of those

documents submitted to the court to the public officer and the tax collector. On the basis of this submission and any submission provided by the public officer or tax collector, as the case may be, the court shall determine whether the property meets the definition of abandoned property.

c. Any person holding a tax sale certificate on a property that meets the definition of abandoned property as set forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the tax sale or thereafter, may enter upon that property at any time after written notice to the owner by certified mail return receipt requested in order to make repairs, or abate, remove or correct any condition harmful to the public health, safety and welfare, or any condition that is materially reducing the value of the property.

d. Any sums incurred or advanced pursuant to subsection c. of this section may be added to the unpaid balance due the holder of the tax sale certificate at the statutory interest rate for subsequent liens.

3. R.S.54:5-87 is amended to read as follows:

Jurisdiction of court; effect of judgment.

54:5-87. a. The Superior Court, in an action to foreclose the right of redemption brought pursuant to subsection b. of R.S.54:5-86, may give full and complete relief under this chapter, in accordance with other statutory authority of the court, to bar the right of redemption, to bar claims to surplus equity, to foreclose all prior or subsequent alienations and descents of the lands and encumbrances thereon, except subsequent municipal liens, and to adjudge an absolute and indefeasible estate of inheritance in fee simple, to be vested in the purchaser. The judgment shall be final upon the defendants, their heirs, devisees and personal representatives, and their or any of their heirs, devisees, executors, administrators, grantees, assigns or successors in right, title or interest and no application shall be entertained to reopen the judgment after three months from the date thereof, and then only upon the grounds of lack of jurisdiction or fraud in the conduct of the suit. Such judgment and recording thereof shall not be deemed a sale, transfer, or conveyance of title or interest to the subject property under the provisions of the "Uniform Voidable Transactions Act," R.S.25:2-20 et seq. An action brought pursuant to subsection b. of R.S.54:5-86 shall not require a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff.

b. In an action brought pursuant to subsection a. of R.S.54:5-86, in order to preserve any equity that may exist in the property being foreclosed, the owner, or the owner's heirs, shall have the right to demand, by written request to the Superior Court before the date that the final judgment is entered, that the holder of the tax sale certificate foreclose the right to redeem that certificate in the same manner as a mortgage through a judicial sale as in the manner of the foreclosure of a mortgage of the property through the office of the county sheriff or, in the alternative, through an Internet auction of the property through the office of the county sheriff. The final judgment shall provide for a writ of execution to the sheriff of the county in which the property is located and the holding of either a judicial sale or an Internet auction. In the event that the owner or the owner's heirs do not demand a judicial sale or an Internet auction, the owner of the tax sale certificate may proceed under subsection a. of this section and foreclose without a judicial sale or an Internet auction, and the owner and the owner's heirs shall have no claim against the holder of the tax sale certificate for any equity in the property. The amount received through the judicial sale or the Internet auction, as appropriate, shall be conclusively presumed to be the fair market value of the property. In the event that no one bids on the property through the judicial sale or the Internet auction, and the owner of the tax sale certificate obtains fee title from the sheriff, it shall be conclusively presumed that there is no equity in the property. In the event that the sheriff has not established an Internet auction,

the owner or the owner's heirs shall only be entitled to a judicial sale as in the manner of the foreclosure of a mortgage.

The sheriff of the county shall deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale or the Internet auction, as appropriate, after the holder of the tax sale certificate has been paid the redemption moneys, allowable costs, and attorney's fees as set forth by the court in the final judgment of foreclosure. The sheriff shall deduct the costs to the office of the county sheriff of holding the judicial sale or the Internet auction, as appropriate, which shall have been withheld by the sheriff from those funds. The process set forth in this section shall be the exclusive method through which the owner, or the owner's heirs, may assert a claim to any surplus funds by motion to the Superior Court.

Application for, and distribution of, surplus moneys held by the clerk of the court shall be made in accordance with N.J.S.2A:50-37 and the applicable Rules of Court.

Notwithstanding the provisions of N.J.S.2A:50-64, interest shall continue to accrue on the tax sale certificate pursuant to R.S.54:4-67 through the date of actual payment.

As used in this section, "surplus funds" shall mean and include any funds derived from the judicial sale as in the manner of the foreclosure of a mortgage or the Internet auction through the office of the county sheriff of a property pursuant to this section, after the holder of the tax sale certificate has been fully redeemed, and paid moneys due and owing to the holder of the tax sale certificate. The redemption amount shall also include any costs charged by the sheriff to the holder of the tax sale certificate to conduct the judicial sale as in the manner of the foreclosure of a mortgage or the Internet auction.

c. In the event that any federal statute or regulation requires a judicial sale as in the manner of the foreclosure of a mortgage of the property in order to debar and foreclose a mortgage interest or any other lien held by the United States or any agency or instrumentality thereof, then the tax lien may be foreclosed in the same manner as a mortgage, and the final judgment shall provide for the issuance of a writ of execution to the sheriff of the county wherein the property is situated and the holding of a judicial sale as in the manner of the foreclosure of a mortgage.

4. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to read as follows:

C.54:5-97.1 Fees allowed.

7. No search fee, counsel fee or other fee related to certified mailings shall be allowed a plaintiff other than a municipality in the foreclosure of a tax lien unless, prior to the filing of the complaint, the plaintiff shall have given at least 30 days' written notice to the parties entitled to redeem whose interests appear of record at the time of the tax sale. The notice shall be sent by certified mail with postage prepaid thereon, addressed to the last known address of such persons, and the owner's address based upon the last deed of record with the county clerk. The notice shall also contain the amount necessary to redeem the outstanding tax sale certificate as of the date of the notice. The notice shall also advise the owner that the owner, or the owner's heirs, shall have the right to request a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property through the office of the county sheriff to preserve any equity that may be in the property, except if the property meets the definition of abandoned property. A copy of the notice shall also be filed with the municipal tax collector's office. Upon the filing and service of such notice, a plaintiff shall be entitled to such fees and expenses.

A municipality, by ordinance, may authorize the tax collector to charge to a lienholder a fee not to exceed \$50 for the calculation of the amount due to redeem the tax lien required to be provided pursuant to this section. Any request for a redemption calculation shall specify the

date to be used for the calculation, which shall be the date of the notice. Neither the tax collector nor the municipality shall be liable for an incorrect calculation.

5. R.S.54:5-98 is amended to read as follows:

Redemption; fees and costs; time and place.

54:5-98. a. After the complaint has been filed redemption shall be made in that cause only, provided notice of the suit has been filed in the office of the tax collector. Such redemption shall be subject to the fixing of attorney's fees and costs at any time during the course of the action. In such proceedings the court may order that the redemption shall be made to the tax collector of the municipality at his official office during business hours, except in cases where the tax collector is a part-time official with no regular municipal office, in which case it may order that the redemption shall be made to the clerk of the county in which the premises lie.

b. After the notice of intention to file a complaint has been served pursuant to section 7 of P.L.1965, c.187 (C.54:5-97.1) but before the foreclosure complaint is filed, the holder of the tax sale certificate shall be reimbursed for the following expenses actually incurred, which expenses shall be added to the amount required to redeem the tax sale certificate and certified by the holder of the tax sale certificate to the tax collector:

- (1) a foreclosure or title search fee, not to exceed \$350;
- (2) the postage and certified mailing costs for notices required under section 7 of P.L.1965, c.187 (C.54:5-97.1);
- (3) reasonable attorney's fees, not to exceed \$150; and
- (4) any fees paid to a municipality for the calculation of the amount due to redeem the tax lien.

c. If an action to foreclose the right of redemption has been filed, the plaintiff or the holder of the tax sale certificate shall be reimbursed the following amounts for each property to be foreclosed, which amounts shall be added to the amount required to redeem the tax sale certificate:

- (1) attorney's fees in the amount of \$2,500, which amount shall be deemed reasonable for both the preparation and the filing of the action to foreclose the right to redeem the tax sale certificate;
- (2) in exceptional circumstances or in the event of litigation or bankruptcy, any additional reasonable attorney's fees that are incurred and specifically requested by the plaintiff or holder of a tax sale certificate and approved by the court, on a case-by-case basis, through the date on which any litigation has finally concluded; and

(3) the following reasonable expenses, provided that the counsel of the plaintiff or the holder of a tax sale certificate provides a signed affidavit attesting that such expenses actually were incurred by the plaintiff or the tax sale certificate holder:

- (a) all filing fees charged by the court;
- (b) all reasonable service of process fees, or fees for service of any pleadings require by the Rules of Court or by the court, including fees for attempting to serve process;
- (c) all reasonable fees incurred for skip traces, registered agent searches, and other reasonable fees incurred to locate any party for service of process;
- (d) a title or foreclosure search fee not to exceed \$350, except in circumstances of an exceptionally complicated title, an application may be made to the court to increase the title or foreclosure search fee;
- (e) if a second, updated title or foreclosure search is conducted, an update search fee not to exceed \$100;
- (f) publication fees charged by a newspaper of general circulation in the county in which the property is located or otherwise required by the Rules of Court or order of the court;
- (g) posting fees;

- (h) estate search costs;
- (i) postage, certified mail, and photocopying expenses;
- (j) actual cost to record and discharge notice of lis pendens and in rem complaint;
- (k) all sheriff's office fees, including, but not limited to, commission or expense for scheduling a sheriff's sale of the property;
- (l) abandoned property certification reports not to exceed \$350;
- (m) any fees paid to a municipality for the calculation of the amount due to redeem the tax lien;
- (n) in exceptional circumstances or in the event of litigation or bankruptcy, any additional reasonable expenses that are incurred and specifically requested by the plaintiff or holder of a tax sale certificate and approved by a court, on a case-by-case basis through the date on which any litigation is concluded; and
- (o) any other reasonable expenses incurred by the plaintiff or the holder of the tax sale certificate in locating and effectuating service on any party named as a defendant in the complaint.

C.54:5-98.1 Information prominently displayed, property owner rights, foreclosure.

6. a. In actions commenced pursuant to subsection a. of R.S.54:5-86, the holder of the tax sale certificate shall provide to the owner of the property, in writing, with the summons and complaint for foreclosure, information prominently displayed in bold face type that states that the owner of the property being foreclosed has the right to demand, in writing to the Superior Court before the date that the final judgment is entered, that the foreclosure proceed to a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property, through the office of the county sheriff.

In the event that all costs and reasonable attorney's fees are not recovered through the judicial sale as in the manner of the foreclosure of a mortgage or the Internet auction through the office of the county sheriff, the holder of the tax sale certificate shall have a first lien paramount to any other lien on any surplus funds and shall be entitled to apply to the Superior Court to recover any unpaid costs or attorney's fees. The attorney shall be required to record a Statewide judgment lien for the outstanding attorney's fees.

b. In the event that the owner, or the owner's heirs, has demanded a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff, the holder of the tax sale certificate, whether a municipality or third-party investor, shall be entitled to a first lien on any surplus funds that are deposited in the Superior Court by the sheriff, in the amount of 10 percent of the surplus funds, to cover administrative costs related to the foreclosure action, not to exceed \$5,000.

c. As used in this section, "surplus funds" shall have the same meaning as set forth in R.S.54:5-87.

C.54:5-98.2 Notice of foreclosure, required to be served, published, owner and owner's heirs rights.

7. In actions commenced by a municipality pursuant to subsection a. of R.S.54:5-86, the notice of foreclosure required to be served on the owner and published in the newspaper shall conspicuously state in boldface type that the owner and the owner's heirs shall have the right to demand a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction through the office of the county sheriff, of the property subject to the tax lien foreclosure to preserve any equity that they may have in the property.

The notice shall state that the owner, or the owner's heirs, has until the date of entry of a final judgment to file the written request with the Superior Court for a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff with the Superior Court.

8. Section 31 of P.L.1948, c.96 (C.54:5-104.59) is amended to read as follows:

C.54:5-104.59 Apportionment, allocation, definition of costs and fees.

31. a. In an action commenced by a municipality, all costs and reasonable attorney fees, as determined by order of the court, incurred in an in rem foreclosure action shall be equitably apportioned and allocated to the several schedules of the complaint and added to the amount required to redeem.

b. For the purposes of this section, "all costs and reasonable attorney fees" includes all costs incurred with respect to the in rem foreclosure proceeding and all reasonable attorney fees incurred in the action, including any and all costs incurred for a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff of the property subject to the in rem foreclosure, which amounts shall be determined by the court and shall fully compensate the holder of the tax sale certificate for all such reasonable incurred expenses.

In the event that the holder of the tax sale certificate shall have incurred any costs or attorney's fees in the judicial sale or the Internet auction that were not reimbursed in the redemption monies received from the sheriff, the holder of the tax sale certificate shall have a first lien on any surplus funds for reimbursement of those costs and reasonable attorney's fees. As used in this section, "surplus funds" shall have the same meaning as set forth in R.S.54:5-87.

c. In the event that a complaint is filed by a municipality that contains not more than one tax sale certificate, the municipality shall be entitled to the reimbursement of attorney's fees and costs pursuant to R.S.54:5-98.

d. In the event that a complaint is filed by the holder of a tax sale certificate for an abandoned property pursuant to subsection b. of R.S.54:5-86, the holder shall be entitled to the reimbursement of attorney's fees and costs pursuant to R.S.54:5-98.

9. Section 36 of P.L.1948, c.96 (C.54:5-104.64) is amended to read as follows:

C.54:5-104.64 Form and effect of judgment.

36. (a) In an action commenced by any person or a municipality holding a tax sale certificate for an abandoned property pursuant to subsection b. of R.S.54:5-86, the judgment shall give full and complete relief, in accordance with the provisions of P.L.1948, c.96 (C.54:5-104.29 et seq.), and in accordance with any other statutory authority, to bar the right of redemption, to bar claims to surplus equity, to foreclose all prior or subsequent alienations and descents of the lands and encumbrances thereon, and to adjudge an absolute and indefeasible estate of inheritance in fee simple in the lands therein described, to be vested in the plaintiff, except as set forth in subsection d. of this section.

(b) Such judgment shall be binding and final upon all persons having a vested or contingent title or interest in, lien, or claim upon or against said lands, including the State of New Jersey, and any agency and political subdivision thereof, and their heirs, devisees, and personal representatives, and their or any of their heirs, devisees, executors, administrators, grantees, assigns, or successors in right, title, or interest, notwithstanding any infancy or incompetency of such person or persons, and upon all other persons, their heirs, devisees, and personal representatives and their or any of their heirs, devisees, executors, administrators, grantees, assigns, or successors in right, title, or interest.

An action brought by the holder of a tax sale certificate for an abandoned property shall not require a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction through the office of the county sheriff.

(c) In the event that any federal statute or regulation requires a judicial sale as in the manner of the foreclosure of a mortgage of the property in order to debar and foreclose a mortgage interest or any other lien held by the United States or any agency or instrumentality thereof, then the tax lien may be foreclosed in the same manner as a mortgage, and the final judgment shall provide for the issuance of a writ of execution to the sheriff of the county wherein the property is situated and the holding of a judicial sale as in the manner of the foreclosure of a mortgage.

(d) In an action brought by a municipality, in order to preserve any equity that may exist in the property being foreclosed, the owner, or the owner's heirs, shall have the right to demand, by written request to the Superior Court before the date that final judgment is entered, that the municipal tax sale certificate be foreclosed with a judicial sale as in the manner of the foreclosure of a mortgage of the property through the office of the county sheriff, or, in the alternative, an Internet auction of the property through the office of the county sheriff. If there is more than one schedule in the in rem foreclosure complaint and a request is made for a judicial sale or an Internet auction, the schedule shall be severed and the final judgment shall provide for a writ of execution to the sheriff of the county where the property is located and the holding of either a judicial sale or an Internet auction, as appropriate.

In the event that the owner or the owner's heirs do not demand a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction through the office of the county sheriff, the municipality may proceed in rem without a judicial sale or an Internet auction, and the owner or his heirs shall have no claim against the municipality for any loss of equity in the property. The amount received at a judicial sale or an Internet auction shall be conclusively presumed to be the fair market value of the property. In the event that no one bids at the judicial sale or the Internet auction above the amount to redeem, or there is no bidding at all, it shall be conclusively presumed that there is no equity in the property.

The sheriff of the county shall deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale or the Internet auction, after all of the costs to the office of the county sheriff for holding the judicial sale or the Internet auction have been withheld by the sheriff from those funds of the sale, after paying the amount of the judgment plus any costs to the municipality.

Application for and distribution of surplus moneys held by the clerk of court shall be made in accordance with N.J.S.2A:50-37 and the applicable Rules of Court.

As used in this subsection, "surplus funds" shall have the same meaning as set forth in R.S.54:5-87.

10. Except for actions involving a property that meets the definition of abandoned property pursuant to P.L.2003, c.210 (C.55:19-78 et al.), with respect to any in rem or in personam property tax lien foreclosure action filed by a municipality or third party pending on the date of enactment of the amendatory and supplementary provisions of P.L.2024, c.39 (C.54:5-98.1 et al.), a property owner shall be served by regular and certified mail with a notice of their right to demand a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction by the office of the county sheriff, and shall have until the date before the final judgment is entered to notify the Superior Court of their demand for a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction by the office of the county sheriff. If the property owner or the owner's heir demands a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction by the office of the county sheriff, in a timely manner, the Superior Court shall order the entry of a final judgment and writ of execution directing that the property be sold at a judicial sale. If no timely demand is made for a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction by

the office of the county sheriff, the foreclosure action shall proceed without a judicial sale or an Internet auction through the office of the county sheriff.

11. This act shall take effect immediately and shall apply to any tax lien for which the right of redemption has not been foreclosed as of the effective date of this act. This act shall have no effect on any foreclosure action in which a final judgment has been entered prior to the effective date of this act.

Approved July 10, 2024.

**ASSEMBLY, No. 3772**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED FEBRUARY 22, 2024

**Sponsored by:**

**Assemblywoman BARBARA MCCANN STAMATO**

**District 31 (Hudson)**

**Assemblyman WILLIAM B. SAMPSON, IV**

**District 31 (Hudson)**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

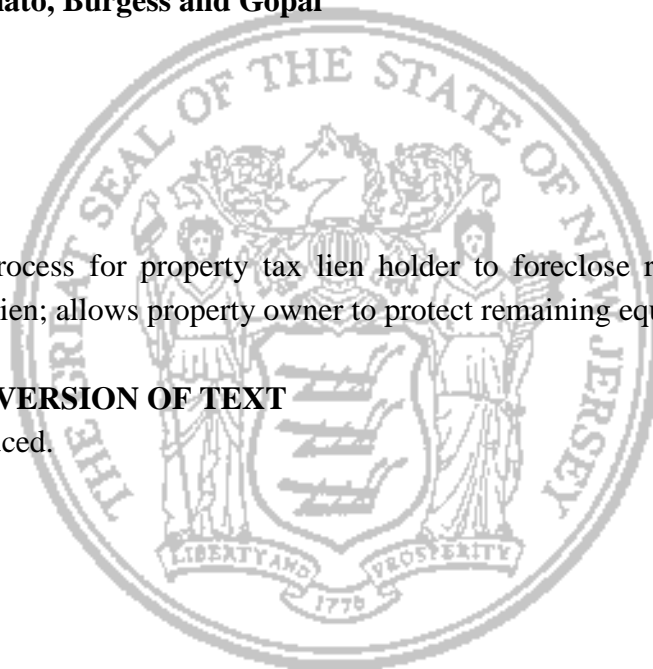
**Assemblymen McGuckin, Kanitra, Rodriguez, Assemblywoman Swift, Assemblyman Hutchison, Assemblywoman N.Munoz, Assemblymen Wimberly, Atkins, Assemblywomen Ramirez, Reynolds-Jackson, Peterpaul, Murphy, Donlon, Bagolie, Speight, Assemblyman Stanley, Senators Amato, Burgess and Gopal**

**SYNOPSIS**

Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/28/2024)**

1 AN ACT revising the process for a property tax lien holder to  
2 foreclose the right to redeem a property tax lien, amending  
3 various parts of the statutory law, and supplementing chapter 5  
4 of Title 54 of the Revised Statutes and P.L.1948, c.96 (C.54:5-  
5 104.29 et seq.).

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 1. R.S.54:5-33 is amended to read as follows:

11 54:5-33. a. Payment for the sale shall be made before the  
12 conclusion of the sale, or the property shall be resold. Any  
13 premium payment shall be held by the collector and returned to the  
14 purchaser of the fee if and when redemption is made. If redemption  
15 is not made within five years from date of sale the premium  
16 payment shall be turned over to the treasurer of the municipality  
17 and become a part of the funds of the municipality. In the event  
18 that a petition of bankruptcy has been filed by the property owner,  
19 the five year limitation shall be extended for each day that the  
20 foreclosure action is precluded by that bankruptcy filing.

21 b. If the tax sale certificate is redeemed through a judicial sale  
22 as in the manner of the foreclosure of a mortgage or through an  
23 Internet auction through the office of the county sheriff, and the  
24 redemption is made within five years of the date of the tax sale, the  
25 tax collector shall refund the premium to the holder of the tax sale  
26 certificate.

27 In the event that the holder of the tax sale certificate, or an  
28 assignee, is the successful bidder at the judicial sale as in the  
29 manner of the foreclosure of a mortgage or an Internet auction  
30 through the office of the county sheriff, the tax collector shall not  
31 refund any premium.

32 (cf: P.L.2009, c.320, s.7)

33

34 2. R.S.54:5-87 is amended to read as follows:

35 54:5-87. a. The Superior Court, in an action to foreclose the  
36 right of redemption, may give full and complete relief under this  
37 chapter, in accordance with other statutory authority of the court, to  
38 bar the right of redemption and to foreclose all prior or subsequent  
39 alienations and descents of the lands and encumbrances thereon,  
40 except subsequent municipal liens, and to adjudge an absolute and  
41 indefeasible estate of inheritance in fee simple, to be vested in the  
42 purchaser. The judgment shall be final upon the defendants, their  
43 heirs, devisees and personal representatives, and their or any of  
44 their heirs, devisees, executors, administrators, grantees, assigns or  
45 successors in right, title or interest and no application shall be

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 entertained to reopen the judgment after three months from the date  
2 thereof, and then only upon the grounds of lack of jurisdiction or  
3 fraud in the conduct of the suit. Such judgment and recording  
4 thereof shall not be deemed a sale, transfer, or conveyance of title  
5 or interest to the subject property under the provisions of the  
6 "Uniform Voidable Transactions Act," R.S.25:2-20 et seq.

7 b. In order to preserve any equity that may exist in the property  
8 being foreclosed, the owner, or the owner's heirs, shall have the  
9 right to demand, by written request to the Superior Court no later  
10 than 45 days after being served with the foreclosure complaint, that  
11 the holder of the tax sale certificate foreclose the right to redeem  
12 that certificate in the same manner as a mortgage, through a judicial  
13 sale as in the manner of the foreclosure of a mortgage of the  
14 property through the office of the county sheriff, or in the  
15 alternative, through an Internet auction of the property through the  
16 office of the county sheriff. The final judgment shall provide for a  
17 writ of execution to the sheriff of the county in which the property  
18 is located, and the holding of either a judicial sale as in the manner  
19 of the foreclosure of a mortgage, or an Internet auction. In the  
20 event that the owner or the owner's heirs do not demand a judicial  
21 sale as in the manner of the foreclosure of a mortgage, or an  
22 Internet auction, the owner of the tax sale certificate may proceed  
23 under subsection a. of this section and foreclose without a judicial  
24 sale as in the manner of the foreclosure of a mortgage, and the  
25 owner and the owner's heirs shall have no claim against the holder  
26 of the tax sale certificate for any equity in the property. The  
27 amount received through the judicial sale as in the manner of the  
28 foreclosure of a mortgage, or through the Internet auction, as  
29 appropriate, shall be conclusively presumed to be the fair market  
30 value of the property. In the event that no one bids on the property  
31 through the judicial sale as in the manner of the foreclosure of a  
32 mortgage or at the Internet auction, and the owner of the tax sale  
33 certificate obtains fee title from the sheriff, it shall be conclusively  
34 presumed that there is no equity in the property. In the event that  
35 the sheriff has not established an Internet auction, the defendant  
36 shall only be entitled to a judicial sale as in the manner of the  
37 foreclosure of a mortgage.

38 The sheriff of the county shall deposit with the clerk of the  
39 Superior Court any surplus funds derived from the judicial sale as  
40 in the manner of the foreclosure of a mortgage or the Internet  
41 auction, as appropriate, after the holder of the tax sale certificate  
42 has been paid the redemption moneys, allowable costs, and  
43 attorney's fees as set forth by the court in the final judgment of  
44 foreclosure. The sheriff shall deduct the costs to the office of the  
45 county sheriff of holding the judicial sale as in the manner of the  
46 foreclosure of a mortgage or Internet auction, as appropriate, have  
47 been withheld by the sheriff from those funds. All subsequent  
48 lienholders named in the foreclosure shall have the right to file a

1 motion in the Superior Court for any surplus funds, in the order of  
2 their priority, not later than the first day of the seventh month next  
3 following the issuance of the sheriff's deed. The owner, or the  
4 owner's heirs, shall be entitled to any remaining surplus, and shall  
5 be entitled to file a motion to the court for the payment of the  
6 surplus. After five years from the date of the judicial sale as in the  
7 manner of the foreclosure of a mortgage, the clerk of the court shall  
8 pay any unclaimed monies to the holder of the tax sale certificate.  
9 If the holder of the tax sale certificate is unable to be located, the  
10 funds shall revert to the municipality wherein the property is  
11 located, and shall be paid by the clerk of the court to the chief  
12 financial officer of the municipality.

13 As used in this section, "surplus funds" shall mean and include  
14 any funds derived from the judicial sale as in the manner of the  
15 foreclosure of a mortgage or Internet auction through the office of  
16 the county sheriff of a property pursuant to this section, after the  
17 holder of the tax sale certificate has been fully redeemed, and paid  
18 moneys due and owing to the holder of the tax sale certificate. The  
19 redemption amount shall also include any costs charged by the  
20 sheriff to the holder of the tax sale certificate to conduct the judicial  
21 sale as in the manner of the foreclosure of a mortgage or the  
22 Internet auction.

23 c. In the event that any federal statute or regulation requires a  
24 judicial sale as in the manner of the foreclosure of a mortgage of the  
25 property in order to debar and foreclose a mortgage interest or any  
26 other lien held by the United States or any agency or  
27 instrumentality thereof, then the tax lien may be foreclosed in the  
28 same manner as a mortgage, and the final judgment shall provide  
29 for the issuance of a writ of execution to the sheriff of the county  
30 wherein the property is situated and the holding of a judicial sale as  
31 in the manner of the foreclosure of a mortgage.

32 (cf: P.L.2021, c.92, s.23)

33

34 3. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to read  
35 as follows:

36 7. **【No search fee, counsel fee or other fee related to certified**  
37 **mailings shall be allowed a plaintiff other than a municipality in the**  
38 **foreclosure of a tax lien unless, prior to the filing of the complaint,**  
39 **the plaintiff shall have given】** At least 30 【days' written notice to  
40 the parties entitled to redeem whose interests appear of record at the  
41 time of the tax sale,】 days prior to the filing of a complaint, the  
42 holder of a tax sale certificate shall send all parties having a right to  
43 redeem a notice of intention to file a complaint. The notice to the  
44 owner, or the owner's heirs, shall be addressed to the last known  
45 address contained in the municipal records. The notice to any other  
46 parties having a right to redeem shall be sent to the address  
47 contained in any document recorded with the county clerk or  
48 register. The notice shall be sent by certified mail with postage

1 prepaid thereon **【**, addressed to the last known address of such  
2 persons, of intention to file such complaint**】**. The notice shall also  
3 contain the amount **【due on such】** necessary to redeem the  
4 outstanding tax **【lien】** sale certificate **【as of the date of the notice】**.  
5 The notice shall also advise the owner, or the owner's heirs, that the  
6 owner, or the owner's heirs, shall have the right to request a judicial  
7 sale as in the manner of the foreclosure of a mortgage or an Internet  
8 auction of the property through the office of the county sheriff, to  
9 preserve any equity that may be in the property. A copy of **【such】**  
10 the notice shall also be filed with the municipal tax collector's  
11 office. **【Upon the filing and service of such notice, a plaintiff shall**  
12 **be entitled to such fees and expenses.】**

13 A municipality, by ordinance, may authorize the tax collector to  
14 charge to a lienholder a fee not to exceed \$50 for the calculation of  
15 the amount due to redeem the tax lien required to be provided  
16 pursuant to this section. Any request for a redemption calculation  
17 shall specify the date to be used for the calculation, which shall be  
18 the date of the notice. Neither the tax collector or the municipality  
19 shall be liable for an incorrect calculation. The fee paid to the  
20 municipality shall not become part of the lien and shall not be  
21 passed on to any party entitled to redeem pursuant to R.S.54:5-54.  
22 (cf: P.L.2009, c.320, s.11)  
23

24 4. (New section) a. The holder of the tax sale certificate shall  
25 provide to the owner of the property, in writing, with the summons  
26 and complaint for foreclosure, information prominently displayed in  
27 bold face type that states that the owner of the property being  
28 foreclosed has the right to demand, in writing, that the foreclosure  
29 proceed to a judicial sale as in the manner of the foreclosure of a  
30 mortgage or an Internet auction of the property, through the office  
31 of the county sheriff.

32 If the holder of the tax sale certificate has complied with this  
33 subsection and the provisions of section 7 of P.L.1965, c.187  
34 (C.54:5-97.1), that person shall be entitled to recover all reasonable  
35 attorney's fees and costs of foreclosure, including all costs  
36 associated with the judicial sale as in the manner of the foreclosure  
37 of a mortgage. In the event that all costs and reasonable attorney's  
38 fees are not recovered through the judicial sale as in the manner of  
39 the foreclosure of a mortgage or the Internet auction through the  
40 office of the county sheriff, the holder of the tax sale certificate  
41 shall have a first lien paramount to any other lien on any surplus  
42 funds and shall be entitled to apply to the Superior Court to recover  
43 any unpaid costs or attorney's fees.

44 b. In the event that the owner, or the owner's heirs, has  
45 demanded a judicial sale as in the manner of the foreclosure of a  
46 mortgage or an Internet auction through the office of the county  
47 sheriff, the holder of the tax sale certificate, whether a municipality

1 or third party investor, shall be entitled to a first lien on any surplus  
2 funds that are deposited in the Superior Court by the sheriff, in the  
3 amount of 10 percent of the surplus funds, to cover administrative  
4 costs related to the foreclosure action, not to exceed \$5,000.

5 c. As used in this section, "surplus funds" shall have the same  
6 meaning as set forth in R.S.54:5-87.

7  
8 5. (New section) The notice of foreclosure required to be served  
9 on the owner and published in the newspaper shall conspicuously  
10 state in boldface type that the owner and the owner's heirs shall  
11 have the right to demand a judicial sale as in the manner of the  
12 foreclosure of a mortgage, or an Internet auction through the office  
13 of the county sheriff, of the property subject to the tax lien  
14 foreclosure to preserve any equity that they may have in the  
15 property.

16 The notice shall state that the owner, or the owner's heirs, has 45  
17 days from the date of service of the foreclosure complaint to file the  
18 written request for a judicial sale as in the manner of the foreclosure  
19 of a mortgage or an Internet auction through the office of the county  
20 sheriff with the Superior Court.

21  
22 6. Section 31 of P.L.1948, c.96 (C.54:5-104.59) is amended to  
23 read as follows:

24 31. a. All costs and reasonable attorney fees incurred in [the]  
25 an in rem foreclosure action shall be equitably apportioned and  
26 allocated to the several **[**parcels of land affected by the action**]**  
27 schedules of the complaint, and added to the amount required to  
28 redeem.

29 b. For the purposes of this section, "all costs and reasonable  
30 attorney fees" includes all costs incurred **[**for a standard title  
31 search**]** with respect to the in rem foreclosure proceeding and all  
32 reasonable attorney fees incurred in the action, including any, and  
33 all, costs incurred for a judicial sale as in the manner of the  
34 foreclosure of a mortgage, or an Internet auction through the office  
35 of the county sheriff, of the property subject to the in rem  
36 foreclosure.

37 In the event that the holder of the tax sale certificate shall have  
38 incurred any costs or attorney's fees in the judicial sale as in the  
39 manner of the foreclosure of a mortgage or Internet auction through  
40 the office of the county sheriff that were not reimbursed in the  
41 redemption monies received from the sheriff, the holder of the tax  
42 sale certificate shall have a first lien on any surplus funds for  
43 reimbursement of those costs and reasonable attorney's fees. As  
44 used in this section, "surplus funds" shall have the same meaning as  
45 set forth in R.S.54:5-87.

46 (cf: P.L.1993, c.278, s.1)

1       7. Section 36 of P.L.1948, c.96 (C.54:5-104.64) is amended to  
2 read as follows:

3       36. (a) The judgment shall give full and complete relief, in  
4 accordance with the provisions of **【this act】** P.L.1948, c.96 (C.54:5-  
5 104.29 et seq.), and in accordance with any other statutory  
6 authority, to bar the right of redemption, and to foreclose all prior  
7 or subsequent alienations and descents of the lands and  
8 encumbrances thereon, and to adjudge an absolute and indefeasible  
9 estate of inheritance in fee simple in the lands therein described, to  
10 be vested in the plaintiff.

11       (b) Such judgment shall be binding and final upon all persons  
12 having a vested or contingent title or interest in or lien or claim  
13 upon or against said lands, including the State of New Jersey, and  
14 any agency and political subdivision thereof, and their heirs,  
15 devisees and personal representatives, and their, or any of their  
16 heirs, devisees, executors, administrators, grantees, assigns or  
17 successors in right, title or interest, notwithstanding any infancy or  
18 incompetency of such person or persons, and upon all other persons,  
19 their heirs, devisees and personal representatives and their or any of  
20 their heirs, devisees, executors, administrators, grantees, assigns or  
21 successors in right, title or interest.

22       In order to preserve any equity that may exist in the property  
23 being foreclosed, the owner, or the owner's heirs, shall have the  
24 right to demand, by written request to the Superior Court, no later  
25 than 45 days after being served with the foreclosure complaint, or  
26 the publication of the notice concerning the foreclosure, whichever  
27 is later, that the holder of the tax sale certificate be foreclosed with  
28 a judicial sale as in the manner of the foreclosure of a mortgage of  
29 the property through the office of the county sheriff, or, in the  
30 alternative, an Internet auction of the property through the office of  
31 the county sheriff. If there is more than one schedule in the in rem  
32 foreclosure complaint and a request is made for a judicial sale as in  
33 the manner of the foreclosure of a mortgage, or an Internet auction  
34 through the office of the county sheriff, the schedule shall be  
35 severed and the final judgment shall provide for a writ of execution  
36 to the sheriff of the county where the property is located and the  
37 holding of either a judicial sale as in the manner of the foreclosure  
38 of a mortgage or an Internet auction, as appropriate.

39       In the event that the owner or the owner's heirs do not demand a  
40 judicial sale as in the manner of the foreclosure of a mortgage, or an  
41 Internet auction through the office of the county sheriff, the holder  
42 of the tax sale certificate may proceed in rem without a judicial sale  
43 as in the manner of the foreclosure of a mortgage, or an Internet  
44 auction through the office of the county sheriff, and the owner or  
45 his heirs shall have no claim against the holder of the tax sale  
46 certificate for any loss of equity in the property. The amount  
47 received at a judicial sale as in the manner of the foreclosure of a  
48 mortgage, or an Internet auction through the office of the county

1 sheriff, shall be conclusively presumed to be the fair market value  
2 of the property. In the event that no one bids at the judicial sale as  
3 in the manner of the foreclosure of a mortgage or the Internet  
4 auction through the office of the county sheriff above the amount to  
5 redeem or there is no bidding at all, it shall be conclusively  
6 presumed that there is no equity in the property.

7 The sheriff of the county shall deposit with the clerk of the  
8 Superior Court any surplus funds derived from the judicial sale as  
9 in the manner of the foreclosure of a mortgage or the Internet  
10 auction, after all of the costs to the office of the county sheriff of  
11 holding the judicial sale as in the manner of the foreclosure of a  
12 mortgage or the Internet auction, have been withheld by the sheriff  
13 from those funds of the sale, after paying the amount of the  
14 judgment plus any costs to the holder of the tax sale certificate. All  
15 subsequent lienholders named in the foreclosure shall have the right  
16 to apply to the Superior Court, in writing, for payment of their lien  
17 in the order of their priority. All subsequent lienholders named in  
18 the foreclosure shall have the right to apply to the Superior court for  
19 any surplus funds, in the order of their priority, not later than the  
20 first day of the seventh month next following the issuance of the  
21 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
22 any remaining surplus funds and shall be entitled to make written  
23 application to the court for the payment of the surplus. After five  
24 years from the date of the judicial sale as in the manner of the  
25 foreclosure of a mortgage, the clerk of the court shall make  
26 payment of any unclaimed monies to the holder of the tax sale  
27 certificate. If the holder of the tax sale certificate is unable to be  
28 located, the funds shall revert to the municipality wherein the  
29 property is located, and shall be paid by the clerk of the court to the  
30 chief financial officer of the municipality.

31 As used in this subsection, "surplus funds" shall have the same  
32 meaning as set forth in R.S.54:5-87.

33 (c) In the event that any federal statute or regulation requires a  
34 judicial sale as in the manner of the foreclosure of a mortgage of the  
35 property in order to debar and foreclose a mortgage interest or any  
36 other lien held by the United States or any agency or  
37 instrumentality thereof, then the tax lien may be foreclosed in the  
38 same manner as a mortgage, and the final judgment shall provide  
39 for the issuance of a writ of execution to the sheriff of the county  
40 wherein the property is situated and the holding of a judicial sale as  
41 in the manner of the foreclosure of a mortgage.

42 (cf: P.L.1995, c.326, s.3)

43  
44 8. (New section) With respect to any property tax lien  
45 foreclosure actions pending on the date of enactment of the  
46 amendatory and supplementary provisions of P.L. , c. (C. )  
47 (pending before the Legislature as this bill), a property owner shall  
48 be personally served in writing with a notice of their right to

1 demand a judicial sale as in the manner of the foreclosure of a  
2 mortgage, or an Internet auction by the office of the county sheriff,  
3 and shall have 45 days after such service to notify the court of their  
4 demand for a judicial sale as in the manner of the foreclosure of a  
5 mortgage or an Internet auction by the office of the county sheriff.  
6 If the property owner demands a judicial sale as in the manner of  
7 the foreclosure of a mortgage, or an Internet auction by the office of  
8 the county sheriff, in a timely manner, the foreclosure complaint  
9 shall be amended by the tax lien holder to require such a sale or  
10 auction. If no timely demand is made for a judicial sale as in the  
11 manner of the foreclosure of a mortgage or an internet auction by  
12 the office of the county sheriff, the foreclosure action shall proceed  
13 without a judicial sale as in the manner of the foreclosure of a  
14 mortgage or an Internet auction through the office of the county  
15 sheriff.

16

17 9. This act shall take effect immediately, and shall apply to any  
18 property tax lien foreclosure complaint filed on or after May 25,  
19 2023. This act shall have no effect on any foreclosure action in  
20 which a final judgment has been entered prior to the effective date  
21 of this act.

22

#### STATEMENT

23

24 This bill would revise the “tax sale law,” R.S.54:5-1 et seq., and  
25 the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-  
26 104.29 et seq.), to bring those laws into compliance with the recent  
27 United States Supreme Court decision in Tyler v. Hennepin County,  
28 Minnesota, et al., 143 S. Ct. 1369 (2023) concerning the ability of a  
29 property owner, whose right to redeem a tax lien on their property  
30 has been foreclosed by the holder of a tax sale certificate, to receive  
31 any of the owner’s equity remaining in the property after the tax  
32 lien foreclosure.

33 Under current State law, the holder of a tax sale certificate, after  
34 six months, in the case of a municipality that holds the tax sale  
35 certificate or in the case of the holder of a tax sale certificate on a  
36 property that is abandoned, or after two years, in the case of a third  
37 party lienholder, may file suit in Superior Court to foreclose the  
38 right of the property owner to redeem the tax lien. Upon the  
39 foreclosure, the lienholder will receive title to the property and all  
40 of the equity remaining in the property, leaving the former property  
41 owner with no funds from the foreclosure with which to purchase  
42 another property.

43 In the Tyler decision, the Supreme Court determined that  
44 Hennepin County could not keep the equity in the property beyond  
45 the amount it was owed for overdue property taxes and interest  
46 thereon. Under the Court’s ruling, that excess equity was  
47 considered as property that could not be taken from the former

1 property owner consistent with the takings clause restrictions of the  
2 5th Amendment of the United States Constitution.

3 This bill would amend current law to permit a property owner to  
4 require a judicial sale as in the manner of the foreclosure of a  
5 mortgage of the property by the county sheriff in the same manner  
6 as mortgage foreclosures are subject to a judicial sale as in the  
7 manner of the foreclosure of a mortgage, or an Internet auction of  
8 the property through the office of the county sheriff. The property  
9 owner would have to make a motion to the Superior Court for either  
10 a judicial sale as in the manner of the foreclosure of a mortgage or  
11 an Internet auction of the property by the office of the county  
12 sheriff within 45 days of receiving the complaint for foreclosure or,  
13 in the case of an in rem foreclosure, within 45 days of receiving the  
14 complaint for foreclosure or the publication of the notice of  
15 foreclosure as required by law, whichever date is later. The  
16 property owner would be advised of this information, in boldface  
17 type, with the service of the complaint for foreclosure.

18 This bill would not require a judicial sale as in the manner of the  
19 foreclosure of a mortgage or an Internet auction of the property  
20 through the office of the county sheriff if the property owner does  
21 not make a demand for one. This would save the lien holder from  
22 incurring substantial costs associated with a judicial sale as in the  
23 manner of the foreclosure of a mortgage or Internet auction of the  
24 property through the office of the county sheriff. Many owners  
25 have no equity in their property to protect during a tax lien  
26 foreclosure. However, any property owner who wants a judicial  
27 sale as in the manner of the foreclosure of a mortgage or an Internet  
28 auction of the property through the office of the county sheriff will  
29 be able to obtain one by simply requesting one from the court.

[First Reprint]

**ASSEMBLY, No. 3772**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

INTRODUCED FEBRUARY 22, 2024

**Sponsored by:**

**Assemblywoman BARBARA MCCANN STAMATO**

**District 31 (Hudson)**

**Assemblyman WILLIAM B. SAMPSON, IV**

**District 31 (Hudson)**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Assemblymen McGuckin, Kanitra, Rodriguez, Assemblywoman Swift,  
Assemblyman Hutchison, Assemblywoman N.Munoz, Assemblymen  
Wimberly, Atkins, Assemblywomen Ramirez, Reynolds-Jackson,  
Peterpaul, Murphy, Donlon, Bagolie, Speight, Assemblyman Stanley,  
Senators Amato, Burgess and Gopal**

**SYNOPSIS**

Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on June 24, 2024, with amendments.

(Sponsorship Updated As Of: 6/28/2024)

1 AN ACT revising the process for a property tax lien holder to  
2 foreclose the right to redeem a property tax lien, amending  
3 various parts of the statutory law, and supplementing chapter 5  
4 of Title 54 of the Revised Statutes and P.L.1948, c.96 (C.54:5-  
5 104.29 et seq.).

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 1. R.S.54:5-33 is amended to read as follows:

11 54:5-33. a. Payment for the sale shall be made before the  
12 conclusion of the sale, or the property shall be resold. Any  
13 premium payment shall be held by the collector and returned to the  
14 purchaser of the fee if and when redemption is made. If redemption  
15 is not made within five years from date of sale the premium  
16 payment shall be turned over to the treasurer of the municipality  
17 and become a part of the funds of the municipality. In the event  
18 that a petition of bankruptcy has been filed by the property owner,  
19 the five year limitation shall be extended for each day that the  
20 foreclosure action is precluded by that bankruptcy filing.

21 b. **‘[If the tax sale certificate is redeemed through]** In the event  
22 a property is required to be sold at<sup>1</sup> a judicial sale as in the manner  
23 of the foreclosure of a mortgage or **‘[through]’** an Internet auction  
24 through the office of the county sheriff, **‘[and the redemption is**  
25 made] the premium shall be refunded to the lienholder if,<sup>1</sup> within  
26 five years of the date of the tax sale, **‘[the tax collector shall refund**  
27 the premium to the holder of the tax sale certificate] the writ of  
28 execution is sent to the county sheriff’s office to schedule the  
29 judicial sale or Internet auction.<sup>1</sup>

30 In the event that the holder of the tax sale certificate, or an  
31 assignee, is the successful bidder at the judicial sale **‘[as in the**  
32 manner of the foreclosure of a mortgage]’<sup>1</sup> or **‘[an] the’** Internet  
33 auction **‘[through the office of the county sheriff]’**<sup>1</sup>, the tax  
34 collector shall not refund any premium.

35 <sup>1</sup>Any premium that is due to escheat to the municipality in 2024  
36 shall be extended one year.<sup>1</sup>

37 (cf: P.L.2009, c.320, s.7)

38  
39 <sup>1</sup>2. R.S.54:5-86 is amended to read as follows:

40 54:5-86. a. When the municipality is the purchaser of a tax sale  
41 certificate, the municipality, or its assignee or transferee, may, at  
42 any time after the expiration of the term of six months from the date  
43 of sale, institute an action to foreclose the right of redemption.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAP committee amendments adopted June 24, 2024.

1 Except as provided in subsection a. of section 39 of P.L.1996, c.62  
2 (C.55:19-58) or as provided in subsection b. of this section, for all  
3 other persons that do not acquire a tax sale certificate from a  
4 municipality, an action to foreclose the right of redemption may be  
5 instituted at any time after the expiration of the term of two years  
6 from the date of sale of the tax sale certificate. On instituting the  
7 action the right to redeem shall exist and continue until barred by  
8 the judgment of the Superior Court, except as set forth in R.S.54:5-  
9 87.

10 b. Any person or municipality holding a tax sale certificate on  
11 a property that meets the definition of abandoned property as set  
12 forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the  
13 tax sale or thereafter, may at any time file an action with the  
14 Superior Court in the county wherein said municipality is situate,  
15 demanding that the right of redemption on such property be barred,  
16 pursuant to the "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax  
17 Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.).  
18 The filing shall include a certification by the public officer or the  
19 tax collector that the property is abandoned, provided pursuant to  
20 subsection d. of section 6 of P.L.2003, c.210 (C.55:19-83). In the  
21 event that the certificate holder has unsuccessfully sought such  
22 certification from the public officer or tax collector, as the case may  
23 be, the certificate holder may submit to the court evidence that the  
24 property is abandoned, accompanied by a report and sworn  
25 statement by an individual holding appropriate licensure or  
26 professional qualifications, and shall provide a copy of those  
27 documents submitted to the court to the public officer and the tax  
28 collector. On the basis of this submission and any submission  
29 provided by the public officer or tax collector, as the case may be,  
30 the court shall determine whether the property meets the definition  
31 of abandoned property.

32 c. Any person holding a tax sale certificate on a property that  
33 meets the definition of abandoned property as set forth in P.L.2003,  
34 c.210 (C.55:19-78 et al.), either at the time of the tax sale or  
35 thereafter, may enter upon that property at any time after written  
36 notice to the owner by certified mail return receipt requested in  
37 order to make repairs, or abate, remove or correct any condition  
38 harmful to the public health, safety and welfare, or any condition  
39 that is materially reducing the value of the property.

40 d. Any sums incurred or advanced pursuant to subsection c. of  
41 this section may be added to the unpaid balance due the holder of  
42 the tax sale certificate at the statutory interest rate for subsequent  
43 liens.<sup>1</sup>

44 (cf: P.L.2015, c.16, s.1)

45

46 <sup>1</sup>[2.] 3.<sup>1</sup> R.S.54:5-87 is amended to read as follows:

47 54:5-87. a. The Superior Court, in an action to foreclose the  
48 right of redemption <sup>1</sup>brought pursuant to subsection b. of R.S.54:5-

1 86<sup>1</sup>, may give full and complete relief under this chapter, in  
2 accordance with other statutory authority of the court, to bar the  
3 right of redemption<sup>1</sup>, to bar claims to surplus equity,<sup>1</sup> and to  
4 foreclose all prior or subsequent alienations and descents of the  
5 lands and encumbrances thereon, except subsequent municipal  
6 liens, and to adjudge an absolute and indefeasible estate of  
7 inheritance in fee simple, to be vested in the purchaser. The  
8 judgment shall be final upon the defendants, their heirs, devisees  
9 and personal representatives, and their or any of their heirs,  
10 devisees, executors, administrators, grantees, assigns or successors  
11 in right, title or interest and no application shall be entertained to  
12 reopen the judgment after three months from the date thereof, and  
13 then only upon the grounds of lack of jurisdiction or fraud in the  
14 conduct of the suit. Such judgment and recording thereof shall not  
15 be deemed a sale, transfer, or conveyance of title or interest to the  
16 subject property under the provisions of the "Uniform Voidable  
17 Transactions Act," R.S.25:2-20 et seq. <sup>1</sup>An action brought pursuant  
18 to subsection b. of R.S.54:5-86 shall not require a judicial sale as in  
19 the manner of the foreclosure of a mortgage or an Internet auction  
20 through the office of the county sheriff.<sup>1</sup>

21 b. In <sup>1</sup>an action brought pursuant to subsection a. of R.S.54:5-  
22 86, in<sup>1</sup> order to preserve any equity that may exist in the property  
23 being foreclosed, the owner, or the owner's heirs, shall have the  
24 right to demand, by written request to the Superior Court <sup>1</sup>[no later  
25 than 45 days after being served with the foreclosure complaint]  
26 before the date that the final judgment is entered<sup>1</sup> , that the holder  
27 of the tax sale certificate foreclose the right to redeem that  
28 certificate in the same manner as a mortgage, through a judicial sale  
29 as in the manner of the foreclosure of a mortgage of the property  
30 through the office of the county sheriff, or in the alternative,  
31 through an Internet auction of the property through the office of the  
32 county sheriff. The final judgment shall provide for a writ of  
33 execution to the sheriff of the county in which the property is  
34 located, and the holding of either a judicial sale <sup>1</sup>[as in the manner  
35 of the foreclosure of a mortgage,]<sup>1</sup> or an Internet auction. In the  
36 event that the owner or the owner's heirs do not demand a judicial  
37 sale <sup>1</sup>[as in the manner of the foreclosure of a mortgage,]<sup>1</sup> or an  
38 Internet auction, the owner of the tax sale certificate may proceed  
39 under subsection a. of this section and foreclose without a judicial  
40 sale <sup>1</sup>[as in the manner of the foreclosure of a mortgage,] or an  
41 Internet auction,<sup>1</sup> and the owner and the owner's heirs shall have no  
42 claim against the holder of the tax sale certificate for any equity in  
43 the property. The amount received through the judicial sale <sup>1</sup>[as in  
44 the manner of the foreclosure of a mortgage,]<sup>1</sup> or <sup>1</sup>[through]<sup>1</sup> the  
45 Internet auction, as appropriate, shall be conclusively presumed to  
46 be the fair market value of the property. In the event that no one  
47 bids on the property through the judicial sale <sup>1</sup>[as in the manner of

1 the foreclosure of a mortgage]<sup>1</sup> or '[at]<sup>1</sup> the Internet auction, and  
2 the owner of the tax sale certificate obtains fee title from the sheriff,  
3 it shall be conclusively presumed that there is no equity in the  
4 property. In the event that the sheriff has not established an Internet  
5 auction, the '[defendant] owner or the owner's heirs'<sup>1</sup> shall only be  
6 entitled to a judicial sale as in the manner of the foreclosure of a  
7 mortgage.

8 The sheriff of the county shall deposit with the clerk of the  
9 Superior Court any surplus funds derived from the judicial sale '[as  
10 in the manner of the foreclosure of a mortgage]<sup>1</sup> or the Internet  
11 auction, as appropriate, after the holder of the tax sale certificate  
12 has been paid the redemption moneys, allowable costs, and  
13 attorney's fees as set forth by the court in the final judgment of  
14 foreclosure. The sheriff shall deduct the costs to the office of the  
15 county sheriff of holding the judicial sale '[as in the manner of the  
16 foreclosure of a mortgage]<sup>1</sup> or 'the' Internet auction, as  
17 appropriate, 'which shall'<sup>1</sup> have been withheld by the sheriff from  
18 those funds. '[All subsequent lienholders named in the foreclosure  
19 shall have the right to file a motion in the Superior Court for any  
20 surplus funds, in the order of their priority, not later than the first  
21 day of the seventh month next following the issuance of the  
22 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
23 any remaining surplus, and shall be entitled to file a motion to the  
24 court for the payment of the surplus. After five years from the date  
25 of the judicial sale as in the manner of the foreclosure of a  
26 mortgage, the clerk of the court shall pay any unclaimed monies to  
27 the holder of the tax sale certificate. If the holder of the tax sale  
28 certificate is unable to be located, the funds shall revert to the  
29 municipality wherein the property is located, and shall be paid by  
30 the clerk of the court to the chief financial officer of the  
31 municipality.] The process set forth in this section shall be the  
32 exclusive method through which the owner, or the owner's heirs,  
33 may assert a claim to any surplus funds by motion to the Superior  
34 Court.

35 Application for, and distribution of, surplus moneys held by the  
36 clerk of the court shall be made in accordance with N.J.S.2A:50-37  
37 and the applicable Rules of Court.

38 Notwithstanding the provisions of N.J.S.2A:50-64, interest shall  
39 continue to accrue on the tax sale certificate pursuant to R.S.54:4-  
40 67 through the date of actual payment.<sup>1</sup>

41 As used in this section, "surplus funds" shall mean and include  
42 any funds derived from the judicial sale as in the manner of the  
43 foreclosure of a mortgage or 'the' Internet auction through the  
44 office of the county sheriff of a property pursuant to this section,  
45 after the holder of the tax sale certificate has been fully redeemed,  
46 and paid moneys due and owing to the holder of the tax sale  
47 certificate. The redemption amount shall also include any costs

1 charged by the sheriff to the holder of the tax sale certificate to  
2 conduct the judicial sale as in the manner of the foreclosure of a  
3 mortgage or the Internet auction.

4 c. In the event that any federal statute or regulation requires a  
5 judicial sale as in the manner of the foreclosure of a mortgage of the  
6 property in order to debar and foreclose a mortgage interest or any  
7 other lien held by the United States or any agency or  
8 instrumentality thereof, then the tax lien may be foreclosed in the  
9 same manner as a mortgage, and the final judgment shall provide  
10 for the issuance of a writ of execution to the sheriff of the county  
11 wherein the property is situated and the holding of a judicial sale as  
12 in the manner of the foreclosure of a mortgage.  
13 (cf: P.L.2021, c.92, s.23)

14

15 <sup>1</sup>[3. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to  
16 read as follows:

17 7. **[No search fee, counsel fee or other fee related to certified**  
18 **mailings shall be allowed a plaintiff other than a municipality in the**  
19 **foreclosure of a tax lien unless, prior to the filing of the complaint,**  
20 **the plaintiff shall have given] At least 30 [days' written notice to**  
21 **the parties entitled to redeem whose interests appear of record at the**  
22 **time of the tax sale,] days prior to the filing of a complaint, the**  
23 **holder of a tax sale certificate shall send all parties having a right to**  
24 **redeem a notice of intention to file a complaint. The notice to the**  
25 **owner, or the owner's heirs, shall be addressed to the last known**  
26 **address contained in the municipal records. The notice to any other**  
27 **parties having a right to redeem shall be sent to the address**  
28 **contained in any document recorded with the county clerk or**  
29 **register. The notice shall be sent** by certified mail with postage  
30 prepaid thereon **[, addressed to the last known address of such**  
31 **persons, of intention to file such complaint].** The notice shall also  
32 contain the amount **[due on such] necessary to redeem the**  
33 **outstanding tax [lien] sale certificate [as of the date of the notice].**  
34 **The notice shall also advise the owner, or the owner's heirs, that the**  
35 **owner, or the owner's heirs, shall have the right to request a judicial**  
36 **sale as in the manner of the foreclosure of a mortgage or an Internet**  
37 **auction of the property through the office of the county sheriff, to**  
38 **preserve any equity that may be in the property.** A copy of **[such]**  
39 **the notice shall also be filed with the municipal tax collector's**  
40 **office. [Upon the filing and service of such notice, a plaintiff shall**  
41 **be entitled to such fees and expenses.]**

42 A municipality, by ordinance, may authorize the tax collector to  
43 charge to a lienholder a fee not to exceed \$50 for the calculation of  
44 the amount due to redeem the tax lien required to be provided  
45 pursuant to this section. Any request for a redemption calculation  
46 shall specify the date to be used for the calculation, which shall be  
47 the date of the notice. Neither the tax collector or the municipality

1 shall be liable for an incorrect calculation. The fee paid to the  
2 municipality shall not become part of the lien and shall not be  
3 passed on to any party entitled to redeem pursuant to R.S.54:5-54.  
4 (cf: P.L.2009, c.320, s.11)】<sup>1</sup>

5  
6 <sup>14.</sup> Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to  
7 read as follows:

8 7. No search fee, counsel fee or other fee related to certified  
9 mailings shall be allowed a plaintiff other than a municipality in the  
10 foreclosure of a tax lien unless, prior to the filing of the complaint,  
11 the plaintiff shall have given at least 30 days' written notice to the  
12 parties entitled to redeem whose interests appear of record at the  
13 time of the tax sale【,】 . The notice shall be sent by certified mail  
14 with postage prepaid thereon, addressed to the last known address  
15 of such persons, 【of intention to file such complaint】 and the  
16 owner's address based upon the last deed of record with the county  
17 clerk. The notice shall also contain the amount 【due on such】  
18 necessary to redeem the outstanding tax 【lien】 sale certificate as of  
19 the date of the notice. The notice shall also advise the owner that  
20 the owner, or the owner's heirs, shall have the right to request a  
21 judicial sale as in the manner of the foreclosure of a mortgage or an  
22 Internet auction of the property through the office of the county  
23 sheriff, to preserve any equity that may be in the property, except if  
24 the property meets the definition of abandoned property. A copy of  
25 【such】 the notice shall also be filed with the municipal tax  
26 collector's office. Upon the filing and service of such notice, a  
27 plaintiff shall be entitled to such fees and expenses.

28 A municipality, by ordinance, may authorize the tax collector to  
29 charge to a lienholder a fee not to exceed \$50 for the calculation of  
30 the amount due to redeem the tax lien required to be provided  
31 pursuant to this section. Any request for a redemption calculation  
32 shall specify the date to be used for the calculation, which shall be  
33 the date of the notice. Neither the tax collector or the municipality  
34 shall be liable for an incorrect calculation. 【The fee paid to the  
35 municipality shall not become part of the lien and shall not be  
36 passed on to any party entitled to redeem pursuant to R.S.54:5-54.】<sup>1</sup>  
37 (cf: P.L.2009, c.320, s.11)

38  
39 <sup>15.</sup> R.S.54:5-98 is amended to read as follows:

40 54:5-98. a. After the complaint has been filed redemption shall  
41 be made in that cause only, provided notice of the suit has been  
42 filed in the office of the tax collector. Such redemption shall be  
43 subject to the fixing of attorney's fees and costs at any time during  
44 the course of the action. In such proceedings the court may order  
45 that the redemption shall be made to the tax collector of the  
46 municipality at his official office during business hours, except in  
47 cases where the tax collector is a part-time official with no regular

1 municipal office, in which case it may order that the redemption  
2 shall be made to the clerk of the county in which the premises lie.

3 b. After the notice of intention to file a complaint has been  
4 served pursuant to section 7 of P.L.1965, c.187 (C.54:5-97.1) but  
5 before the foreclosure complaint is filed, the holder of the tax sale  
6 certificate shall be reimbursed for the following expenses actually  
7 incurred, which expenses shall be added to the amount required to  
8 redeem the tax sale certificate and certified by the holder of the tax  
9 sale certificate to the tax collector:

10 (1) a foreclosure or title search fee, not to exceed \$350;

11 (2) the postage and certified mailing costs for notices required  
12 under section 7 of P.L.1965, c.187 (C.54:5-97.1);

13 (3) reasonable attorney's fees, not to exceed \$150; and

14 (4) any fees paid to a municipality for the calculation of the  
15 amount due to redeem the tax lien.

16 c. If an action to foreclose the right of redemption has been  
17 filed, the plaintiff or the holder of the tax sale certificate shall be  
18 reimbursed the following amounts for each property to be  
19 foreclosed, which amounts shall be added to the amount required to  
20 redeem the tax sale certificate:

21 (1) attorney's fees in the amount of \$2,500, which amount shall  
22 be deemed reasonable for both the preparation and the filing of the  
23 action to foreclose the right to redeem the tax sale certificate;

24 (2) in exceptional circumstances or in the event of litigation or  
25 bankruptcy, any additional reasonable attorney's fees that are  
26 incurred and specifically requested by the plaintiff or holder of a tax  
27 sale certificate and approved by the court, on a case-by-case basis,  
28 through the date on which any litigation has finally concluded; and

29 (3) the following reasonable expenses, provided that the counsel  
30 of the plaintiff or the holder of a tax sale certificate provides a  
31 signed affidavit attesting that such expenses actually were incurred  
32 by the plaintiff or the tax sale certificate holder:

33 (a) all filing fees charged by the court;

34 (b) all reasonable service of process fees, or fees for service of  
35 any pleadings require by the Rules of Court or by the court,  
36 including fees for attempting to serve process;

37 (c) all reasonable fees incurred for skip traces, registered agent  
38 searches, and other reasonable fees incurred to locate any party for  
39 service of process;

40 (d) a title or foreclosure search fee not to exceed \$350, except in  
41 circumstances of an exceptionally complicated title, an application  
42 may be made to the court to increase the title or foreclosure search  
43 fee;

44 (e) if a second, updated title or foreclosure search is conducted,  
45 an update search fee not to exceed \$100;

46 (f) publication fees charged by a newspaper of general  
47 circulation in the county in which the property is located or  
48 otherwise required by the Rules of Court or order of the court;

- 1        (g) posting fees;  
2        (h) estate search costs;  
3        (i) postage, certified mail, and photocopying expenses;  
4        (j) actual cost to record and discharge notice of lis pendens and  
5 in rem complaint;  
6        (k) all sheriff's office fees, including, but not limited to,  
7 commission or expense for scheduling a sheriff's sale of the  
8 property;  
9        (l) abandoned property certification reports not to exceed \$350;  
10       (m) any fees paid to a municipality for the calculation of the  
11 amount due to redeem the tax lien;  
12       (n) in exceptional circumstances or in the event of litigation or  
13 bankruptcy, any additional reasonable expenses that are incurred  
14 and specifically requested by the plaintiff or holder of a tax sale  
15 certificate and approved by a court, on a case-by-case basis through  
16 the date on which any litigation is concluded; and  
17       (o) any other reasonable expenses incurred by the plaintiff or the  
18 holder of the tax sale certificate in locating and effectuating service  
19 on any party named as a defendant in the complaint.<sup>1</sup>  
20 (cf: P.L.1965, c.187, s.8)

21  
22       <sup>1</sup>**[4.] 6.**<sup>1</sup> (New section) a. <sup>1</sup>**[The]** In actions commenced  
23 pursuant to subsection a. of R.S.54:5-86, the<sup>1</sup> holder of the tax sale  
24 certificate shall provide to the owner of the property, in writing,  
25 with the summons and complaint for foreclosure, information  
26 prominently displayed in bold face type that states that the owner of  
27 the property being foreclosed has the right to demand, in writing <sup>1</sup>to  
28 the Superior Court before the date that the final judgment is  
29 entered<sup>1</sup>, that the foreclosure proceed to a judicial sale as in the  
30 manner of the foreclosure of a mortgage or an Internet auction of  
31 the property, through the office of the county sheriff.

32       <sup>1</sup>**[If the holder of the tax sale certificate has complied with this**  
33 **subsection and the provisions of section 7 of P.L.1965, c.187**  
34 **(C.54:5-97.1), that person shall be entitled to recover all reasonable**  
35 **attorney's fees and costs of foreclosure, including all costs**  
36 **associated with the judicial sale as in the manner of the foreclosure**  
37 **of a mortgage.]**<sup>1</sup> In the event that all costs and reasonable  
38 attorney's fees are not recovered through the judicial sale as in the  
39 manner of the foreclosure of a mortgage or the Internet auction  
40 through the office of the county sheriff, the holder of the tax sale  
41 certificate shall have a first lien paramount to any other lien on any  
42 surplus funds and shall be entitled to apply to the Superior Court to  
43 recover any unpaid costs or attorney's fees. <sup>1</sup>The attorney shall be  
44 required to record a Statewide judgment lien for the outstanding  
45 attorney's fees.<sup>1</sup>

46       b. In the event that the owner, or the owner's heirs, has  
47 demanded a judicial sale as in the manner of the foreclosure of a  
48 mortgage or an Internet auction through the office of the county

1 sheriff, the holder of the tax sale certificate, whether a municipality  
2 or third party investor, shall be entitled to a first lien on any surplus  
3 funds that are deposited in the Superior Court by the sheriff, in the  
4 amount of 10 percent of the surplus funds, to cover administrative  
5 costs related to the foreclosure action, not to exceed \$5,000.

6 c. As used in this section, "surplus funds" shall have the same  
7 meaning as set forth in R.S.54:5-87.

8  
9 <sup>1</sup>~~5.~~ <sup>1</sup>7. (New section) <sup>1</sup>~~The~~ In actions commenced by a  
10 municipality pursuant to subsection a. of R.S.54:5-86, the<sup>1</sup> notice of  
11 foreclosure required to be served on the owner and published in the  
12 newspaper shall conspicuously state in boldface type that the owner  
13 and the owner's heirs shall have the right to demand a judicial sale  
14 as in the manner of the foreclosure of a mortgage, or an Internet  
15 auction through the office of the county sheriff, of the property  
16 subject to the tax lien foreclosure to preserve any equity that they  
17 may have in the property.

18 The notice shall state that the owner, or the owner's heirs, has  
19 <sup>1</sup>~~45 days from the date of service of the foreclosure complaint~~  
20 until the date of entry of a final judgment<sup>1</sup> to file the written request  
21 <sup>1</sup>~~with the Superior Court~~<sup>1</sup> for a judicial sale as in the manner of the  
22 foreclosure of a mortgage or an Internet auction through the office  
23 of the county sheriff with the Superior Court.

24  
25 <sup>1</sup>~~6.~~ <sup>1</sup>8. Section 31 of P.L.1948, c.96 (C.54:5-104.59) is  
26 amended to read as follows:

27 31. a. <sup>1</sup>~~All~~ In an action commenced by a municipality, all<sup>1</sup>  
28 costs and reasonable attorney fees <sup>1</sup>, as determined by order of the  
29 court,<sup>1</sup> incurred in ~~the~~ an in rem foreclosure action shall be  
30 equitably apportioned and allocated to the several ~~parcels of land~~  
31 affected by the action ~~schedules of the complaint~~, and added to the  
32 amount required to redeem.

33 b. For the purposes of this section, "all costs and reasonable  
34 attorney fees" includes all costs incurred ~~for a standard title~~  
35 search ~~with respect to the in rem foreclosure proceeding~~ and all  
36 reasonable attorney fees incurred in the action, including any<sup>1</sup>~~,~~<sup>1</sup>  
37 and all<sup>1</sup>~~,~~<sup>1</sup> costs incurred for a judicial sale as in the manner of the  
38 foreclosure of a mortgage<sup>1</sup>~~,~~<sup>1</sup> or an Internet auction through the  
39 office of the county sheriff<sup>1</sup>~~,~~<sup>1</sup> of the property subject to the in  
40 rem foreclosure<sup>1</sup>, which amounts shall be determined by the court  
41 and shall fully compensate the holder of the tax sale certificate for  
42 all such reasonable incurred expenses<sup>1</sup>.

43 In the event that the holder of the tax sale certificate shall have  
44 incurred any costs or attorney's fees in the judicial sale <sup>1</sup>~~as in the~~  
45 manner of the foreclosure of a mortgage<sup>1</sup> ~~or~~ <sup>1</sup>~~the~~ Internet auction  
46 <sup>1</sup>~~through the office of the county sheriff~~<sup>1</sup> that were not

1 reimbursed in the redemption monies received from the sheriff, the  
2 holder of the tax sale certificate shall have a first lien on any  
3 surplus funds for reimbursement of those costs and reasonable  
4 attorney's fees. As used in this section, "surplus funds" shall have  
5 the same meaning as set forth in R.S.54:5-87.

6 <sup>1</sup>c. In the event that a complaint is filed by a municipality that  
7 contains not more than one tax sale certificate, the municipality  
8 shall be entitled to the reimbursement of attorney's fees and costs  
9 pursuant to R.S.54:5-98.

10 d. In the event that a complaint is filed by the holder of a tax  
11 sale certificate for an abandoned property pursuant to subsection b.  
12 of R.S.54:5-86, the holder shall be entitled to the reimbursement of  
13 attorney's fees and costs pursuant to R.S.54:5-98.<sup>1</sup>

14 (cf: P.L.1993, c.278, s.1)

15  
16 <sup>1</sup>[7.] 9.<sup>1</sup> Section 36 of P.L.1948, c.96 (C.54:5-104.64) is  
17 amended to read as follows:

18 36. (a) <sup>1</sup>[The] In an action commenced by any person or a  
19 municipality holding a tax sale certificate for an abandoned  
20 property pursuant to subsection b. of R.S.54:5-86, the<sup>1</sup> judgment  
21 shall give full and complete relief, in accordance with the  
22 provisions of [this act] P.L.1948, c.96 (C.54:5-104.29 et seq.), and  
23 in accordance with any other statutory authority, to bar the right of  
24 redemption, <sup>1</sup>to bar claims to surplus equity,<sup>1</sup> and to foreclose all  
25 prior or subsequent alienations and descents of the lands and  
26 encumbrances thereon, and to adjudge an absolute and indefeasible  
27 estate of inheritance in fee simple in the lands therein described, to  
28 be vested in the plaintiff <sup>1</sup>, except as set forth in subsection d. of  
29 this section<sup>1</sup>.

30 (b) Such judgment shall be binding and final upon all persons  
31 having a vested or contingent title or interest in or lien or claim  
32 upon or against said lands, including the State of New Jersey, and  
33 any agency and political subdivision thereof, and their heirs,  
34 devisees and personal representatives, and their, or any of their  
35 heirs, devisees, executors, administrators, grantees, assigns or  
36 successors in right, title or interest, notwithstanding any infancy or  
37 incompetency of such person or persons, and upon all other persons,  
38 their heirs, devisees and personal representatives and their or any of  
39 their heirs, devisees, executors, administrators, grantees, assigns or  
40 successors in right, title or interest.

41 <sup>1</sup>[In order to preserve any equity that may exist in the property  
42 being foreclosed, the owner, or the owner's heirs, shall have the  
43 right to demand, by written request to the Superior Court, no later  
44 than 45 days after being served with the foreclosure complaint, or  
45 the publication of the notice concerning the foreclosure, whichever  
46 is later, that the holder of the tax sale certificate be foreclosed with  
47 a judicial sale as in the manner of the foreclosure of a mortgage of

1 the property through the office of the county sheriff, or, in the  
2 alternative, an Internet auction of the property through the office of  
3 the county sheriff. If there is more than one schedule in the in rem  
4 foreclosure complaint and a request is made for a judicial sale as in  
5 the manner of the foreclosure of a mortgage, or an Internet auction  
6 through the office of the county sheriff, the schedule shall be  
7 severed and the final judgment shall provide for a writ of execution  
8 to the sheriff of the county where the property is located and the  
9 holding of either a judicial sale as in the manner of the foreclosure  
10 of a mortgage or an Internet auction, as appropriate.

11 In the event that the owner or the owner's heirs do not demand a  
12 judicial sale as in the manner of the foreclosure of a mortgage, or an  
13 Internet auction through the office of the county sheriff, the holder  
14 of the tax sale certificate may proceed in rem without a judicial sale  
15 as in the manner of the foreclosure of a mortgage, or an Internet  
16 auction through the office of the county sheriff, and the owner or  
17 his heirs shall have no claim against the holder of the tax sale  
18 certificate for any loss of equity in the property. The amount  
19 received at a judicial sale as in the manner of the foreclosure of a  
20 mortgage, or an Internet auction through the office of the county  
21 sheriff, shall be conclusively presumed to be the fair market value  
22 of the property. In the event that no one bids at the judicial sale as  
23 in the manner of the foreclosure of a mortgage or the Internet  
24 auction through the office of the county sheriff above the amount to  
25 redeem or there is no bidding at all, it shall be conclusively  
26 presumed that there is no equity in the property.

27 The sheriff of the county shall deposit with the clerk of the  
28 Superior Court any surplus funds derived from the judicial sale as  
29 in the manner of the foreclosure of a mortgage or the Internet  
30 auction, after all of the costs to the office of the county sheriff of  
31 holding the judicial sale as in the manner of the foreclosure of a  
32 mortgage or the Internet auction, have been withheld by the sheriff  
33 from those funds of the sale, after paying the amount of the  
34 judgment plus any costs to the holder of the tax sale certificate. All  
35 subsequent lienholders named in the foreclosure shall have the right  
36 to apply to the Superior Court, in writing, for payment of their lien  
37 in the order of their priority. All subsequent lienholders named in  
38 the foreclosure shall have the right to apply to the Superior court for  
39 any surplus funds, in the order of their priority, not later than the  
40 first day of the seventh month next following the issuance of the  
41 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
42 any remaining surplus funds and shall be entitled to make written  
43 application to the court for the payment of the surplus. After five  
44 years from the date of the judicial sale as in the manner of the  
45 foreclosure of a mortgage, the clerk of the court shall make  
46 payment of any unclaimed monies to the holder of the tax sale  
47 certificate. If the holder of the tax sale certificate is unable to be  
48 located, the funds shall revert to the municipality wherein the

1 property is located, and shall be paid by the clerk of the court to the  
2 chief financial officer of the municipality.

3 As used in this subsection, “surplus funds” shall have the same  
4 meaning as set forth in R.S.54:5-87.】 An action brought by the  
5 holder of a tax sale certificate for an abandoned property shall not  
6 require a judicial sale as in the manner of the foreclosure of a  
7 mortgage or an Internet auction through the office of the county  
8 sheriff.<sup>1</sup>

9 (c) In the event that any federal statute or regulation requires a  
10 judicial sale as in the manner of the foreclosure of a mortgage of the  
11 property in order to debar and foreclose a mortgage interest or any  
12 other lien held by the United States or any agency or  
13 instrumentality thereof, then the tax lien may be foreclosed in the  
14 same manner as a mortgage, and the final judgment shall provide  
15 for the issuance of a writ of execution to the sheriff of the county  
16 wherein the property is situated and the holding of a judicial sale as  
17 in the manner of the foreclosure of a mortgage.

18 <sup>1</sup>(d) In an action brought by a municipality, in order to preserve  
19 any equity that may exist in the property being foreclosed, the  
20 owner, or the owner’s heirs, shall have the right to demand, by  
21 written request to the Superior Court before the date that final  
22 judgment is entered, that the municipal tax sale certificate be  
23 foreclosed with a judicial sale as in the manner of the foreclosure of  
24 a mortgage of the property through the office of the county sheriff,  
25 or, in the alternative, an Internet auction of the property through the  
26 office of the county sheriff. If there is more than one schedule in  
27 the in rem foreclosure complaint and a request is made for a judicial  
28 sale or an Internet auction, the schedule shall be severed and the  
29 final judgment shall provide for a writ of execution to the sheriff of  
30 the county where the property is located and the holding of either a  
31 judicial sale or an Internet auction, as appropriate.

32 In the event that the owner or the owner’s heirs do not demand a  
33 judicial sale as in the manner of the foreclosure of a mortgage, or an  
34 Internet auction through the office of the county sheriff, the  
35 municipality may proceed in rem without a judicial sale or an  
36 Internet auction, and the owner or his heirs shall have no claim  
37 against the municipality for any loss of equity in the property. The  
38 amount received at a judicial sale or an Internet auction shall be  
39 conclusively presumed to be the fair market value of the property.  
40 In the event that no one bids at the judicial sale or the Internet  
41 auction above the amount to redeem, or there is no bidding at all, it  
42 shall be conclusively presumed that there is no equity in the  
43 property.

44 The sheriff of the county shall deposit with the clerk of the  
45 Superior Court any surplus funds derived from the judicial sale or  
46 the Internet auction, after all of the costs to the office of the county  
47 sheriff for holding the judicial sale or the Internet auction have been

1 withheld by the sheriff from those funds of the sale, after paying the  
2 amount of the judgment plus any costs to the municipality.

3 Application for and distribution of surplus moneys held by the  
4 clerk of court shall be made in accordance with N.J.S.2A:50-37 and  
5 the applicable Rules of Court.

6 As used in this subsection, “surplus funds” shall have the same  
7 meaning as set forth in R.S.54:5-87.<sup>1</sup>

8  
9 <sup>1</sup>**[8.] 10.**<sup>1</sup> (New section) <sup>1</sup>**[With]** Except for actions involving  
10 a property that meets the definition of abandoned property pursuant  
11 to P.L.2003, c.210 (C.55:19-78 et al.), with<sup>1</sup> respect to any <sup>1</sup>in rem  
12 or in personam<sup>1</sup> property tax lien foreclosure <sup>1</sup>**[actions]** action filed  
13 by a municipality or third party<sup>1</sup> pending on the date of enactment  
14 of the amendatory and supplementary provisions of P.L. ,  
15 c. (C. ) (pending before the Legislature as this bill), a  
16 property owner shall be <sup>1</sup>**[personally]**<sup>1</sup> served <sup>1</sup>**[in writing]** by  
17 regular and certified mail<sup>1</sup> with a notice of their right to demand a  
18 judicial sale as in the manner of the foreclosure of a mortgage, or an  
19 Internet auction by the office of the county sheriff, and shall have  
20 <sup>1</sup>**[45 days after such service]** until the date before the final  
21 judgment is entered<sup>1</sup> to notify the <sup>1</sup>**[court]** Superior Court<sup>1</sup> of their  
22 demand for a judicial sale as in the manner of the foreclosure of a  
23 mortgage or an Internet auction by the office of the county sheriff.  
24 If the property owner <sup>1</sup>or the owner’s heir<sup>1</sup> demands a judicial sale  
25 as in the manner of the foreclosure of a mortgage, or an Internet  
26 auction by the office of the county sheriff, in a timely manner, the  
27 <sup>1</sup>**[foreclosure complaint shall be amended by the tax lien holder to**  
28 require such a sale or auction] Superior Court shall order the entry  
29 of a final judgment and writ of execution directing that the property  
30 be sold at a judicial sale<sup>1</sup>. If no timely demand is made for a  
31 judicial sale as in the manner of the foreclosure of a mortgage or an  
32 <sup>1</sup>**[internet]** Internet<sup>1</sup> auction by the office of the county sheriff, the  
33 foreclosure action shall proceed without a judicial sale <sup>1</sup>**[as in the**  
34 manner of the foreclosure of a mortgage]<sup>1</sup> or an Internet auction  
35 through the office of the county sheriff.

36  
37 <sup>1</sup>**[9.] 11.**<sup>1</sup> This act shall take effect immediately, and shall apply  
38 to any <sup>1</sup>**[property tax lien foreclosure complaint filed on or after**  
39 **May 25, 2023]** tax lien for which the right of redemption has not  
40 been foreclosed as of the effective date of this act<sup>1</sup>. This act shall  
41 have no effect on any foreclosure action in which a final judgment  
42 has been entered prior to the effective date of this act.

ASSEMBLY STATE AND LOCAL GOVERNMENT  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 3772**

**STATE OF NEW JERSEY**

DATED: JUNE 24, 2024

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 3772.

This bill would revise the “tax sale law,” R.S.54:5-1 et seq., and the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), to bring those laws into compliance with the recent United States Supreme Court decision in Tyler v. Hennepin County, Minnesota, et al., 143 S. Ct. 1369 (2023) concerning the ability of a property owner, whose right to redeem a tax lien on their property has been foreclosed by the holder of a tax sale certificate, to receive any of the owner’s equity remaining in the property after the tax lien foreclosure.

Under current State law, the holder of a tax sale certificate, after six months, in the case of a municipality that holds the tax sale certificate or in the case of the holder of a tax sale certificate on a property that is abandoned, or after two years, in the case of a third party lienholder, may file suit in Superior Court to foreclose the right of the property owner to redeem the tax lien. Upon the foreclosure, the lienholder will receive title to the property and all of the equity remaining in the property, leaving the former property owner with no funds from the foreclosure with which to purchase another property.

In the Tyler decision, the Supreme Court determined that Hennepin County could not keep the equity in the property beyond the amount it was owed for overdue property taxes and interest thereon. Under the Court’s ruling, that excess equity was considered as property that could not be taken from the former property owner consistent with the takings clause restrictions of the 5th Amendment of the United States Constitution.

This bill would amend current law to permit a property owner to require a judicial sale as in the manner of the foreclosure of a mortgage of the property by the county sheriff in the same manner as mortgage foreclosures are subject to a judicial sale as in the manner of the foreclosure of a mortgage, or an Internet auction of the property through the office of the county sheriff. The property owner would have to make a motion to the Superior Court for either

a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property by the office of the county sheriff within 45 days of receiving the complaint for foreclosure or, in the case of an in rem foreclosure, within 45 days of receiving the complaint for foreclosure or the publication of the notice of foreclosure as required by law, whichever date is later. The property owner would be advised of this information, in boldface type, with the service of the complaint for foreclosure.

This bill would not require a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property through the office of the county sheriff if the property owner does not make a demand for one. This would save the lien holder from incurring substantial costs associated with a judicial sale as in the manner of the foreclosure of a mortgage or Internet auction of the property through the office of the county sheriff. Many owners have no equity in their property to protect during a tax lien foreclosure. However, any property owner who wants a judicial sale as in the manner of the foreclosure of a mortgage or an Internet auction of the property through the office of the county sheriff will be able to obtain one by simply requesting one from the court.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3772**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 24, 2024

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 3772.

As amended, this bill would revise the “tax sale law,” R.S.54:5-1 et seq., and the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), to bring those laws into compliance with the 2023 United States Supreme Court decision in *Tyler v. Hennepin County, Minnesota, et al.*, 143 S. Ct. 1369 (2023) concerning the ability of a property owner, whose right to redeem a tax lien on their property has been foreclosed by the holder of a tax sale certificate, to receive any of the owner’s equity remaining in the property after the tax lien foreclosure.

Under existing State law, the holder of a tax sale certificate, after six months in the case of a municipality holding the tax sale certificate or in the case of the holder of a tax sale certificate on a property that is abandoned, or after two years in the case of a third party lienholder, may file suit in Superior Court to foreclose the right of the property owner to redeem the tax lien. Upon the foreclosure, the lienholder receives title to the property and all of the equity remaining in the property, leaving the former property owner with no funds from the foreclosure with which to purchase another property.

In the *Tyler* decision, the Supreme Court determined that Hennepin County could not keep equity in the property beyond the amount it was owed for overdue property taxes and interest thereon. Under the Court’s ruling, excess equity was considered to be property that could not be taken from the former property owner, consistent with the takings clause restrictions of the 5th Amendment of the United States Constitution.

The bill revises the “tax sale law” and the In Rem Tax Foreclosure Act to require that, except in cases of abandoned property, as that term is defined in P.L.2003, c.210 (C.55:19-78 et seq.), a property owner whose property is subject to a tax lien foreclosure, or that owner’s heirs, have the right to demand, by written request to the Superior Court prior to the date that the final judgment is entered, that the holder of the tax sale certificate foreclose the right to redeem that certificate in the same manner as a mortgage, through a judicial sale of the property through the office of the county sheriff, or in the

alternative, through an Internet auction of the property through the office of the county sheriff. In the event that the owner or the owner's heirs do not demand a judicial sale or an Internet auction, the tax sale certificate holder may foreclose without such sale, and the owner and the owner's heirs would have no claim against the holder of the tax sale certificate for any equity in the property. For abandoned properties, no judicial sale or Internet auction would be required and the Superior Court would be authorized to bar any claims to surplus equity as part of a foreclosure action.

The bill also stipulates that the amount received through a judicial sale or the Internet auction would be conclusively presumed to be the fair market value of the property, and if no one bids on the property through a judicial sale or Internet auction, and the owner of the tax sale certificate obtains fee title from the sheriff, it would be conclusively presumed that there is no equity in the property. In the event that the sheriff has not established an Internet auction, the owner or the owner's heirs would only be entitled to a judicial sale.

The bill would require the county sheriff to deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale or Internet auction, after the holder of the tax sale certificate has been paid the redemption moneys, allowable costs, and attorney's fees as set forth by the court in the final judgment of foreclosure, and the sheriff has deducted the costs to the office of the county sheriff of holding the judicial sale or Internet auction. This process would be the exclusive method through which the owner, or the owner's heirs, may claim and receive any surplus funds. The bill defines "surplus funds" as meaning any funds derived from the judicial sale or Internet auction of a property, after the holder of the tax sale certificate has been fully redeemed, and paid moneys due and owing to the holder of the tax sale certificate, and after the costs charged by the sheriff to the holder of the tax sale certificate to conduct the judicial sale or the Internet auction have been withheld.

In the event a premium payment is made by the lienholder to acquire a tax sale certificate for a property that is required to be sold at a judicial sale or Internet auction, the bill would require the premium payment to be refunded to the lienholder provided a writ of execution is sent to the county sheriff to schedule the judicial sale or Internet auction within five years from the date of the tax sale. The premium would not be refunded, however, if the lienholder is the successful bidder at the judicial sale or auction. For any premium payments that are due to escheat to a municipality during tax year 2024, the bill would extend the escheatment for an additional year.

The bill also requires that the notice provided by lien holders to property owners of the intention to file a foreclosure complaint must advise the owner that the owner or the owner's heirs have the right to request a judicial sale or an Internet auction of the property to preserve any equity in the property. The notice would be sent by certified mail

to the last known address of each person entitled to redeem the tax sale certificate and the owner's address based upon the last deed of record with the county clerk. The notice would also contain the amount necessary to redeem the outstanding tax sale certificate.

The bill also provides a detailed reimbursement structure for expenses incurred by the lienholder, which are to be certified by the lien holder to the tax collector and added to the amount required to redeem the tax sale certificate. Depending on whether a foreclosure complaint has been filed, the lienholder would be entitled to reimbursement of various expenses related to preparation and litigation of a foreclosure action such as attorney's fees, mailing costs, filing fees, service of process fees, and property search costs.

The bill also provides that the provisions of the bill would apply to any tax lien for which the right of redemption has not been foreclosed as of its effective date.

As amended and reported by the committee, A3772 is identical to S2334 (2R).

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

Change the timeline in which a property owner, or the owner's heirs, whose property is not abandoned and is subject to a tax lien foreclosure, has the right to make written demand to the Superior Court to foreclose the property owner's right to redeem that certificate through a judicial sale of the property as in the manner of a mortgage or an Internet auction through the office of the county sheriff from 45 days after the property owner is served with a foreclosure complaint, to any time prior to the date that the final judgment is entered;

Provide that in the case of a premium paid by a lienholder to a municipality, the premium would be required to be refunded if within five years of the date of the tax sale, the writ of execution is sent to the county sheriff's office to schedule a sheriff's sale of the property; however, if the lienholder is the successful bidder at the judicial sale or Internet auction, the tax collector cannot refund the premium. The amendments also extend by one year a premium that is due to escheat to a municipality in 2024;

Stipulate that the amount received through a judicial sale or Internet auction would be conclusively presumed to be the fair market value of the property. If no one bids on the property through a judicial sale or at an Internet auction, and the owner of the tax sale certificate obtains fee title from the sheriff, it would be conclusively presumed that there is no equity in the property;

Provide that in the event that the sheriff has not established an Internet auction, the owner or the owner's heirs would only be entitled to a judicial sale;

Require the county sheriff to deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale, or Internet

auction, after the holder of the tax sale certificate has been paid the redemption moneys, including allowable costs and attorney's fees, and the sheriff has deducted the costs to the office of the county sheriff of holding the judicial sale or Internet auction. The amendments specify that this process would be the exclusive method through which the owner, or the owner's heirs, may claim and receive any surplus funds;

Define "surplus funds" as meaning any funds derived from the judicial sale or Internet auction of a property, after the holder of the tax sale certificate has been fully redeemed, and paid moneys due and owing to the holder of the tax sale certificate, and after the costs charged by the sheriff to the holder of the tax sale certificate to conduct the judicial sale or the Internet auction have been withheld;

Require that notice provided by a lienholder other than a municipality be provided at least 30 days' notice to the property owner who is entitled to redeem an outstanding tax lien be sent to the owner's address based on the last deed of record with the county clerk, in addition to the person's last known address;

Require that notice provided by lien holders to property owners advise the owner that the owner or the owner's heirs have the right to request a judicial sale or an Internet auction of the property to preserve any equity in the property;

Provide a detailed reimbursement structure for expenses actually incurred by the lien holder for preparation and litigation of a foreclosure action, such as attorney's fees, mailing costs, service of process fees, and property search costs, which costs are required to be certified by the lien holder to the tax collector and added to the amount required to redeem the tax sale certificate;

Permit municipalities that hold a tax sale certificate to file an action to foreclose the right of redemption at the time of a tax sale, and at any time thereafter, for properties that are abandoned pursuant to the "Abandoned Properties Rehabilitation Act," P.L.2003, c.210 (C.55:19-78 et al.);

Authorize the Superior Court to bar claims to surplus equity for abandoned properties;

Exempt abandoned properties from the judicial sale and Internet auction requirements established by the bill;

Require that the provisions of the bill apply to any tax lien for which the right of redemption has not been foreclosed as of the bill's effective date;

Require that the process set forth in section 3 of the bill would be the exclusive method through which the owner or the owner's heirs may assert a claim to any surplus funds by motion to the Superior Court; and

Require that if all costs and reasonable attorney's fees are not recovered through the judicial sale or Internet auction, and the holder of the tax sale certificate has a first lien paramount to any other lien on any surplus funds and is thereby entitled to apply to the Superior Court

to recover any unpaid costs or attorney's fees, the attorney would be required to record a Statewide judgment lien for the outstanding attorney's fees.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate reduction in annual municipal revenues and have no net impact on county finances.

Municipalities will incur a revenue loss due to two aspects of the bill. First, municipalities will no longer be permitted to retain the full amount of proceeds resulting from the sale of foreclosed property for which a municipality holds the tax sale certificate. Second, municipalities will be required to refund to the holder of a tax sale certificate the full amount of the premium bid offered by the certificate holder if a property is scheduled for a judicial sale or Internet auction within five years of the date of the tax sale. However, data on the total amount of revenue generated by the sale of foreclosed properties and the amount of premium bids retained by municipalities are not compiled on a Statewide basis, hindering a full accounting of the potential impact of the bill on municipal revenues.

The OLS anticipates that the bill will not have a net impact on county finances because it requires county sheriffs to deduct the costs of holding a judicial sale or an Internet auction from the proceeds of the sale of a property prior to remitting any funds to the property owner, resulting in offsetting county costs and revenues.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY, No. 3772**  
**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

DATED: JUNE 25, 2024

**SUMMARY**

**Synopsis:** Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity.

**Type of Impact:** Annual decrease in municipal revenues.  
Offsetting county cost and revenue increases.

**Agencies Affected:** Counties and municipalities.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>CY 2024 and Thereafter</u></b>
<b>Municipal Revenue Decrease</b>	Indeterminate
<b>County Cost Increase</b>	Indeterminate
<b>County Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate reduction in annual municipal revenues and have no net impact on county finances.
- Municipalities will incur a revenue loss because they will no longer be permitted to retain full proceeds resulting from the sale of foreclosed property for which a municipality holds the tax sale certificate. Data on the total amount of revenue generated by the sale of these properties are not compiled on a Statewide basis, hindering a full accounting of the potential impact of the bill on municipal revenues.
- The OLS anticipates that the bill will not have a net impact on county finances because it requires county sheriffs to deduct the costs of holding a judicial sale or an Internet auction from the proceeds of the sale of a property prior to remitting any funds to the property owner, resulting in offsetting county costs and revenues.

**BILL DESCRIPTION**

The bill revises the “tax sale law” and the In Rem Tax Foreclosure Act to bring these laws into compliance with the United States Supreme Court decision in Tyler v. Hennepin County,

Minnesota et al. concerning the ability of a property owner, whose right to redeem a tax lien on their property has been foreclosed by the holder of a tax sale certificate, to receive any of the owner's equity remaining in the property after the tax lien foreclosure.

Under current law, the holder of a tax sale certificate, after six months, in the case of a municipality that holds the tax sale certificate or in the case of the holder of a tax sale certificate on a property that is abandoned, or after two years, in the case of a third party lienholder, may file suit in Superior Court to foreclose the right of the property owner to redeem the tax lien. Upon the foreclosure, the lienholder receives title to the property and all of the equity remaining in the property, leaving the former property owner with no funds from the foreclosure with which to purchase another property.

The bill amends current law to permit a property owner to require a judicial sale as in the manner of the foreclosure of a mortgage of the property by the county sheriff in the same manner as mortgage foreclosures are subject to a judicial sale or an Internet auction of the property through the office of the county sheriff. The bill requires the property owner to make a motion to the Superior Court for either a judicial sale or an Internet auction within 45 days of receiving the complaint for foreclosure or, in the case of an in rem foreclosure, within 45 days of receiving the complaint for foreclosure or the publication of the notice required by law, whichever date is later. The bill requires a portion of the proceeds from the sale of the property to be returned to the property owner or the owner's heirs.

The bill does not require a property to be sold by judicial sale or an Internet auction if the property owner does not demand one. However, any property owner will be able to obtain a judicial sale or Internet auction for the sale of their property by filing a request with the Superior Court.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that the bill will result in an indeterminate decrease in annual municipal revenues and have no net impact on county finances. Municipalities would experience a decrease in revenues because they would no longer retain the full amount of revenues generated by the sale of a foreclosed property. Although municipalities are required to report in their annual financial statements the amount of revenue generated from the sale of foreclosed property, these data are not compiled on a Statewide basis and the annual financial statement does not specify what amount of revenue generated by the sale of foreclosed property constitute surplus funds, hindering a full accounting of the bill's impact on municipal revenues.

Current law requires every municipality to hold at least one tax sale per year if the municipality has delinquent properties. At the tax sale, the title to the delinquent property itself is not sold. The municipality auctions a tax sale certificate that constitutes a lien on the property. At the auction, bidders bid down the interest rate that will be paid by the owner for continuing interest on the certificate amount. The "tax sale law" permits the governing body of a municipality to adopt a resolution stating that a particular property (or properties) would be useful for a public purpose. After adopting the resolution, the governing body may authorize a municipal official, other than the tax collector, to attend the tax sale and bid on the parcel on behalf of the municipality. If the

municipality is the winning bidder, it holds the tax certificate. If there are no bidders for any parcel at the sale, the tax collector is required to strike it off in the name of the municipality. In either case, the municipality has the same rights and remedies as any other purchaser of a tax sale certificate, including the right to bar or foreclose the right of redemption. Redemption is the right of an owner to reclaim their property after a tax sale by paying all delinquent taxes, interest, and other municipal charges assessed on the property.

As noted above, the “tax sale law” allows any holder of a tax sale certificate, including a municipality, to foreclose the right of the property owner to redeem the tax lien. Before the Supreme Court’s decision in Tyler v. Hennepin County, Minnesota et al., current law provided that upon the foreclosure, the lienholder receives title to the property. In this circumstance, if the lienholder sells the property, they would be entitled to keep all of the revenues generated by its sale, even if the lienholder is a municipality. Under the bill, and consistent with the decision in Tyler v. Hennepin County, Minnesota et al., municipalities would no longer be permitted to retain the full amount of moneys constituting surplus funds following the sale of a foreclosed property. The bill requires payments to the holder of the tax sale certificate and costs incurred by the county sheriff for holding the judicial sale or Internet auction to be deducted from the surplus funds. Additionally, subsequent lienholders are given up to seven months to file a claim for a portion of the surplus funds with the Superior Court. Any remaining surplus funds are paid to the property owner. Any unclaimed funds remaining after five years from the date of the judicial sale or Internet auction are returned to the municipality in which the property is located.

Accordingly, the bill is expected to reduce annual municipal revenues by limiting the amount of moneys that may be retained by municipalities upon the foreclosure of certain properties for which the municipality held a tax sale certificate. However, because data is not available concerning the total value of surplus equity that will be returned to foreclosed property owners in these circumstances, the OLS is unable to quantify the magnitude of this anticipated municipal revenue loss.

Although the bill requires a county sheriff to hold, at the request of the property owner, a judicial sale or an Internet auction for a property subject to foreclosure, the OLS does not expect this requirement to result in a county net fiscal impact since the bill requires the county sheriff to deduct the costs of conducting the sale or auction from the proceeds of the sale of the property prior to remitting any moneys to the property owner, thereby offsetting anticipated cost increases with corresponding revenue gains.

*Section: Revenue, Finance, and Appropriations*

*Analyst: Scott A. Brodsky  
Staff Fiscal & Budget Analyst*

*Approved: Thomas Koenig  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

**SENATE, No. 2334**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

INTRODUCED JANUARY 25, 2024

**Sponsored by:**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Senator Amato**

**SYNOPSIS**

Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/5/2024)**

1 AN ACT revising the process for a property tax lien holder to  
2 foreclose the right to redeem a property tax lien, amending  
3 various parts of the statutory law, and supplementing chapter 5  
4 of Title 54 of the Revised Statutes and P.L.1948, c.96 (C.54:5-  
5 104.29 et seq.).

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 1. R.S.54:5-33 is amended to read as follows:

11 54:5-33. a. Payment for the sale shall be made before the  
12 conclusion of the sale, or the property shall be resold. Any  
13 premium payment shall be held by the collector and returned to the  
14 purchaser of the fee if and when redemption is made. If redemption  
15 is not made within five years from date of sale the premium  
16 payment shall be turned over to the treasurer of the municipality  
17 and become a part of the funds of the municipality. In the event  
18 that a petition of bankruptcy has been filed by the property owner,  
19 the five year limitation shall be extended for each day that the  
20 foreclosure action is precluded by that bankruptcy filing.

21 b. If the tax sale certificate is redeemed through a judicial sale  
22 as in the manner of the foreclosure of a mortgage or through an  
23 Internet auction through the office of the county sheriff, and the  
24 redemption is made within five years of the date of the tax sale, the  
25 tax collector shall refund the premium to the holder of the tax sale  
26 certificate.

27 In the event that the holder of the tax sale certificate, or an  
28 assignee, is the successful bidder at the judicial sale as in the  
29 manner of the foreclosure of a mortgage or an Internet auction  
30 through the office of the county sheriff, the tax collector shall not  
31 refund any premium.

32 (cf: P.L.2009, c.320, s.7)

33

34 2. R.S.54:5-87 is amended to read as follows:

35 54:5-87. a. The Superior Court, in an action to foreclose the  
36 right of redemption, may give full and complete relief under this  
37 chapter, in accordance with other statutory authority of the court, to  
38 bar the right of redemption and to foreclose all prior or subsequent  
39 alienations and descents of the lands and encumbrances thereon,  
40 except subsequent municipal liens, and to adjudge an absolute and  
41 indefeasible estate of inheritance in fee simple, to be vested in the  
42 purchaser. The judgment shall be final upon the defendants, their  
43 heirs, devisees and personal representatives, and their or any of  
44 their heirs, devisees, executors, administrators, grantees, assigns or  
45 successors in right, title or interest and no application shall be

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 entertained to reopen the judgment after three months from the date  
2 thereof, and then only upon the grounds of lack of jurisdiction or  
3 fraud in the conduct of the suit. Such judgment and recording  
4 thereof shall not be deemed a sale, transfer, or conveyance of title  
5 or interest to the subject property under the provisions of the  
6 "Uniform Voidable Transactions Act," R.S.25:2-20 et seq.

7 b. In order to preserve any equity that may exist in the property  
8 being foreclosed, the owner, or the owner's heirs, shall have the  
9 right to demand, by written request to the Superior Court no later  
10 than 45 days after being served with the foreclosure complaint, that  
11 the holder of the tax sale certificate foreclose the right to redeem  
12 that certificate in the same manner as a mortgage, through a judicial  
13 sale as in the manner of the foreclosure of a mortgage of the  
14 property through the office of the county sheriff, or in the  
15 alternative, through an Internet auction of the property through the  
16 office of the county sheriff. The final judgment shall provide for a  
17 writ of execution to the sheriff of the county in which the property  
18 is located, and the holding of either a judicial sale as in the manner  
19 of the foreclosure of a mortgage, or an Internet auction. In the  
20 event that the owner or the owner's heirs do not demand a judicial  
21 sale as in the manner of the foreclosure of a mortgage, or an  
22 Internet auction, the owner of the tax sale certificate may proceed  
23 under subsection a. of this section and foreclose without a judicial  
24 sale as in the manner of the foreclosure of a mortgage, and the  
25 owner and the owner's heirs shall have no claim against the holder  
26 of the tax sale certificate for any equity in the property. The  
27 amount received through the judicial sale as in the manner of the  
28 foreclosure of a mortgage, or through the Internet auction, as  
29 appropriate, shall be conclusively presumed to be the fair market  
30 value of the property. In the event that no one bids on the property  
31 through the judicial sale as in the manner of the foreclosure of a  
32 mortgage or at the Internet auction, and the owner of the tax sale  
33 certificate obtains fee title from the sheriff, it shall be conclusively  
34 presumed that there is no equity in the property. In the event that  
35 the sheriff has not established an Internet auction, the defendant  
36 shall only be entitled to a judicial sale as in the manner of the  
37 foreclosure of a mortgage.

38 The sheriff of the county shall deposit with the clerk of the  
39 Superior Court any surplus funds derived from the judicial sale as  
40 in the manner of the foreclosure of a mortgage or the Internet  
41 auction, as appropriate, after the holder of the tax sale certificate  
42 has been paid the redemption moneys, allowable costs, and  
43 attorney's fees as set forth by the court in the final judgment of  
44 foreclosure. The sheriff shall deduct the costs to the office of the  
45 county sheriff of holding the judicial sale as in the manner of the  
46 foreclosure of a mortgage or Internet auction, as appropriate, have  
47 been withheld by the sheriff from those funds. All subsequent  
48 lienholders named in the foreclosure shall have the right to file a

1 motion in the Superior Court for any surplus funds, in the order of  
2 their priority, not later than the first day of the seventh month next  
3 following the issuance of the sheriff's deed. The owner, or the  
4 owner's heirs, shall be entitled to any remaining surplus, and shall  
5 be entitled to file a motion to the court for the payment of the  
6 surplus. After five years from the date of the judicial sale as in the  
7 manner of the foreclosure of a mortgage, the clerk of the court shall  
8 pay any unclaimed monies to the holder of the tax sale certificate.  
9 If the holder of the tax sale certificate is unable to be located, the  
10 funds shall revert to the municipality wherein the property is  
11 located, and shall be paid by the clerk of the court to the chief  
12 financial officer of the municipality.

13 As used in this section, "surplus funds" shall mean and include  
14 any funds derived from the judicial sale as in the manner of the  
15 foreclosure of a mortgage or Internet auction through the office of  
16 the county sheriff of a property pursuant to this section, after the  
17 holder of the tax sale certificate has been fully redeemed, and paid  
18 moneys due and owing to the holder of the tax sale certificate. The  
19 redemption amount shall also include any costs charged by the  
20 sheriff to the holder of the tax sale certificate to conduct the judicial  
21 sale as in the manner of the foreclosure of a mortgage or the  
22 Internet auction.

23 c. In the event that any federal statute or regulation requires a  
24 judicial sale as in the manner of the foreclosure of a mortgage of the  
25 property in order to debar and foreclose a mortgage interest or any  
26 other lien held by the United States or any agency or  
27 instrumentality thereof, then the tax lien may be foreclosed in the  
28 same manner as a mortgage, and the final judgment shall provide  
29 for the issuance of a writ of execution to the sheriff of the county  
30 wherein the property is situated and the holding of a judicial sale as  
31 in the manner of the foreclosure of a mortgage.

32 (cf: P.L.2021, c.92, s.23)

33

34 3. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to read  
35 as follows:

36 7. **【No search fee, counsel fee or other fee related to certified**  
37 **mailings shall be allowed a plaintiff other than a municipality in the**  
38 **foreclosure of a tax lien unless, prior to the filing of the complaint,**  
39 **the plaintiff shall have given】** At least 30 【days' written notice to  
40 the parties entitled to redeem whose interests appear of record at the  
41 time of the tax sale,】 days prior to the filing of a complaint, the  
42 holder of a tax sale certificate shall send all parties having a right to  
43 redeem a notice of intention to file a complaint. The notice to the  
44 owner, or the owner's heirs, shall be addressed to the last known  
45 address contained in the municipal records. The notice to any other  
46 parties having a right to redeem shall be sent to the address  
47 contained in any document recorded with the county clerk or  
48 register. The notice shall be sent by certified mail with postage

1 prepaid thereon **],** addressed to the last known address of such  
2 persons, of intention to file such complaint**].** The notice shall also  
3 contain the amount **[due on such]** necessary to redeem the  
4 outstanding tax [lien] sale certificate [as of the date of the notice].  
5 The notice shall also advise the owner, or the owner's heirs, that the  
6 owner, or the owner's heirs, shall have the right to request a judicial  
7 sale as in the manner of the foreclosure of a mortgage or an Internet  
8 auction of the property through the office of the county sheriff, to  
9 preserve any equity that may be in the property. A copy of **[such]**  
10 the notice shall also be filed with the municipal tax collector's  
11 office. **[Upon the filing and service of such notice, a plaintiff shall**  
12 **be entitled to such fees and expenses.]**

13 A municipality, by ordinance, may authorize the tax collector to  
14 charge to a lienholder a fee not to exceed \$50 for the calculation of  
15 the amount due to redeem the tax lien required to be provided  
16 pursuant to this section. Any request for a redemption calculation  
17 shall specify the date to be used for the calculation, which shall be  
18 the date of the notice. Neither the tax collector or the municipality  
19 shall be liable for an incorrect calculation. The fee paid to the  
20 municipality shall not become part of the lien and shall not be  
21 passed on to any party entitled to redeem pursuant to R.S.54:5-54.

22 (cf: P.L.2009, c.320, s.11)

23

24 4. (New section) a. The holder of the tax sale certificate shall  
25 provide to the owner of the property, in writing, with the summons  
26 and complaint for foreclosure, information prominently displayed in  
27 bold face type that states that the owner of the property being  
28 foreclosed has the right to demand, in writing, that the foreclosure  
29 proceed to a judicial sale as in the manner of the foreclosure of a  
30 mortgage or an Internet auction of the property, through the office  
31 of the county sheriff.

32 If the holder of the tax sale certificate has complied with this  
33 subsection and the provisions of section 7 of P.L.1965, c.187  
34 (C.54:5-97.1), that person shall be entitled to recover all reasonable  
35 attorney's fees and costs of foreclosure, including all costs  
36 associated with the judicial sale as in the manner of the foreclosure  
37 of a mortgage. In the event that all costs and reasonable attorney's  
38 fees are not recovered through the judicial sale as in the manner of  
39 the foreclosure of a mortgage or the Internet auction through the  
40 office of the county sheriff, the holder of the tax sale certificate  
41 shall have a first lien paramount to any other lien on any surplus  
42 funds and shall be entitled to apply to the Superior Court to recover  
43 any unpaid costs or attorney's fees.

44 b. In the event that the owner, or the owner's heirs, has  
45 demanded a judicial sale as in the manner of the foreclosure of a  
46 mortgage or an Internet auction through the office of the county  
47 sheriff, the holder of the tax sale certificate, whether a municipality

1 or third party investor, shall be entitled to a first lien on any surplus  
2 funds that are deposited in the Superior Court by the sheriff, in the  
3 amount of 10 percent of the surplus funds, to cover administrative  
4 costs related to the foreclosure action, not to exceed \$5,000.

5 c. As used in this section, "surplus funds" shall have the same  
6 meaning as set forth in R.S.54:5-87.

7  
8 5. (New section) The notice of foreclosure required to be served  
9 on the owner and published in the newspaper shall conspicuously  
10 state in boldface type that the owner and the owner's heirs shall  
11 have the right to demand a judicial sale as in the manner of the  
12 foreclosure of a mortgage, or an Internet auction through the office  
13 of the county sheriff, of the property subject to the tax lien  
14 foreclosure to preserve any equity that they may have in the  
15 property.

16 The notice shall state that the owner, or the owner's heirs, has 45  
17 days from the date of service of the foreclosure complaint to file the  
18 written request for a judicial sale as in the manner of the foreclosure  
19 of a mortgage or an Internet auction through the office of the county  
20 sheriff with the Superior Court.

21  
22 6. Section 31 of P.L.1948, c.96 (C.54:5-104.59) is amended to  
23 read as follows:

24 31. a. All costs and reasonable attorney fees incurred in [the]  
25 an in rem foreclosure action shall be equitably apportioned and  
26 allocated to the several **[parcels of land affected by the action]**  
27 schedules of the complaint, and added to the amount required to  
28 redeem.

29 b. For the purposes of this section, "all costs and reasonable  
30 attorney fees" includes all costs incurred **[for a standard title**  
31 **search]** with respect to the in rem foreclosure proceeding and all  
32 reasonable attorney fees incurred in the action, including any, and  
33 all, costs incurred for a judicial sale as in the manner of the  
34 foreclosure of a mortgage, or an Internet auction through the office  
35 of the county sheriff, of the property subject to the in rem  
36 foreclosure.

37 In the event that the holder of the tax sale certificate shall have  
38 incurred any costs or attorney's fees in the judicial sale as in the  
39 manner of the foreclosure of a mortgage or Internet auction through  
40 the office of the county sheriff that were not reimbursed in the  
41 redemption monies received from the sheriff, the holder of the tax  
42 sale certificate shall have a first lien on any surplus funds for  
43 reimbursement of those costs and reasonable attorney's fees. As  
44 used in this section, "surplus funds" shall have the same meaning as  
45 set forth in R.S.54:5-87.

46 (cf: P.L.1993, c.278, s.1)

1       7. Section 36 of P.L.1948, c.96 (C.54:5-104.64) is amended to  
2 read as follows:

3       36. (a) The judgment shall give full and complete relief, in  
4 accordance with the provisions of **【this act】** P.L.1948, c.96 (C.54:5-  
5 104.29 et seq.), and in accordance with any other statutory  
6 authority, to bar the right of redemption, and to foreclose all prior  
7 or subsequent alienations and descents of the lands and  
8 encumbrances thereon, and to adjudge an absolute and indefeasible  
9 estate of inheritance in fee simple in the lands therein described, to  
10 be vested in the plaintiff.

11       (b) Such judgment shall be binding and final upon all persons  
12 having a vested or contingent title or interest in or lien or claim  
13 upon or against said lands, including the State of New Jersey, and  
14 any agency and political subdivision thereof, and their heirs,  
15 devisees and personal representatives, and their, or any of their  
16 heirs, devisees, executors, administrators, grantees, assigns or  
17 successors in right, title or interest, notwithstanding any infancy or  
18 incompetency of such person or persons, and upon all other persons,  
19 their heirs, devisees and personal representatives and their or any of  
20 their heirs, devisees, executors, administrators, grantees, assigns or  
21 successors in right, title or interest.

22       In order to preserve any equity that may exist in the property  
23 being foreclosed, the owner, or the owner's heirs, shall have the  
24 right to demand, by written request to the Superior Court, no later  
25 than 45 days after being served with the foreclosure complaint, or  
26 the publication of the notice concerning the foreclosure, whichever  
27 is later, that the holder of the tax sale certificate be foreclosed with  
28 a judicial sale as in the manner of the foreclosure of a mortgage of  
29 the property through the office of the county sheriff, or, in the  
30 alternative, an Internet auction of the property through the office of  
31 the county sheriff. If there is more than one schedule in the in rem  
32 foreclosure complaint and a request is made for a judicial sale as in  
33 the manner of the foreclosure of a mortgage, or an Internet auction  
34 through the office of the county sheriff, the schedule shall be  
35 severed and the final judgment shall provide for a writ of execution  
36 to the sheriff of the county where the property is located and the  
37 holding of either a judicial sale as in the manner of the foreclosure  
38 of a mortgage or an Internet auction, as appropriate.

39       In the event that the owner or the owner's heirs do not demand a  
40 judicial sale as in the manner of the foreclosure of a mortgage, or an  
41 Internet auction through the office of the county sheriff, the holder  
42 of the tax sale certificate may proceed in rem without a judicial sale  
43 as in the manner of the foreclosure of a mortgage, or an Internet  
44 auction through the office of the county sheriff, and the owner or  
45 his heirs shall have no claim against the holder of the tax sale  
46 certificate for any loss of equity in the property. The amount  
47 received at a judicial sale as in the manner of the foreclosure of a  
48 mortgage, or an Internet auction through the office of the county

1 sheriff, shall be conclusively presumed to be the fair market value  
2 of the property. In the event that no one bids at the judicial sale as  
3 in the manner of the foreclosure of a mortgage or the Internet  
4 auction through the office of the county sheriff above the amount to  
5 redeem or there is no bidding at all, it shall be conclusively  
6 presumed that there is no equity in the property.

7 The sheriff of the county shall deposit with the clerk of the  
8 Superior Court any surplus funds derived from the judicial sale as  
9 in the manner of the foreclosure of a mortgage or the Internet  
10 auction, after all of the costs to the office of the county sheriff of  
11 holding the judicial sale as in the manner of the foreclosure of a  
12 mortgage or the Internet auction, have been withheld by the sheriff  
13 from those funds of the sale, after paying the amount of the  
14 judgment plus any costs to the holder of the tax sale certificate. All  
15 subsequent lienholders named in the foreclosure shall have the right  
16 to apply to the Superior Court, in writing, for payment of their lien  
17 in the order of their priority. All subsequent lienholders named in  
18 the foreclosure shall have the right to apply to the Superior court for  
19 any surplus funds, in the order of their priority, not later than the  
20 first day of the seventh month next following the issuance of the  
21 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
22 any remaining surplus funds and shall be entitled to make written  
23 application to the court for the payment of the surplus. After five  
24 years from the date of the judicial sale as in the manner of the  
25 foreclosure of a mortgage, the clerk of the court shall make  
26 payment of any unclaimed monies to the holder of the tax sale  
27 certificate. If the holder of the tax sale certificate is unable to be  
28 located, the funds shall revert to the municipality wherein the  
29 property is located, and shall be paid by the clerk of the court to the  
30 chief financial officer of the municipality.

31 As used in this subsection, "surplus funds" shall have the same  
32 meaning as set forth in R.S.54:5-87.

33 (c) In the event that any federal statute or regulation requires a  
34 judicial sale as in the manner of the foreclosure of a mortgage of the  
35 property in order to debar and foreclose a mortgage interest or any  
36 other lien held by the United States or any agency or  
37 instrumentality thereof, then the tax lien may be foreclosed in the  
38 same manner as a mortgage, and the final judgment shall provide  
39 for the issuance of a writ of execution to the sheriff of the county  
40 wherein the property is situated and the holding of a judicial sale as  
41 in the manner of the foreclosure of a mortgage.

42 (cf: P.L.1995, c.326, s.3)

43  
44 8. (New section) With respect to any property tax lien  
45 foreclosure actions pending on the date of enactment of the  
46 amendatory and supplementary provisions of P.L. , c. (C. )  
47 (pending before the Legislature as this bill), a property owner shall  
48 be personally served in writing with a notice of their right to

1 demand a judicial sale as in the manner of the foreclosure of a  
2 mortgage, or an Internet auction by the office of the county sheriff,  
3 and shall have 45 days after such service to notify the court of their  
4 demand for a judicial sale as in the manner of the foreclosure of a  
5 mortgage or an Internet auction by the office of the county sheriff.  
6 If the property owner demands a judicial sale as in the manner of  
7 the foreclosure of a mortgage, or an Internet auction by the office of  
8 the county sheriff, in a timely manner, the foreclosure complaint  
9 shall be amended by the tax lien holder to require such a sale or  
10 auction. If no timely demand is made for a judicial sale as in the  
11 manner of the foreclosure of a mortgage or an internet auction by  
12 the office of the county sheriff, the foreclosure action shall proceed  
13 without a judicial sale as in the manner of the foreclosure of a  
14 mortgage or an Internet auction through the office of the county  
15 sheriff.

16  
17 9. This act shall take effect immediately, and shall apply to any  
18 property tax lien foreclosure complaint filed on or after May 25,  
19 2023. This act shall have no effect on any foreclosure action in  
20 which a final judgment has been entered prior to the effective date  
21 of this act.

22 STATEMENT

23  
24 This bill would revise the “tax sale law,” R.S.54:5-1 et seq., and  
25 the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-  
26 104.29 et seq.), to bring those laws into compliance with the recent  
27 United States Supreme Court decision in Tyler v. Hennepin County,  
28 Minnesota, et al., 143 S. Ct. 1369 (2023) concerning the ability of a  
29 property owner, whose right to redeem a tax lien on their property  
30 has been foreclosed by the holder of a tax sale certificate, to receive  
31 any of the owner’s equity remaining in the property after the tax  
32 lien foreclosure.

33 Under current State law, the holder of a tax sale certificate, after  
34 six months, in the case of a municipality that holds the tax sale  
35 certificate or in the case of the holder of a tax sale certificate on a  
36 property that is abandoned, or after two years, in the case of a third  
37 party lienholder, may file suit in Superior Court to foreclose the  
38 right of the property owner to redeem the tax lien. Upon the  
39 foreclosure, the lienholder will receive title to the property and all  
40 of the equity remaining in the property, leaving the former property  
41 owner with no funds from the foreclosure with which to purchase  
42 another property.

43 In the Tyler decision, the Supreme Court determined that  
44 Hennepin County could not keep the equity in the property beyond  
45 the amount it was owed for overdue property taxes and interest  
46 thereon. Under the Court’s ruling, that excess equity was  
47 considered as property that could not be taken from the former

1 property owner consistent with the takings clause restrictions of the  
2 5th Amendment of the United States Constitution.

3 This bill would amend current law to permit a property owner to  
4 require a judicial sale as in the manner of the foreclosure of a  
5 mortgage of the property by the county sheriff in the same manner  
6 as mortgage foreclosures are subject to a judicial sale as in the  
7 manner of the foreclosure of a mortgage, or an Internet auction of  
8 the property through the office of the county sheriff. The property  
9 owner would have to make a motion to the Superior Court for either  
10 a judicial sale as in the manner of the foreclosure of a mortgage or  
11 an Internet auction of the property by the office of the county  
12 sheriff within 45 days of receiving the complaint for foreclosure or,  
13 in the case of an in rem foreclosure, within 45 days of receiving the  
14 complaint for foreclosure or the publication of the notice of  
15 foreclosure as required by law, whichever date is later. The  
16 property owner would be advised of this information, in boldface  
17 type, with the service of the complaint for foreclosure.

18 This bill would not require a judicial sale as in the manner of the  
19 foreclosure of a mortgage or an Internet auction of the property  
20 through the office of the county sheriff if the property owner does  
21 not make a demand for one. This would save the lien holder from  
22 incurring substantial costs associated with a judicial sale as in the  
23 manner of the foreclosure of a mortgage or Internet auction of the  
24 property through the office of the county sheriff. Many owners  
25 have no equity in their property to protect during a tax lien  
26 foreclosure. However, any property owner who wants a judicial  
27 sale as in the manner of the foreclosure of a mortgage or an Internet  
28 auction of the property through the office of the county sheriff will  
29 be able to obtain one by simply requesting one from the court.

[First Reprint]

**SENATE, No. 2334**

**STATE OF NEW JERSEY**  
**221st LEGISLATURE**

INTRODUCED JANUARY 25, 2024

**Sponsored by:**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Senator Amato**

**SYNOPSIS**

Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity.

**CURRENT VERSION OF TEXT**

As reported by the Senate Community and Urban Affairs Committee on May 6, 2024, with amendments.



**(Sponsorship Updated As Of: 2/5/2024)**

1 AN ACT revising the process for a property tax lien holder to  
 2 foreclose the right to redeem a property tax lien, amending  
 3 various parts of the statutory law, and supplementing chapter 5  
 4 of Title 54 of the Revised Statutes and P.L.1948, c.96 (C.54:5-  
 5 104.29 et seq.).

6  
 7 **BE IT ENACTED** by the Senate and General Assembly of the State  
 8 of New Jersey:

9  
 10 1. R.S.54:5-33 is amended to read as follows:

11 54:5-33. a. Payment for the sale shall be made before the  
 12 conclusion of the sale, or the property shall be resold. Any  
 13 premium payment shall be held by the collector and returned to the  
 14 purchaser of the fee if and when redemption is made. If redemption  
 15 is not made within five years from date of sale the premium  
 16 payment shall be turned over to the treasurer of the municipality  
 17 and become a part of the funds of the municipality. In the event  
 18 that a petition of bankruptcy has been filed by the property owner,  
 19 the five year limitation shall be extended for each day that the  
 20 foreclosure action is precluded by that bankruptcy filing.

21 b. ~~1~~**[If the tax sale certificate is redeemed through]** In the event  
 22 a property is required to be sold at<sup>1</sup> a judicial sale as in the manner  
 23 of the foreclosure of a mortgage or ~~1~~**[through]**<sup>1</sup> an Internet auction  
 24 through the office of the county sheriff, ~~1~~**[and the redemption is**  
 25 **made]** the premium shall be refunded to the lienholder if,<sup>1</sup> within  
 26 five years of the date of the tax sale, ~~1~~**[the tax collector shall refund**  
 27 **the premium to the holder of the tax sale certificate]** the writ of  
 28 execution is sent to the county sheriff's office to schedule the  
 29 judicial sale or Internet auction.<sup>1</sup>

30 In the event that the holder of the tax sale certificate, or an  
 31 assignee, is the successful bidder at the judicial sale ~~1~~**[as in the**  
 32 **manner of the foreclosure of a mortgage]**<sup>1</sup> or ~~1~~**[an]**<sup>1</sup> the<sup>1</sup> Internet  
 33 auction ~~1~~**[through the office of the county sheriff]**<sup>1</sup>, the tax  
 34 collector shall not refund any premium.

35 <sup>1</sup>Any premium that is due to escheat to the municipality in 2024  
 36 shall be extended one year.<sup>1</sup>

37 (cf: P.L.2009, c.320, s.7)

38  
 39 <sup>1</sup>2. R.S.54:5-86 is amended to read as follows:

40 54:5-86. a. When the municipality is the purchaser of a tax sale  
 41 certificate, the municipality, or its assignee or transferee, may, at  
 42 any time after the expiration of the term of six months from the date  
 43 of sale, institute an action to foreclose the right of redemption.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCU committee amendments adopted May 6, 2024.

1 Except as provided in subsection a. of section 39 of P.L.1996, c.62  
2 (C.55:19-58) or as provided in subsection b. of this section, for all  
3 other persons that do not acquire a tax sale certificate from a  
4 municipality, an action to foreclose the right of redemption may be  
5 instituted at any time after the expiration of the term of two years  
6 from the date of sale of the tax sale certificate. On instituting the  
7 action the right to redeem shall exist and continue until barred by  
8 the judgment of the Superior Court, except as set forth in R.S.54:5-  
9 87.

10 b. Any person or municipality holding a tax sale certificate on  
11 a property that meets the definition of abandoned property as set  
12 forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the  
13 tax sale or thereafter, may at any time file an action with the  
14 Superior Court in the county wherein said municipality is situate,  
15 demanding that the right of redemption on such property be barred,  
16 pursuant to the "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax  
17 Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.).  
18 The filing shall include a certification by the public officer or the  
19 tax collector that the property is abandoned, provided pursuant to  
20 subsection d. of section 6 of P.L.2003, c.210 (C.55:19-83). In the  
21 event that the certificate holder has unsuccessfully sought such  
22 certification from the public officer or tax collector, as the case may  
23 be, the certificate holder may submit to the court evidence that the  
24 property is abandoned, accompanied by a report and sworn  
25 statement by an individual holding appropriate licensure or  
26 professional qualifications, and shall provide a copy of those  
27 documents submitted to the court to the public officer and the tax  
28 collector. On the basis of this submission and any submission  
29 provided by the public officer or tax collector, as the case may be,  
30 the court shall determine whether the property meets the definition  
31 of abandoned property.

32 c. Any person holding a tax sale certificate on a property that  
33 meets the definition of abandoned property as set forth in P.L.2003,  
34 c.210 (C.55:19-78 et al.), either at the time of the tax sale or  
35 thereafter, may enter upon that property at any time after written  
36 notice to the owner by certified mail return receipt requested in  
37 order to make repairs, or abate, remove or correct any condition  
38 harmful to the public health, safety and welfare, or any condition  
39 that is materially reducing the value of the property.

40 d. Any sums incurred or advanced pursuant to subsection c. of  
41 this section may be added to the unpaid balance due the holder of  
42 the tax sale certificate at the statutory interest rate for subsequent  
43 liens.<sup>1</sup>

44 (cf: P.L.2015, c.16, s.1)

45

46 <sup>1</sup>[2.] 3.<sup>1</sup> R.S.54:5-87 is amended to read as follows:

47 54:5-87. a. The Superior Court, in an action to foreclose the  
48 right of redemption <sup>1</sup>brought pursuant to subsection b. of R.S.54:5-

1 86<sup>1</sup>, may give full and complete relief under this chapter, in  
2 accordance with other statutory authority of the court, to bar the  
3 right of redemption<sup>1</sup>, to bar claims to surplus equity,<sup>1</sup> and to  
4 foreclose all prior or subsequent alienations and descents of the  
5 lands and encumbrances thereon, except subsequent municipal  
6 liens, and to adjudge an absolute and indefeasible estate of  
7 inheritance in fee simple, to be vested in the purchaser. The  
8 judgment shall be final upon the defendants, their heirs, devisees  
9 and personal representatives, and their or any of their heirs,  
10 devisees, executors, administrators, grantees, assigns or successors  
11 in right, title or interest and no application shall be entertained to  
12 reopen the judgment after three months from the date thereof, and  
13 then only upon the grounds of lack of jurisdiction or fraud in the  
14 conduct of the suit. Such judgment and recording thereof shall not  
15 be deemed a sale, transfer, or conveyance of title or interest to the  
16 subject property under the provisions of the "Uniform Voidable  
17 Transactions Act," R.S.25:2-20 et seq. <sup>1</sup>An action brought pursuant  
18 to subsection b. of R.S.54:5-86 shall not require a judicial sale as in  
19 the manner of the foreclosure of a mortgage or an Internet auction  
20 through the office of the county sheriff.<sup>1</sup>

21 b. In <sup>1</sup>an action brought pursuant to subsection a. of R.S.54:5-  
22 86, in<sup>1</sup> order to preserve any equity that may exist in the property  
23 being foreclosed, the owner, or the owner's heirs, shall have the  
24 right to demand, by written request to the Superior Court <sup>1</sup>[no later  
25 than 45 days after being served with the foreclosure complaint]  
26 before the date that the final judgment is entered<sup>1</sup>, that the holder  
27 of the tax sale certificate foreclose the right to redeem that  
28 certificate in the same manner as a mortgage, through a judicial sale  
29 as in the manner of the foreclosure of a mortgage of the property  
30 through the office of the county sheriff, or in the alternative,  
31 through an Internet auction of the property through the office of the  
32 county sheriff. The final judgment shall provide for a writ of  
33 execution to the sheriff of the county in which the property is  
34 located, and the holding of either a judicial sale <sup>1</sup>[as in the manner  
35 of the foreclosure of a mortgage,]<sup>1</sup> or an Internet auction. In the  
36 event that the owner or the owner's heirs do not demand a judicial  
37 sale <sup>1</sup>[as in the manner of the foreclosure of a mortgage,]<sup>1</sup> or an  
38 Internet auction, the owner of the tax sale certificate may proceed  
39 under subsection a. of this section and foreclose without a judicial  
40 sale <sup>1</sup>[as in the manner of the foreclosure of a mortgage,]<sup>1</sup> or an  
41 Internet auction,<sup>1</sup> and the owner and the owner's heirs shall have no  
42 claim against the holder of the tax sale certificate for any equity in  
43 the property. The amount received through the judicial sale <sup>1</sup>[as in  
44 the manner of the foreclosure of a mortgage,]<sup>1</sup> or <sup>1</sup>[through]<sup>1</sup> the  
45 Internet auction, as appropriate, shall be conclusively presumed to  
46 be the fair market value of the property. In the event that no one

1 bids on the property through the judicial sale <sup>1</sup> [as in the manner of  
2 the foreclosure of a mortgage] <sup>1</sup> or <sup>1</sup> [at]  the Internet auction, and  
3 the owner of the tax sale certificate obtains fee title from the sheriff,  
4 it shall be conclusively presumed that there is no equity in the  
5 property. In the event that the sheriff has not established an Internet  
6 auction, the <sup>1</sup> [defendant]  owner or the owner's heirs <sup>1</sup>  shall only be  
7 entitled to a judicial sale as in the manner of the foreclosure of a  
8 mortgage.

9 The sheriff of the county shall deposit with the clerk of the  
10 Superior Court any surplus funds derived from the judicial sale <sup>1</sup> [as  
11 in the manner of the foreclosure of a mortgage] <sup>1</sup> or the Internet  
12 auction, as appropriate, after the holder of the tax sale certificate  
13 has been paid the redemption moneys, allowable costs, and  
14 attorney's fees as set forth by the court in the final judgment of  
15 foreclosure. The sheriff shall deduct the costs to the office of the  
16 county sheriff of holding the judicial sale <sup>1</sup> [as in the manner of the  
17 foreclosure of a mortgage] <sup>1</sup> or <sup>1</sup> the  Internet auction, as  
18 appropriate, <sup>1</sup> which shall <sup>1</sup>  have been withheld by the sheriff from  
19 those funds. <sup>1</sup> [All subsequent lienholders named in the foreclosure  
20 shall have the right to file a motion in the Superior Court for any  
21 surplus funds, in the order of their priority, not later than the first  
22 day of the seventh month next following the issuance of the  
23 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
24 any remaining surplus, and shall be entitled to file a motion to the  
25 court for the payment of the surplus. After five years from the date  
26 of the judicial sale as in the manner of the foreclosure of a  
27 mortgage, the clerk of the court shall pay any unclaimed monies to  
28 the holder of the tax sale certificate. If the holder of the tax sale  
29 certificate is unable to be located, the funds shall revert to the  
30 municipality wherein the property is located, and shall be paid by  
31 the clerk of the court to the chief financial officer of the  
32 municipality.] The process set forth in this section shall be the  
33 exclusive method through which the owner, or the owner's heirs,  
34 may claim and receive any surplus funds.

35 Application for, and distribution of, surplus moneys held by the  
36 clerk of the court shall be made in accordance with N.J.S.2A:50-37  
37 and the applicable Rules of Court.

38 Notwithstanding the provisions of N.J.S.2A:50-64, interest shall  
39 continue to accrue on the tax sale certificate pursuant to R.S.54:4-  
40 67 through the date of actual payment. <sup>1</sup>

41 As used in this section, "surplus funds" shall mean and include  
42 any funds derived from the judicial sale as in the manner of the  
43 foreclosure of a mortgage or <sup>1</sup> the  Internet auction through the  
44 office of the county sheriff of a property pursuant to this section,  
45 after the holder of the tax sale certificate has been fully redeemed,  
46 and paid moneys due and owing to the holder of the tax sale  
47 certificate. The redemption amount shall also include any costs

1 charged by the sheriff to the holder of the tax sale certificate to  
2 conduct the judicial sale as in the manner of the foreclosure of a  
3 mortgage or the Internet auction.

4 c. In the event that any federal statute or regulation requires a  
5 judicial sale as in the manner of the foreclosure of a mortgage of the  
6 property in order to debar and foreclose a mortgage interest or any  
7 other lien held by the United States or any agency or  
8 instrumentality thereof, then the tax lien may be foreclosed in the  
9 same manner as a mortgage, and the final judgment shall provide  
10 for the issuance of a writ of execution to the sheriff of the county  
11 wherein the property is situated and the holding of a judicial sale as  
12 in the manner of the foreclosure of a mortgage.  
13 (cf: P.L.2021, c.92, s.23)

14

15 <sup>1</sup>[3. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to  
16 read as follows:

17 7. **【No search fee, counsel fee or other fee related to certified**  
18 **mailings shall be allowed a plaintiff other than a municipality in the**  
19 **foreclosure of a tax lien unless, prior to the filing of the complaint,**  
20 **the plaintiff shall have given】** At least 30 【days’ written notice to  
21 the parties entitled to redeem whose interests appear of record at the  
22 time of the tax sale,】 days prior to the filing of a complaint, the  
23 holder of a tax sale certificate shall send all parties having a right to  
24 redeem a notice of intention to file a complaint. The notice to the  
25 owner, or the owner’s heirs, shall be addressed to the last known  
26 address contained in the municipal records. The notice to any other  
27 parties having a right to redeem shall be sent to the address  
28 contained in any document recorded with the county clerk or  
29 register. The notice shall be sent by certified mail with postage  
30 prepaid thereon 【, addressed to the last known address of such  
31 persons, of intention to file such complaint】. The notice shall also  
32 contain the amount 【due on such】 necessary to redeem the  
33 outstanding tax 【lien】 sale certificate 【as of the date of the notice】.  
34 The notice shall also advise the owner, or the owner’s heirs, that the  
35 owner, or the owner’s heirs, shall have the right to request a judicial  
36 sale as in the manner of the foreclosure of a mortgage or an Internet  
37 auction of the property through the office of the county sheriff, to  
38 preserve any equity that may be in the property. A copy of 【such】  
39 the notice shall also be filed with the municipal tax collector’s  
40 office. 【Upon the filing and service of such notice, a plaintiff shall  
41 be entitled to such fees and expenses.】

42 A municipality, by ordinance, may authorize the tax collector to  
43 charge to a lienholder a fee not to exceed \$50 for the calculation of  
44 the amount due to redeem the tax lien required to be provided  
45 pursuant to this section. Any request for a redemption calculation  
46 shall specify the date to be used for the calculation, which shall be  
47 the date of the notice. Neither the tax collector or the municipality

1 shall be liable for an incorrect calculation. The fee paid to the  
2 municipality shall not become part of the lien and shall not be  
3 passed on to any party entitled to redeem pursuant to R.S.54:5-54.  
4 (cf: P.L.2009, c.320, s.11)】<sup>1</sup>

5  
6 <sup>14.</sup> Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to  
7 read as follows:

8 7. No search fee, counsel fee or other fee related to certified  
9 mailings shall be allowed a plaintiff other than a municipality in the  
10 foreclosure of a tax lien unless, prior to the filing of the complaint,  
11 the plaintiff shall have given at least 30 days' written notice to the  
12 parties entitled to redeem whose interests appear of record at the  
13 time of the tax sale【,】 . The notice shall be sent by certified mail  
14 with postage prepaid thereon, addressed to the last known address  
15 of such persons, 【of intention to file such complaint】 and the  
16 owner's address based upon the last deed of record with the county  
17 clerk. The notice shall also contain the amount 【due on such】  
18 necessary to redeem the outstanding tax 【lien】 sale certificate as of  
19 the date of the notice. The notice shall also advise the owner that  
20 the owner, or the owner's heirs, shall have the right to request a  
21 judicial sale as in the manner of the foreclosure of a mortgage or an  
22 Internet auction of the property through the office of the county  
23 sheriff, to preserve any equity that may be in the property, except if  
24 the property meets the definition of abandoned property. A copy of  
25 【such】 the notice shall also be filed with the municipal tax  
26 collector's office. Upon the filing and service of such notice, a  
27 plaintiff shall be entitled to such fees and expenses.

28 A municipality, by ordinance, may authorize the tax collector to  
29 charge to a lienholder a fee not to exceed \$50 for the calculation of  
30 the amount due to redeem the tax lien required to be provided  
31 pursuant to this section. Any request for a redemption calculation  
32 shall specify the date to be used for the calculation, which shall be  
33 the date of the notice. Neither the tax collector or the municipality  
34 shall be liable for an incorrect calculation. 【The fee paid to the  
35 municipality shall not become part of the lien and shall not be  
36 passed on to any party entitled to redeem pursuant to R.S.54:5-54.】<sup>1</sup>  
37 (cf: P.L.2009, c.320, s.11)

38  
39 <sup>15.</sup> R.S.54:5-98 is amended to read as follows:

40 54:5-98. a. After the complaint has been filed redemption shall  
41 be made in that cause only, provided notice of the suit has been  
42 filed in the office of the tax collector. Such redemption shall be  
43 subject to the fixing of attorney's fees and costs at any time during  
44 the course of the action. In such proceedings the court may order  
45 that the redemption shall be made to the tax collector of the  
46 municipality at his official office during business hours, except in  
47 cases where the tax collector is a part-time official with no regular

1 municipal office, in which case it may order that the redemption  
2 shall be made to the clerk of the county in which the premises lie.

3 b. After the notice of intention to file a complaint has been  
4 served pursuant to section 7 of P.L.1965, c.187 (C.54:5-97.1) but  
5 before the foreclosure complaint is filed, the holder of the tax sale  
6 certificate shall be reimbursed for the following expenses actually  
7 incurred, which expenses shall be added to the amount required to  
8 redeem the tax sale certificate and certified by the holder of the tax  
9 sale certificate to the tax collector:

10 (1) a foreclosure or title search fee, not to exceed \$350;

11 (2) the postage and certified mailing costs for notices required  
12 under section 7 of P.L.1965, c.187 (C.54:5-97.1);

13 (3) reasonable attorney's fees, not to exceed \$150; and

14 (4) any fees paid to a municipality for the calculation of the  
15 amount due to redeem the tax lien.

16 c. If an action to foreclose the right of redemption has been  
17 filed, the plaintiff or the holder of the tax sale certificate shall be  
18 reimbursed the following amounts for each property to be  
19 foreclosed, which amounts shall be added to the amount required to  
20 redeem the tax sale certificate:

21 (1) attorney's fees in the amount of \$2,500, which amount shall  
22 be deemed reasonable for both the preparation and the filing of the  
23 action to foreclose the right to redeem the tax sale certificate;

24 (2) in exceptional circumstances or in the event of litigation or  
25 bankruptcy, any additional reasonable attorney's fees that are  
26 incurred and specifically requested by the plaintiff or holder of a tax  
27 sale certificate and approved by the court, on a case-by-case basis,  
28 through the date on which any litigation has finally concluded; and

29 (3) the following reasonable expenses, provided that the counsel  
30 of the plaintiff or the holder of a tax sale certificate provides a  
31 signed affidavit attesting that such expenses actually were incurred  
32 by the plaintiff or the tax sale certificate holder:

33 (a) all filing fees charged by the court;

34 (b) all reasonable service of process fees, or fees for service of  
35 any pleadings require by the Rules of Court or by the court,  
36 including fees for attempting to serve process;

37 (c) all reasonable fees incurred for skip traces, registered agent  
38 searches, and other reasonable fees incurred to locate any party for  
39 service of process;

40 (d) a title or foreclosure search fee not to exceed \$350, except in  
41 circumstances of an exceptionally complicated title, an application  
42 may be made to the court to increase the title or foreclosure search  
43 fee;

44 (e) if a second, updated title or foreclosure search is conducted,  
45 an update search fee not to exceed \$100;

46 (f) publication fees charged by a newspaper of general  
47 circulation in the county in which the property is located or  
48 otherwise required by the Rules of Court or order of the court;

- 1        (g) posting fees;  
2        (h) estate search costs;  
3        (i) postage, certified mail, and photocopying expenses;  
4        (j) actual cost to record and discharge notice of lis pendens and  
5 in rem complaint;  
6        (k) all sheriff's office fees, including, but not limited to,  
7 commission or expense for scheduling a sheriff's sale of the  
8 property;  
9        (l) abandoned property certification reports not to exceed \$350;  
10       (m) any fees paid to a municipality for the calculation of the  
11 amount due to redeem the tax lien;  
12       (n) in exceptional circumstances or in the event of litigation or  
13 bankruptcy, any additional reasonable expenses that are incurred  
14 and specifically requested by the plaintiff or holder of a tax sale  
15 certificate and approved by a court, on a case-by-case basis through  
16 the date on which any litigation is concluded; and  
17       (o) any other reasonable expenses incurred by the plaintiff or the  
18 holder of the tax sale certificate in locating and effectuating service  
19 on any party named as a defendant in the complaint.<sup>1</sup>  
20 (cf: P.L.1965, c.187, s.8)

21  
22       <sup>1</sup>**[4.] 6.**<sup>1</sup> (New section) a. <sup>1</sup>**[The]** In actions commenced  
23 pursuant to subsection a. of R.S.54:5-86, the<sup>1</sup> holder of the tax sale  
24 certificate shall provide to the owner of the property, in writing,  
25 with the summons and complaint for foreclosure, information  
26 prominently displayed in bold face type that states that the owner of  
27 the property being foreclosed has the right to demand, in writing <sup>1</sup>to  
28 the Superior Court before the date that the final judgment is  
29 entered<sup>1</sup>, that the foreclosure proceed to a judicial sale as in the  
30 manner of the foreclosure of a mortgage or an Internet auction of  
31 the property, through the office of the county sheriff.

32       <sup>1</sup>**[If the holder of the tax sale certificate has complied with this**  
33 **subsection and the provisions of section 7 of P.L.1965, c.187**  
34 **(C.54:5-97.1), that person shall be entitled to recover all reasonable**  
35 **attorney's fees and costs of foreclosure, including all costs**  
36 **associated with the judicial sale as in the manner of the foreclosure**  
37 **of a mortgage.]**<sup>1</sup> In the event that all costs and reasonable  
38 attorney's fees are not recovered through the judicial sale as in the  
39 manner of the foreclosure of a mortgage or the Internet auction  
40 through the office of the county sheriff, the holder of the tax sale  
41 certificate shall have a first lien paramount to any other lien on any  
42 surplus funds and shall be entitled to apply to the Superior Court to  
43 recover any unpaid costs or attorney's fees.

44       b. In the event that the owner, or the owner's heirs, has  
45 demanded a judicial sale as in the manner of the foreclosure of a  
46 mortgage or an Internet auction through the office of the county  
47 sheriff, the holder of the tax sale certificate, whether a municipality

1 or third party investor, shall be entitled to a first lien on any surplus  
2 funds that are deposited in the Superior Court by the sheriff, in the  
3 amount of 10 percent of the surplus funds, to cover administrative  
4 costs related to the foreclosure action, not to exceed \$5,000.

5 c. As used in this section, "surplus funds" shall have the same  
6 meaning as set forth in R.S.54:5-87.

7  
8 <sup>1</sup>**[5.] 7.** (New section) <sup>1</sup>**[The]** In actions commenced by a  
9 municipality pursuant to subsection a. of R.S.54:5-86, the<sup>1</sup> notice of  
10 foreclosure required to be served on the owner and published in the  
11 newspaper shall conspicuously state in boldface type that the owner  
12 and the owner's heirs shall have the right to demand a judicial sale  
13 as in the manner of the foreclosure of a mortgage, or an Internet  
14 auction through the office of the county sheriff, of the property  
15 subject to the tax lien foreclosure to preserve any equity that they  
16 may have in the property.

17 The notice shall state that the owner, or the owner's heirs, has  
18 <sup>1</sup>**[45 days from the date of service of the foreclosure complaint]**  
19 until the date of entry of a final judgment<sup>1</sup> to file the written request  
20 <sup>1</sup>with the Superior Court<sup>1</sup> for a judicial sale as in the manner of the  
21 foreclosure of a mortgage or an Internet auction through the office  
22 of the county sheriff with the Superior Court.

23  
24 <sup>1</sup>**[6.] 8.** Section 31 of P.L.1948, c.96 (C.54:5-104.59) is  
25 amended to read as follows:

26 31. a. <sup>1</sup>**[All]** In an action commenced by a municipality, all<sup>1</sup>  
27 costs and reasonable attorney fees<sup>1</sup>, as determined by order of the  
28 court,<sup>1</sup> incurred in **[the]** an in rem foreclosure action shall be  
29 equitably apportioned and allocated to the several **[parcels of land**  
30 affected by the action] schedules of the complaint, and added to the  
31 amount required to redeem.

32 b. For the purposes of this section, "all costs and reasonable  
33 attorney fees" includes all costs incurred **[for a standard title**  
34 search] with respect to the in rem foreclosure proceeding and all  
35 reasonable attorney fees incurred in the action, including any<sup>1</sup>**[,]**<sup>1</sup>  
36 and all<sup>1</sup>**[,]**<sup>1</sup> costs incurred for a judicial sale as in the manner of the  
37 foreclosure of a mortgage<sup>1</sup>**[,]**<sup>1</sup> or an Internet auction through the  
38 office of the county sheriff<sup>1</sup>**[,]**<sup>1</sup> of the property subject to the in  
39 rem foreclosure<sup>1</sup>, which amounts shall be determined by the court  
40 and shall fully compensate the holder of the tax sale certificate for  
41 all such reasonable incurred expenses<sup>1</sup>.

42 In the event that the holder of the tax sale certificate shall have  
43 incurred any costs or attorney's fees in the judicial sale <sup>1</sup>**[as in the**  
44 manner of the foreclosure of a mortgage]<sup>1</sup> or <sup>1</sup>the<sup>1</sup> Internet auction  
45 <sup>1</sup>**[through the office of the county sheriff]**<sup>1</sup> that were not  
46 reimbursed in the redemption monies received from the sheriff, the

1 holder of the tax sale certificate shall have a first lien on any  
2 surplus funds for reimbursement of those costs and reasonable  
3 attorney's fees. As used in this section, "surplus funds" shall have  
4 the same meaning as set forth in R.S.54:5-87.

5 <sup>1</sup>c. In the event that a complaint is filed by a municipality that  
6 contains not more than one tax sale certificate, the municipality  
7 shall be entitled to the reimbursement of attorney's fees and costs  
8 pursuant to R.S.54:5-98.

9 d. In the event that a complaint is filed by the holder of a tax  
10 sale certificate for an abandoned property pursuant to subsection b.  
11 of R.S.54:5-86, the holder shall be entitled to the reimbursement of  
12 attorney's fees and costs pursuant to R.S.54:5-98.<sup>1</sup>

13 (cf: P.L.1993, c.278, s.1)

14  
15 <sup>1</sup>**[7.]** 9.<sup>1</sup> Section 36 of P.L.1948, c.96 (C.54:5-104.64) is  
16 amended to read as follows:

17 36. (a) <sup>1</sup>**[The]** In an action commenced by any person or a  
18 municipality holding a tax sale certificate for an abandoned  
19 property pursuant to subsection b. of R.S.54:5-86, the<sup>1</sup> judgment  
20 shall give full and complete relief, in accordance with the  
21 provisions of [this act] P.L.1948, c.96 (C.54:5-104.29 et seq.), and  
22 in accordance with any other statutory authority, to bar the right of  
23 redemption, <sup>1</sup>to bar claims to surplus equity,<sup>1</sup> and to foreclose all  
24 prior or subsequent alienations and descents of the lands and  
25 encumbrances thereon, and to adjudge an absolute and indefeasible  
26 estate of inheritance in fee simple in the lands therein described, to  
27 be vested in the plaintiff <sup>1</sup>, except as set forth in subsection d. of  
28 this section<sup>1</sup>.

29 (b) Such judgment shall be binding and final upon all persons  
30 having a vested or contingent title or interest in or lien or claim  
31 upon or against said lands, including the State of New Jersey, and  
32 any agency and political subdivision thereof, and their heirs,  
33 devisees and personal representatives, and their, or any of their  
34 heirs, devisees, executors, administrators, grantees, assigns or  
35 successors in right, title or interest, notwithstanding any infancy or  
36 incompetency of such person or persons, and upon all other persons,  
37 their heirs, devisees and personal representatives and their or any of  
38 their heirs, devisees, executors, administrators, grantees, assigns or  
39 successors in right, title or interest.

40 <sup>1</sup>**[In order to preserve any equity that may exist in the property**  
41 being foreclosed, the owner, or the owner's heirs, shall have the  
42 right to demand, by written request to the Superior Court, no later  
43 than 45 days after being served with the foreclosure complaint, or  
44 the publication of the notice concerning the foreclosure, whichever  
45 is later, that the holder of the tax sale certificate be foreclosed with  
46 a judicial sale as in the manner of the foreclosure of a mortgage of  
47 the property through the office of the county sheriff, or, in the

1 alternative, an Internet auction of the property through the office of  
2 the county sheriff. If there is more than one schedule in the in rem  
3 foreclosure complaint and a request is made for a judicial sale as in  
4 the manner of the foreclosure of a mortgage, or an Internet auction  
5 through the office of the county sheriff, the schedule shall be  
6 severed and the final judgment shall provide for a writ of execution  
7 to the sheriff of the county where the property is located and the  
8 holding of either a judicial sale as in the manner of the foreclosure  
9 of a mortgage or an Internet auction, as appropriate.

10 In the event that the owner or the owner's heirs do not demand a  
11 judicial sale as in the manner of the foreclosure of a mortgage, or an  
12 Internet auction through the office of the county sheriff, the holder  
13 of the tax sale certificate may proceed in rem without a judicial sale  
14 as in the manner of the foreclosure of a mortgage, or an Internet  
15 auction through the office of the county sheriff, and the owner or  
16 his heirs shall have no claim against the holder of the tax sale  
17 certificate for any loss of equity in the property. The amount  
18 received at a judicial sale as in the manner of the foreclosure of a  
19 mortgage, or an Internet auction through the office of the county  
20 sheriff, shall be conclusively presumed to be the fair market value  
21 of the property. In the event that no one bids at the judicial sale as  
22 in the manner of the foreclosure of a mortgage or the Internet  
23 auction through the office of the county sheriff above the amount to  
24 redeem or there is no bidding at all, it shall be conclusively  
25 presumed that there is no equity in the property.

26 The sheriff of the county shall deposit with the clerk of the  
27 Superior Court any surplus funds derived from the judicial sale as  
28 in the manner of the foreclosure of a mortgage or the Internet  
29 auction, after all of the costs to the office of the county sheriff of  
30 holding the judicial sale as in the manner of the foreclosure of a  
31 mortgage or the Internet auction, have been withheld by the sheriff  
32 from those funds of the sale, after paying the amount of the  
33 judgment plus any costs to the holder of the tax sale certificate. All  
34 subsequent lienholders named in the foreclosure shall have the right  
35 to apply to the Superior Court, in writing, for payment of their lien  
36 in the order of their priority. All subsequent lienholders named in  
37 the foreclosure shall have the right to apply to the Superior court for  
38 any surplus funds, in the order of their priority, not later than the  
39 first day of the seventh month next following the issuance of the  
40 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
41 any remaining surplus funds and shall be entitled to make written  
42 application to the court for the payment of the surplus. After five  
43 years from the date of the judicial sale as in the manner of the  
44 foreclosure of a mortgage, the clerk of the court shall make  
45 payment of any unclaimed monies to the holder of the tax sale  
46 certificate. If the holder of the tax sale certificate is unable to be  
47 located, the funds shall revert to the municipality wherein the

1 property is located, and shall be paid by the clerk of the court to the  
2 chief financial officer of the municipality.

3 As used in this subsection, “surplus funds” shall have the same  
4 meaning as set forth in R.S.54:5-87.】 An action brought by the  
5 holder of a tax sale certificate for an abandoned property shall not  
6 require a judicial sale as in the manner of the foreclosure of a  
7 mortgage or an Internet auction through the office of the county  
8 sheriff.<sup>1</sup>

9 (c) In the event that any federal statute or regulation requires a  
10 judicial sale as in the manner of the foreclosure of a mortgage of the  
11 property in order to debar and foreclose a mortgage interest or any  
12 other lien held by the United States or any agency or  
13 instrumentality thereof, then the tax lien may be foreclosed in the  
14 same manner as a mortgage, and the final judgment shall provide  
15 for the issuance of a writ of execution to the sheriff of the county  
16 wherein the property is situated and the holding of a judicial sale as  
17 in the manner of the foreclosure of a mortgage.

18 <sup>1</sup>(d) In an action brought by a municipality, in order to preserve  
19 any equity that may exist in the property being foreclosed, the  
20 owner, or the owner’s heirs, shall have the right to demand, by  
21 written request to the Superior Court before the date that final  
22 judgment is entered, that the municipal tax sale certificate be  
23 foreclosed with a judicial sale as in the manner of the foreclosure of  
24 a mortgage of the property through the office of the county sheriff,  
25 or, in the alternative, an Internet auction of the property through the  
26 office of the county sheriff. If there is more than one schedule in  
27 the in rem foreclosure complaint and a request is made for a judicial  
28 sale or an Internet auction, the schedule shall be severed and the  
29 final judgment shall provide for a writ of execution to the sheriff of  
30 the county where the property is located and the holding of either a  
31 judicial sale or an Internet auction, as appropriate.

32 In the event that the owner or the owner’s heirs do not demand a  
33 judicial sale as in the manner of the foreclosure of a mortgage, or an  
34 Internet auction through the office of the county sheriff, the  
35 municipality may proceed in rem without a judicial sale or an  
36 Internet auction, and the owner or his heirs shall have no claim  
37 against the municipality for any loss of equity in the property. The  
38 amount received at a judicial sale or an Internet auction shall be  
39 conclusively presumed to be the fair market value of the property.  
40 In the event that no one bids at the judicial sale or the Internet  
41 auction above the amount to redeem, or there is no bidding at all, it  
42 shall be conclusively presumed that there is no equity in the  
43 property.

44 The sheriff of the county shall deposit with the clerk of the  
45 Superior Court any surplus funds derived from the judicial sale or  
46 the Internet auction, after all of the costs to the office of the county  
47 sheriff for holding the judicial sale or the Internet auction have been

1 withheld by the sheriff from those funds of the sale, after paying the  
2 amount of the judgment plus any costs to the municipality.

3 Application for and distribution of surplus moneys held by the  
4 clerk of court shall be made in accordance with N.J.S.2A:50-37 and  
5 the applicable Rules of Court.

6 As used in this subsection, “surplus funds” shall have the same  
7 meaning as set forth in R.S.54:5-87.<sup>1</sup>

8  
9 <sup>1</sup>**[8.] 10.**<sup>1</sup> (New section) <sup>1</sup>**[With]** Except for actions involving  
10 a property that meets the definition of abandoned property pursuant  
11 to P.L.2003, c.210 (C.55:19-78 et al.), with<sup>1</sup> respect to any <sup>1</sup>in rem  
12 or in personam<sup>1</sup> property tax lien foreclosure <sup>1</sup>**[actions]** action filed  
13 by a municipality or third party<sup>1</sup> pending on the date of enactment  
14 of the amendatory and supplementary provisions of P.L. , c.  
15 (C. ) (pending before the Legislature as this bill), a property  
16 owner shall be <sup>1</sup>**[personally]**<sup>1</sup> served <sup>1</sup>**[in writing]** by regular and  
17 certified mail<sup>1</sup> with a notice of their right to demand a judicial sale  
18 as in the manner of the foreclosure of a mortgage, or an Internet  
19 auction by the office of the county sheriff, and shall have <sup>1</sup>**[45 days**  
20 after such service] until the date before the final judgment is  
21 entered<sup>1</sup> to notify the <sup>1</sup>**[court]** Superior Court<sup>1</sup> of their demand for  
22 a judicial sale as in the manner of the foreclosure of a mortgage or  
23 an Internet auction by the office of the county sheriff. If the  
24 property owner <sup>1</sup>or the owner’s heir<sup>1</sup> demands a judicial sale as in  
25 the manner of the foreclosure of a mortgage, or an Internet auction  
26 by the office of the county sheriff, in a timely manner, the  
27 <sup>1</sup>**[foreclosure complaint shall be amended by the tax lien holder to**  
28 require such a sale or auction] Superior Court shall order the entry  
29 of a final judgment and writ of execution directing that the property  
30 be sold at a judicial sale<sup>1</sup>. If no timely demand is made for a  
31 judicial sale as in the manner of the foreclosure of a mortgage or an  
32 <sup>1</sup>**[internet]** Internet<sup>1</sup> auction by the office of the county sheriff, the  
33 foreclosure action shall proceed without a judicial sale <sup>1</sup>**[as in the**  
34 manner of the foreclosure of a mortgage]<sup>1</sup> or an Internet auction  
35 through the office of the county sheriff.

36  
37 <sup>1</sup>**[9.] 11.**<sup>1</sup> This act shall take effect immediately, and shall apply  
38 to any <sup>1</sup>**[property tax lien foreclosure complaint filed on or after**  
39 **May 25, 2023]** tax lien for which the right of redemption has not  
40 been foreclosed as of the effective date of this act<sup>1</sup>. This act shall  
41 have no effect on any foreclosure action in which a final judgment  
42 has been entered prior to the effective date of this act.

[Second Reprint]

**SENATE, No. 2334**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED JANUARY 25, 2024

**Sponsored by:**

**Senator BRIAN P. STACK**

**District 33 (Hudson)**

**Senator ANGELA V. MCKNIGHT**

**District 31 (Hudson)**

**Co-Sponsored by:**

**Senators Amato, Burgess and Gopal**

**SYNOPSIS**

Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity.

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on June 24, 2024, with amendments.



**(Sponsorship Updated As Of: 6/28/2024)**

1 AN ACT revising the process for a property tax lien holder to  
 2 foreclose the right to redeem a property tax lien, amending  
 3 various parts of the statutory law, and supplementing chapter 5  
 4 of Title 54 of the Revised Statutes and P.L.1948, c.96 (C.54:5-  
 5 104.29 et seq.).

6  
 7 **BE IT ENACTED** by the Senate and General Assembly of the State  
 8 of New Jersey:

9  
 10 1. R.S.54:5-33 is amended to read as follows:

11 54:5-33. a. Payment for the sale shall be made before the  
 12 conclusion of the sale, or the property shall be resold. Any  
 13 premium payment shall be held by the collector and returned to the  
 14 purchaser of the fee if and when redemption is made. If redemption  
 15 is not made within five years from date of sale the premium  
 16 payment shall be turned over to the treasurer of the municipality  
 17 and become a part of the funds of the municipality. In the event  
 18 that a petition of bankruptcy has been filed by the property owner,  
 19 the five year limitation shall be extended for each day that the  
 20 foreclosure action is precluded by that bankruptcy filing.

21 b. ~~1~~**1**["If the tax sale certificate is redeemed through"] In the event  
 22 a property is required to be sold at<sup>1</sup> a judicial sale as in the manner  
 23 of the foreclosure of a mortgage or ~~1~~**1**["through"]<sup>1</sup> an Internet auction  
 24 through the office of the county sheriff, ~~1~~**1**["and the redemption is  
 25 made"] the premium shall be refunded to the lienholder if,<sup>1</sup> within  
 26 five years of the date of the tax sale, ~~1~~**1**["the tax collector shall refund  
 27 the premium to the holder of the tax sale certificate"] the writ of  
 28 execution is sent to the county sheriff's office to schedule the  
 29 judicial sale or Internet auction.<sup>1</sup>

30 In the event that the holder of the tax sale certificate, or an  
 31 assignee, is the successful bidder at the judicial sale ~~1~~**1**["as in the  
 32 manner of the foreclosure of a mortgage"]<sup>1</sup> or ~~1~~**1**["an"] the<sup>1</sup> Internet  
 33 auction ~~1~~**1**["through the office of the county sheriff"]<sup>1</sup>, the tax  
 34 collector shall not refund any premium.

35 <sup>1</sup>Any premium that is due to escheat to the municipality in 2024  
 36 shall be extended one year.<sup>1</sup>

37 (cf: P.L.2009, c.320, s.7)

38  
 39 <sup>1</sup>2. R.S.54:5-86 is amended to read as follows:

40 54:5-86. a. When the municipality is the purchaser of a tax sale  
 41 certificate, the municipality, or its assignee or transferee, may, at  
 42 any time after the expiration of the term of six months from the date  
 43 of sale, institute an action to foreclose the right of redemption.

**EXPLANATION** – Matter enclosed in bold-faced brackets **["thus"]** in the above bill is  
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCU committee amendments adopted May 6, 2024.

<sup>2</sup>Senate SBA committee amendments adopted June 24, 2024.

1 Except as provided in subsection a. of section 39 of P.L.1996, c.62  
2 (C.55:19-58) or as provided in subsection b. of this section, for all  
3 other persons that do not acquire a tax sale certificate from a  
4 municipality, an action to foreclose the right of redemption may be  
5 instituted at any time after the expiration of the term of two years  
6 from the date of sale of the tax sale certificate. On instituting the  
7 action the right to redeem shall exist and continue until barred by  
8 the judgment of the Superior Court, except as set forth in R.S.54:5-  
9 87.

10 b. Any person or municipality holding a tax sale certificate on  
11 a property that meets the definition of abandoned property as set  
12 forth in P.L.2003, c.210 (C.55:19-78 et al.), either at the time of the  
13 tax sale or thereafter, may at any time file an action with the  
14 Superior Court in the county wherein said municipality is situate,  
15 demanding that the right of redemption on such property be barred,  
16 pursuant to the "tax sale law," R.S.54:5-1 et seq., or the In Rem Tax  
17 Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.).  
18 The filing shall include a certification by the public officer or the  
19 tax collector that the property is abandoned, provided pursuant to  
20 subsection d. of section 6 of P.L.2003, c.210 (C.55:19-83). In the  
21 event that the certificate holder has unsuccessfully sought such  
22 certification from the public officer or tax collector, as the case may  
23 be, the certificate holder may submit to the court evidence that the  
24 property is abandoned, accompanied by a report and sworn  
25 statement by an individual holding appropriate licensure or  
26 professional qualifications, and shall provide a copy of those  
27 documents submitted to the court to the public officer and the tax  
28 collector. On the basis of this submission and any submission  
29 provided by the public officer or tax collector, as the case may be,  
30 the court shall determine whether the property meets the definition  
31 of abandoned property.

32 c. Any person holding a tax sale certificate on a property that  
33 meets the definition of abandoned property as set forth in P.L.2003,  
34 c.210 (C.55:19-78 et al.), either at the time of the tax sale or  
35 thereafter, may enter upon that property at any time after written  
36 notice to the owner by certified mail return receipt requested in  
37 order to make repairs, or abate, remove or correct any condition  
38 harmful to the public health, safety and welfare, or any condition  
39 that is materially reducing the value of the property.

40 d. Any sums incurred or advanced pursuant to subsection c. of  
41 this section may be added to the unpaid balance due the holder of  
42 the tax sale certificate at the statutory interest rate for subsequent  
43 liens.<sup>1</sup>

44 (cf: P.L.2015, c.16, s.1)

45

46 <sup>1</sup>**[2.]** 3.<sup>1</sup> R.S.54:5-87 is amended to read as follows:

47 54:5-87. a. The Superior Court, in an action to foreclose the  
48 right of redemption <sup>1</sup>brought pursuant to subsection b. of R.S.54:5-

1 86<sup>1</sup>, may give full and complete relief under this chapter, in  
2 accordance with other statutory authority of the court, to bar the  
3 right of redemption<sup>1</sup>, to bar claims to surplus equity,<sup>1</sup> and to  
4 foreclose all prior or subsequent alienations and descents of the  
5 lands and encumbrances thereon, except subsequent municipal  
6 liens, and to adjudge an absolute and indefeasible estate of  
7 inheritance in fee simple, to be vested in the purchaser. The  
8 judgment shall be final upon the defendants, their heirs, devisees  
9 and personal representatives, and their or any of their heirs,  
10 devisees, executors, administrators, grantees, assigns or successors  
11 in right, title or interest and no application shall be entertained to  
12 reopen the judgment after three months from the date thereof, and  
13 then only upon the grounds of lack of jurisdiction or fraud in the  
14 conduct of the suit. Such judgment and recording thereof shall not  
15 be deemed a sale, transfer, or conveyance of title or interest to the  
16 subject property under the provisions of the "Uniform Voidable  
17 Transactions Act," R.S.25:2-20 et seq. <sup>1</sup>An action brought pursuant  
18 to subsection b. of R.S.54:5-86 shall not require a judicial sale as in  
19 the manner of the foreclosure of a mortgage or an Internet auction  
20 through the office of the county sheriff.<sup>1</sup>

21 b. In <sup>1</sup>an action brought pursuant to subsection a. of R.S.54:5-  
22 86, in<sup>1</sup> order to preserve any equity that may exist in the property  
23 being foreclosed, the owner, or the owner's heirs, shall have the  
24 right to demand, by written request to the Superior Court <sup>1</sup>[no later  
25 than 45 days after being served with the foreclosure complaint]  
26 before the date that the final judgment is entered<sup>1</sup>, that the holder  
27 of the tax sale certificate foreclose the right to redeem that  
28 certificate in the same manner as a mortgage, through a judicial sale  
29 as in the manner of the foreclosure of a mortgage of the property  
30 through the office of the county sheriff, or in the alternative,  
31 through an Internet auction of the property through the office of the  
32 county sheriff. The final judgment shall provide for a writ of  
33 execution to the sheriff of the county in which the property is  
34 located, and the holding of either a judicial sale <sup>1</sup>[as in the manner  
35 of the foreclosure of a mortgage,]<sup>1</sup> or an Internet auction. In the  
36 event that the owner or the owner's heirs do not demand a judicial  
37 sale <sup>1</sup>[as in the manner of the foreclosure of a mortgage,] or an  
38 Internet auction, the owner of the tax sale certificate may proceed  
39 under subsection a. of this section and foreclose without a judicial  
40 sale <sup>1</sup>[as in the manner of the foreclosure of a mortgage,] or an  
41 Internet auction,<sup>1</sup> and the owner and the owner's heirs shall have no  
42 claim against the holder of the tax sale certificate for any equity in  
43 the property. The amount received through the judicial sale <sup>1</sup>[as in  
44 the manner of the foreclosure of a mortgage,]<sup>1</sup> or <sup>1</sup>[through]<sup>1</sup> the  
45 Internet auction, as appropriate, shall be conclusively presumed to  
46 be the fair market value of the property. In the event that no one  
47 bids on the property through the judicial sale <sup>1</sup>[as in the manner of

1 the foreclosure of a mortgage]<sup>1</sup> or <sup>1</sup>[at] the Internet auction, and  
2 the owner of the tax sale certificate obtains fee title from the sheriff,  
3 it shall be conclusively presumed that there is no equity in the  
4 property. In the event that the sheriff has not established an Internet  
5 auction, the <sup>1</sup>[defendant] owner or the owner's heirs<sup>1</sup> shall only be  
6 entitled to a judicial sale as in the manner of the foreclosure of a  
7 mortgage.

8 The sheriff of the county shall deposit with the clerk of the  
9 Superior Court any surplus funds derived from the judicial sale <sup>1</sup>[as  
10 in the manner of the foreclosure of a mortgage]<sup>1</sup> or the Internet  
11 auction, as appropriate, after the holder of the tax sale certificate  
12 has been paid the redemption moneys, allowable costs, and  
13 attorney's fees as set forth by the court in the final judgment of  
14 foreclosure. The sheriff shall deduct the costs to the office of the  
15 county sheriff of holding the judicial sale <sup>1</sup>[as in the manner of the  
16 foreclosure of a mortgage]<sup>1</sup> or <sup>1</sup>the Internet auction, as  
17 appropriate, which shall<sup>1</sup> have been withheld by the sheriff from  
18 those funds. <sup>1</sup>[All subsequent lienholders named in the foreclosure  
19 shall have the right to file a motion in the Superior Court for any  
20 surplus funds, in the order of their priority, not later than the first  
21 day of the seventh month next following the issuance of the  
22 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
23 any remaining surplus, and shall be entitled to file a motion to the  
24 court for the payment of the surplus. After five years from the date  
25 of the judicial sale as in the manner of the foreclosure of a  
26 mortgage, the clerk of the court shall pay any unclaimed monies to  
27 the holder of the tax sale certificate. If the holder of the tax sale  
28 certificate is unable to be located, the funds shall revert to the  
29 municipality wherein the property is located, and shall be paid by  
30 the clerk of the court to the chief financial officer of the  
31 municipality.] The process set forth in this section shall be the  
32 exclusive method through which the owner, or the owner's heirs,  
33 may <sup>2</sup>assert a<sup>2</sup> claim <sup>2</sup>[and receive] to<sup>2</sup> any surplus funds <sup>2</sup>by  
34 motion to the Superior Court<sup>2</sup>.

35 Application for, and distribution of, surplus moneys held by the  
36 clerk of the court shall be made in accordance with N.J.S.2A:50-37  
37 and the applicable Rules of Court.

38 Notwithstanding the provisions of N.J.S.2A:50-64, interest shall  
39 continue to accrue on the tax sale certificate pursuant to R.S.54:4-  
40 67 through the date of actual payment.<sup>1</sup>

41 As used in this section, "surplus funds" shall mean and include  
42 any funds derived from the judicial sale as in the manner of the  
43 foreclosure of a mortgage or <sup>1</sup>the Internet auction through the  
44 office of the county sheriff of a property pursuant to this section,  
45 after the holder of the tax sale certificate has been fully redeemed,  
46 and paid moneys due and owing to the holder of the tax sale  
47 certificate. The redemption amount shall also include any costs

1 charged by the sheriff to the holder of the tax sale certificate to  
2 conduct the judicial sale as in the manner of the foreclosure of a  
3 mortgage or the Internet auction.

4 c. In the event that any federal statute or regulation requires a  
5 judicial sale as in the manner of the foreclosure of a mortgage of the  
6 property in order to debar and foreclose a mortgage interest or any  
7 other lien held by the United States or any agency or  
8 instrumentality thereof, then the tax lien may be foreclosed in the  
9 same manner as a mortgage, and the final judgment shall provide  
10 for the issuance of a writ of execution to the sheriff of the county  
11 wherein the property is situated and the holding of a judicial sale as  
12 in the manner of the foreclosure of a mortgage.  
13 (cf: P.L.2021, c.92, s.23)

14

15 <sup>1</sup>[3. Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to  
16 read as follows:

17 7. **[No search fee, counsel fee or other fee related to certified**  
18 **mailings shall be allowed a plaintiff other than a municipality in the**  
19 **foreclosure of a tax lien unless, prior to the filing of the complaint,**  
20 **the plaintiff shall have given] At least 30 [days' written notice to**  
21 **the parties entitled to redeem whose interests appear of record at the**  
22 **time of the tax sale,] days prior to the filing of a complaint, the**  
23 **holder of a tax sale certificate shall send all parties having a right to**  
24 **redeem a notice of intention to file a complaint. The notice to the**  
25 **owner, or the owner's heirs, shall be addressed to the last known**  
26 **address contained in the municipal records. The notice to any other**  
27 **parties having a right to redeem shall be sent to the address**  
28 **contained in any document recorded with the county clerk or**  
29 **register. The notice shall be sent by certified mail with postage**  
30 **prepaid thereon **[**, addressed to the last known address of such**  
31 **persons, of intention to file such complaint]. The notice shall also**  
32 **contain the amount **[due on such] necessary to redeem the****  
33 **outstanding tax [lien] sale certificate [as of the date of the notice].**  
34 **The notice shall also advise the owner, or the owner's heirs, that the**  
35 **owner, or the owner's heirs, shall have the right to request a judicial**  
36 **sale as in the manner of the foreclosure of a mortgage or an Internet**  
37 **auction of the property through the office of the county sheriff, to**  
38 **preserve any equity that may be in the property. A copy of [such]**  
39 **the notice shall also be filed with the municipal tax collector's**  
40 **office. **[Upon the filing and service of such notice, a plaintiff shall****  
41 **be entitled to such fees and expenses.]**

42 A municipality, by ordinance, may authorize the tax collector to  
43 charge to a lienholder a fee not to exceed \$50 for the calculation of  
44 the amount due to redeem the tax lien required to be provided  
45 pursuant to this section. Any request for a redemption calculation  
46 shall specify the date to be used for the calculation, which shall be  
47 the date of the notice. Neither the tax collector or the municipality

1 shall be liable for an incorrect calculation. The fee paid to the  
2 municipality shall not become part of the lien and shall not be  
3 passed on to any party entitled to redeem pursuant to R.S.54:5-54.  
4 (cf: P.L.2009, c.320, s.11)】<sup>1</sup>

5  
6 <sup>14.</sup> Section 7 of P.L.1965, c.187 (C.54:5-97.1) is amended to  
7 read as follows:

8 7. No search fee, counsel fee or other fee related to certified  
9 mailings shall be allowed a plaintiff other than a municipality in the  
10 foreclosure of a tax lien unless, prior to the filing of the complaint,  
11 the plaintiff shall have given at least 30 days' written notice to the  
12 parties entitled to redeem whose interests appear of record at the  
13 time of the tax sale【,】 . The notice shall be sent by certified mail  
14 with postage prepaid thereon, addressed to the last known address  
15 of such persons, 【of intention to file such complaint】 and the  
16 owner's address based upon the last deed of record with the county  
17 clerk. The notice shall also contain the amount 【due on such】  
18 necessary to redeem the outstanding tax 【lien】 sale certificate as of  
19 the date of the notice. The notice shall also advise the owner that  
20 the owner, or the owner's heirs, shall have the right to request a  
21 judicial sale as in the manner of the foreclosure of a mortgage or an  
22 Internet auction of the property through the office of the county  
23 sheriff, to preserve any equity that may be in the property, except if  
24 the property meets the definition of abandoned property. A copy of  
25 【such】 the notice shall also be filed with the municipal tax  
26 collector's office. Upon the filing and service of such notice, a  
27 plaintiff shall be entitled to such fees and expenses.

28 A municipality, by ordinance, may authorize the tax collector to  
29 charge to a lienholder a fee not to exceed \$50 for the calculation of  
30 the amount due to redeem the tax lien required to be provided  
31 pursuant to this section. Any request for a redemption calculation  
32 shall specify the date to be used for the calculation, which shall be  
33 the date of the notice. Neither the tax collector or the municipality  
34 shall be liable for an incorrect calculation. 【The fee paid to the  
35 municipality shall not become part of the lien and shall not be  
36 passed on to any party entitled to redeem pursuant to R.S.54:5-54.】<sup>1</sup>  
37 (cf: P.L.2009, c.320, s.11)

38  
39 <sup>15.</sup> R.S.54:5-98 is amended to read as follows:

40 54:5-98. a. After the complaint has been filed redemption shall  
41 be made in that cause only, provided notice of the suit has been  
42 filed in the office of the tax collector. Such redemption shall be  
43 subject to the fixing of attorney's fees and costs at any time during  
44 the course of the action. In such proceedings the court may order  
45 that the redemption shall be made to the tax collector of the  
46 municipality at his official office during business hours, except in  
47 cases where the tax collector is a part-time official with no regular

1 municipal office, in which case it may order that the redemption  
2 shall be made to the clerk of the county in which the premises lie.

3 b. After the notice of intention to file a complaint has been  
4 served pursuant to section 7 of P.L.1965, c.187 (C.54:5-97.1) but  
5 before the foreclosure complaint is filed, the holder of the tax sale  
6 certificate shall be reimbursed for the following expenses actually  
7 incurred, which expenses shall be added to the amount required to  
8 redeem the tax sale certificate and certified by the holder of the tax  
9 sale certificate to the tax collector:

10 (1) a foreclosure or title search fee, not to exceed \$350;

11 (2) the postage and certified mailing costs for notices required  
12 under section 7 of P.L.1965, c.187 (C.54:5-97.1);

13 (3) reasonable attorney's fees, not to exceed \$150; and

14 (4) any fees paid to a municipality for the calculation of the  
15 amount due to redeem the tax lien.

16 c. If an action to foreclose the right of redemption has been  
17 filed, the plaintiff or the holder of the tax sale certificate shall be  
18 reimbursed the following amounts for each property to be  
19 foreclosed, which amounts shall be added to the amount required to  
20 redeem the tax sale certificate:

21 (1) attorney's fees in the amount of \$2,500, which amount shall  
22 be deemed reasonable for both the preparation and the filing of the  
23 action to foreclose the right to redeem the tax sale certificate;

24 (2) in exceptional circumstances or in the event of litigation or  
25 bankruptcy, any additional reasonable attorney's fees that are  
26 incurred and specifically requested by the plaintiff or holder of a tax  
27 sale certificate and approved by the court, on a case-by-case basis,  
28 through the date on which any litigation has finally concluded; and

29 (3) the following reasonable expenses, provided that the counsel  
30 of the plaintiff or the holder of a tax sale certificate provides a  
31 signed affidavit attesting that such expenses actually were incurred  
32 by the plaintiff or the tax sale certificate holder:

33 (a) all filing fees charged by the court;

34 (b) all reasonable service of process fees, or fees for service of  
35 any pleadings require by the Rules of Court or by the court,  
36 including fees for attempting to serve process;

37 (c) all reasonable fees incurred for skip traces, registered agent  
38 searches, and other reasonable fees incurred to locate any party for  
39 service of process;

40 (d) a title or foreclosure search fee not to exceed \$350, except in  
41 circumstances of an exceptionally complicated title, an application  
42 may be made to the court to increase the title or foreclosure search  
43 fee;

44 (e) if a second, updated title or foreclosure search is conducted,  
45 an update search fee not to exceed \$100;

46 (f) publication fees charged by a newspaper of general  
47 circulation in the county in which the property is located or  
48 otherwise required by the Rules of Court or order of the court;

- 1        (g) posting fees;  
 2        (h) estate search costs;  
 3        (i) postage, certified mail, and photocopying expenses;  
 4        (j) actual cost to record and discharge notice of lis pendens and  
 5 in rem complaint;  
 6        (k) all sheriff's office fees, including, but not limited to,  
 7 commission or expense for scheduling a sheriff's sale of the  
 8 property;  
 9        (l) abandoned property certification reports not to exceed \$350;  
 10       (m) any fees paid to a municipality for the calculation of the  
 11 amount due to redeem the tax lien;  
 12       (n) in exceptional circumstances or in the event of litigation or  
 13 bankruptcy, any additional reasonable expenses that are incurred  
 14 and specifically requested by the plaintiff or holder of a tax sale  
 15 certificate and approved by a court, on a case-by-case basis through  
 16 the date on which any litigation is concluded; and  
 17       (o) any other reasonable expenses incurred by the plaintiff or the  
 18 holder of the tax sale certificate in locating and effectuating service  
 19 on any party named as a defendant in the complaint.<sup>1</sup>  
 20 (cf: P.L.1965, c.187, s.8)

21  
 22        <sup>1</sup>**[4.] 6.**<sup>1</sup> (New section) a. <sup>1</sup>**[The]** In actions commenced  
 23 pursuant to subsection a. of R.S.54:5-86, the<sup>1</sup> holder of the tax sale  
 24 certificate shall provide to the owner of the property, in writing,  
 25 with the summons and complaint for foreclosure, information  
 26 prominently displayed in bold face type that states that the owner of  
 27 the property being foreclosed has the right to demand, in writing <sup>1</sup>to  
 28 the Superior Court before the date that the final judgment is  
 29 entered<sup>1</sup>, that the foreclosure proceed to a judicial sale as in the  
 30 manner of the foreclosure of a mortgage or an Internet auction of  
 31 the property, through the office of the county sheriff.

32        <sup>1</sup>**[If the holder of the tax sale certificate has complied with this**  
 33 **subsection and the provisions of section 7 of P.L.1965, c.187**  
 34 **(C.54:5-97.1), that person shall be entitled to recover all reasonable**  
 35 **attorney's fees and costs of foreclosure, including all costs**  
 36 **associated with the judicial sale as in the manner of the foreclosure**  
 37 **of a mortgage.]**<sup>1</sup> In the event that all costs and reasonable  
 38 attorney's fees are not recovered through the judicial sale as in the  
 39 manner of the foreclosure of a mortgage or the Internet auction  
 40 through the office of the county sheriff, the holder of the tax sale  
 41 certificate shall have a first lien paramount to any other lien on any  
 42 surplus funds and shall be entitled to apply to the Superior Court to  
 43 recover any unpaid costs or attorney's fees. <sup>2</sup>The attorney shall be  
 44 required to record a Statewide judgment lien for the outstanding  
 45 attorney's fees.<sup>2</sup>

46        b. In the event that the owner, or the owner's heirs, has  
 47 demanded a judicial sale as in the manner of the foreclosure of a  
 48 mortgage or an Internet auction through the office of the county

1 sheriff, the holder of the tax sale certificate, whether a municipality  
2 or third party investor, shall be entitled to a first lien on any surplus  
3 funds that are deposited in the Superior Court by the sheriff, in the  
4 amount of 10 percent of the surplus funds, to cover administrative  
5 costs related to the foreclosure action, not to exceed \$5,000.

6 c. As used in this section, "surplus funds" shall have the same  
7 meaning as set forth in R.S.54:5-87.

8  
9 <sup>1</sup>**[5.] 7.**<sup>1</sup> (New section) <sup>1</sup>**[The]** In actions commenced by a  
10 municipality pursuant to subsection a. of R.S.54:5-86, the<sup>1</sup> notice of  
11 foreclosure required to be served on the owner and published in the  
12 newspaper shall conspicuously state in boldface type that the owner  
13 and the owner's heirs shall have the right to demand a judicial sale  
14 as in the manner of the foreclosure of a mortgage, or an Internet  
15 auction through the office of the county sheriff, of the property  
16 subject to the tax lien foreclosure to preserve any equity that they  
17 may have in the property.

18 The notice shall state that the owner, or the owner's heirs, has  
19 <sup>1</sup>**[45 days from the date of service of the foreclosure complaint]**  
20 until the date of entry of a final judgment<sup>1</sup> to file the written request  
21 <sup>1</sup>with the Superior Court<sup>1</sup> for a judicial sale as in the manner of the  
22 foreclosure of a mortgage or an Internet auction through the office  
23 of the county sheriff with the Superior Court.

24  
25 <sup>1</sup>**[6.] 8.**<sup>1</sup> Section 31 of P.L.1948, c.96 (C.54:5-104.59) is  
26 amended to read as follows:

27 31. a. <sup>1</sup>**[All]** In an action commenced by a municipality, all<sup>1</sup>  
28 costs and reasonable attorney fees<sup>1</sup>, as determined by order of the  
29 court,<sup>1</sup> incurred in **[the]** an in rem foreclosure action shall be  
30 equitably apportioned and allocated to the several **[parcels of land**  
31 **affected by the action]** schedules of the complaint, and added to the  
32 amount required to redeem.

33 b. For the purposes of this section, "all costs and reasonable  
34 attorney fees" includes all costs incurred **[for a standard title**  
35 **search]** with respect to the in rem foreclosure proceeding and all  
36 reasonable attorney fees incurred in the action, including any<sup>1</sup>**[,]**<sup>1</sup>  
37 and all<sup>1</sup>**[,]**<sup>1</sup> costs incurred for a judicial sale as in the manner of the  
38 foreclosure of a mortgage<sup>1</sup>**[,]**<sup>1</sup> or an Internet auction through the  
39 office of the county sheriff<sup>1</sup>**[,]**<sup>1</sup> of the property subject to the in  
40 rem foreclosure<sup>1</sup>, which amounts shall be determined by the court  
41 and shall fully compensate the holder of the tax sale certificate for  
42 all such reasonable incurred expenses<sup>1</sup>.

43 In the event that the holder of the tax sale certificate shall have  
44 incurred any costs or attorney's fees in the judicial sale <sup>1</sup>**[as in the**  
45 **manner of the foreclosure of a mortgage]**<sup>1</sup> or <sup>1</sup>the<sup>1</sup> Internet auction  
46 <sup>1</sup>**[through the office of the county sheriff]**<sup>1</sup> that were not

1 reimbursed in the redemption monies received from the sheriff, the  
2 holder of the tax sale certificate shall have a first lien on any  
3 surplus funds for reimbursement of those costs and reasonable  
4 attorney's fees. As used in this section, "surplus funds" shall have  
5 the same meaning as set forth in R.S.54:5-87.

6 <sup>1</sup>c. In the event that a complaint is filed by a municipality that  
7 contains not more than one tax sale certificate, the municipality  
8 shall be entitled to the reimbursement of attorney's fees and costs  
9 pursuant to R.S.54:5-98.

10 d. In the event that a complaint is filed by the holder of a tax  
11 sale certificate for an abandoned property pursuant to subsection b.  
12 of R.S.54:5-86, the holder shall be entitled to the reimbursement of  
13 attorney's fees and costs pursuant to R.S.54:5-98.<sup>1</sup>

14 (cf: P.L.1993, c.278, s.1)

15  
16 <sup>1</sup>[7.] <sup>1</sup>9. Section 36 of P.L.1948, c.96 (C.54:5-104.64) is  
17 amended to read as follows:

18 36. (a) <sup>1</sup>[The] In an action commenced by any person or a  
19 municipality holding a tax sale certificate for an abandoned  
20 property pursuant to subsection b. of R.S.54:5-86, the<sup>1</sup> judgment  
21 shall give full and complete relief, in accordance with the  
22 provisions of [this act] P.L.1948, c.96 (C.54:5-104.29 et seq.), and  
23 in accordance with any other statutory authority, to bar the right of  
24 redemption, <sup>1</sup>to bar claims to surplus equity,<sup>1</sup> and to foreclose all  
25 prior or subsequent alienations and descents of the lands and  
26 encumbrances thereon, and to adjudge an absolute and indefeasible  
27 estate of inheritance in fee simple in the lands therein described, to  
28 be vested in the plaintiff <sup>1</sup>, except as set forth in subsection d. of  
29 this section<sup>1</sup>.

30 (b) Such judgment shall be binding and final upon all persons  
31 having a vested or contingent title or interest in or lien or claim  
32 upon or against said lands, including the State of New Jersey, and  
33 any agency and political subdivision thereof, and their heirs,  
34 devisees and personal representatives, and their, or any of their  
35 heirs, devisees, executors, administrators, grantees, assigns or  
36 successors in right, title or interest, notwithstanding any infancy or  
37 incompetency of such person or persons, and upon all other persons,  
38 their heirs, devisees and personal representatives and their or any of  
39 their heirs, devisees, executors, administrators, grantees, assigns or  
40 successors in right, title or interest.

41 <sup>1</sup>[In order to preserve any equity that may exist in the property  
42 being foreclosed, the owner, or the owner's heirs, shall have the  
43 right to demand, by written request to the Superior Court, no later  
44 than 45 days after being served with the foreclosure complaint, or  
45 the publication of the notice concerning the foreclosure, whichever  
46 is later, that the holder of the tax sale certificate be foreclosed with  
47 a judicial sale as in the manner of the foreclosure of a mortgage of  
48 the property through the office of the county sheriff, or, in the

1 alternative, an Internet auction of the property through the office of  
2 the county sheriff. If there is more than one schedule in the in rem  
3 foreclosure complaint and a request is made for a judicial sale as in  
4 the manner of the foreclosure of a mortgage, or an Internet auction  
5 through the office of the county sheriff, the schedule shall be  
6 severed and the final judgment shall provide for a writ of execution  
7 to the sheriff of the county where the property is located and the  
8 holding of either a judicial sale as in the manner of the foreclosure  
9 of a mortgage or an Internet auction, as appropriate.

10 In the event that the owner or the owner's heirs do not demand a  
11 judicial sale as in the manner of the foreclosure of a mortgage, or an  
12 Internet auction through the office of the county sheriff, the holder  
13 of the tax sale certificate may proceed in rem without a judicial sale  
14 as in the manner of the foreclosure of a mortgage, or an Internet  
15 auction through the office of the county sheriff, and the owner or  
16 his heirs shall have no claim against the holder of the tax sale  
17 certificate for any loss of equity in the property. The amount  
18 received at a judicial sale as in the manner of the foreclosure of a  
19 mortgage, or an Internet auction through the office of the county  
20 sheriff, shall be conclusively presumed to be the fair market value  
21 of the property. In the event that no one bids at the judicial sale as  
22 in the manner of the foreclosure of a mortgage or the Internet  
23 auction through the office of the county sheriff above the amount to  
24 redeem or there is no bidding at all, it shall be conclusively  
25 presumed that there is no equity in the property.

26 The sheriff of the county shall deposit with the clerk of the  
27 Superior Court any surplus funds derived from the judicial sale as  
28 in the manner of the foreclosure of a mortgage or the Internet  
29 auction, after all of the costs to the office of the county sheriff of  
30 holding the judicial sale as in the manner of the foreclosure of a  
31 mortgage or the Internet auction, have been withheld by the sheriff  
32 from those funds of the sale, after paying the amount of the  
33 judgment plus any costs to the holder of the tax sale certificate. All  
34 subsequent lienholders named in the foreclosure shall have the right  
35 to apply to the Superior Court, in writing, for payment of their lien  
36 in the order of their priority. All subsequent lienholders named in  
37 the foreclosure shall have the right to apply to the Superior court for  
38 any surplus funds, in the order of their priority, not later than the  
39 first day of the seventh month next following the issuance of the  
40 sheriff's deed. The owner, or the owner's heirs, shall be entitled to  
41 any remaining surplus funds and shall be entitled to make written  
42 application to the court for the payment of the surplus. After five  
43 years from the date of the judicial sale as in the manner of the  
44 foreclosure of a mortgage, the clerk of the court shall make  
45 payment of any unclaimed monies to the holder of the tax sale  
46 certificate. If the holder of the tax sale certificate is unable to be  
47 located, the funds shall revert to the municipality wherein the

1 property is located, and shall be paid by the clerk of the court to the  
2 chief financial officer of the municipality.

3 As used in this subsection, “surplus funds” shall have the same  
4 meaning as set forth in R.S.54:5-87.】 An action brought by the  
5 holder of a tax sale certificate for an abandoned property shall not  
6 require a judicial sale as in the manner of the foreclosure of a  
7 mortgage or an Internet auction through the office of the county  
8 sheriff.<sup>1</sup>

9 (c) In the event that any federal statute or regulation requires a  
10 judicial sale as in the manner of the foreclosure of a mortgage of the  
11 property in order to debar and foreclose a mortgage interest or any  
12 other lien held by the United States or any agency or  
13 instrumentality thereof, then the tax lien may be foreclosed in the  
14 same manner as a mortgage, and the final judgment shall provide  
15 for the issuance of a writ of execution to the sheriff of the county  
16 wherein the property is situated and the holding of a judicial sale as  
17 in the manner of the foreclosure of a mortgage.

18 <sup>1</sup>(d) In an action brought by a municipality, in order to preserve  
19 any equity that may exist in the property being foreclosed, the  
20 owner, or the owner’s heirs, shall have the right to demand, by  
21 written request to the Superior Court before the date that final  
22 judgment is entered, that the municipal tax sale certificate be  
23 foreclosed with a judicial sale as in the manner of the foreclosure of  
24 a mortgage of the property through the office of the county sheriff,  
25 or, in the alternative, an Internet auction of the property through the  
26 office of the county sheriff. If there is more than one schedule in  
27 the in rem foreclosure complaint and a request is made for a judicial  
28 sale or an Internet auction, the schedule shall be severed and the  
29 final judgment shall provide for a writ of execution to the sheriff of  
30 the county where the property is located and the holding of either a  
31 judicial sale or an Internet auction, as appropriate.

32 In the event that the owner or the owner’s heirs do not demand a  
33 judicial sale as in the manner of the foreclosure of a mortgage, or an  
34 Internet auction through the office of the county sheriff, the  
35 municipality may proceed in rem without a judicial sale or an  
36 Internet auction, and the owner or his heirs shall have no claim  
37 against the municipality for any loss of equity in the property. The  
38 amount received at a judicial sale or an Internet auction shall be  
39 conclusively presumed to be the fair market value of the property.  
40 In the event that no one bids at the judicial sale or the Internet  
41 auction above the amount to redeem, or there is no bidding at all, it  
42 shall be conclusively presumed that there is no equity in the  
43 property.

44 The sheriff of the county shall deposit with the clerk of the  
45 Superior Court any surplus funds derived from the judicial sale or  
46 the Internet auction, after all of the costs to the office of the county  
47 sheriff for holding the judicial sale or the Internet auction have been

1 withheld by the sheriff from those funds of the sale, after paying the  
2 amount of the judgment plus any costs to the municipality.

3 Application for and distribution of surplus moneys held by the  
4 clerk of court shall be made in accordance with N.J.S.2A:50-37 and  
5 the applicable Rules of Court.

6 As used in this subsection, “surplus funds” shall have the same  
7 meaning as set forth in R.S.54:5-87.<sup>1</sup>

8  
9 <sup>1</sup>**[8.] 10.**<sup>1</sup> (New section) <sup>1</sup>**[With]** Except for actions involving  
10 a property that meets the definition of abandoned property pursuant  
11 to P.L.2003, c.210 (C.55:19-78 et al.), with<sup>1</sup> respect to any <sup>1</sup>in rem  
12 or in personam<sup>1</sup> property tax lien foreclosure <sup>1</sup>**[actions]** action filed  
13 by a municipality or third party<sup>1</sup> pending on the date of enactment  
14 of the amendatory and supplementary provisions of P.L. , c.  
15 (C. ) (pending before the Legislature as this bill), a property  
16 owner shall be <sup>1</sup>**[personally]**<sup>1</sup> served <sup>1</sup>**[in writing]** by regular and  
17 certified mail<sup>1</sup> with a notice of their right to demand a judicial sale  
18 as in the manner of the foreclosure of a mortgage, or an Internet  
19 auction by the office of the county sheriff, and shall have <sup>1</sup>**[45 days**  
20 after such service] until the date before the final judgment is  
21 entered<sup>1</sup> to notify the <sup>1</sup>**[court]** Superior Court<sup>1</sup> of their demand for  
22 a judicial sale as in the manner of the foreclosure of a mortgage or  
23 an Internet auction by the office of the county sheriff. If the  
24 property owner <sup>1</sup>or the owner’s heir<sup>1</sup> demands a judicial sale as in  
25 the manner of the foreclosure of a mortgage, or an Internet auction  
26 by the office of the county sheriff, in a timely manner, the  
27 <sup>1</sup>**[foreclosure complaint shall be amended by the tax lien holder to**  
28 require such a sale or auction] Superior Court shall order the entry  
29 of a final judgment and writ of execution directing that the property  
30 be sold at a judicial sale<sup>1</sup>. If no timely demand is made for a  
31 judicial sale as in the manner of the foreclosure of a mortgage or an  
32 <sup>1</sup>**[internet]** Internet<sup>1</sup> auction by the office of the county sheriff, the  
33 foreclosure action shall proceed without a judicial sale <sup>1</sup>**[as in the**  
34 manner of the foreclosure of a mortgage]<sup>1</sup> or an Internet auction  
35 through the office of the county sheriff.

36  
37 <sup>1</sup>**[9.] 11.**<sup>1</sup> This act shall take effect immediately, and shall apply  
38 to any <sup>1</sup>**[property tax lien foreclosure complaint filed on or after**  
39 **May 25, 2023]** tax lien for which the right of redemption has not  
40 been foreclosed as of the effective date of this act<sup>1</sup>. This act shall  
41 have no effect on any foreclosure action in which a final judgment  
42 has been entered prior to the effective date of this act.

# SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

## STATEMENT TO

### **SENATE, No. 2334**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 6, 2024

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 2334.

As amended by the committee, the bill would revise the “tax sale law,” R.S.54:5-1 et seq., and the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), to bring those laws into compliance with the 2023 United States Supreme Court decision in Tyler v. Hennepin County, Minnesota, et al., 143 S. Ct. 1369 (2023) concerning the ability of a property owner, whose right to redeem a tax lien on their property has been foreclosed by the holder of a tax sale certificate, to receive any of the owner’s equity remaining in the property after the tax lien foreclosure.

Under existing State law, the holder of a tax sale certificate, after six months in the case of a municipality holding the tax sale certificate or in the case of the holder of a tax sale certificate on a property that is abandoned, or after two years in the case of a third party lienholder, may file suit in Superior Court to foreclose the right of the property owner to redeem the tax lien. Upon the foreclosure, the lienholder receives title to the property and all of the equity remaining in the property, leaving the former property owner with no funds from the foreclosure with which to purchase another property.

In the Tyler decision, the Supreme Court determined that Hennepin County could not keep equity in the property beyond the amount it was owed for overdue property taxes and interest thereon. Under the Court’s ruling, excess equity was considered to be property that could not be taken from the former property owner, consistent with the takings clause restrictions of the 5th Amendment of the United States Constitution.

The bill revises the “tax sale law” and the In Rem Tax Foreclosure Act to require that, except in cases of abandoned property, as that term is defined in P.L.2003, c.210 (C.55:19-78 et seq.), a property owner whose property is subject to a tax lien foreclosure, or that owner’s heirs, have the right to demand, by written request to the Superior Court prior to the date that the final judgment is entered, that the holder of the tax sale certificate foreclose the right to redeem that certificate in the same manner as a

mortgage, through a judicial sale of the property through the office of the county sheriff, or in the alternative, through an Internet auction of the property through the office of the county sheriff. In the event that the owner or the owner's heirs do not demand a judicial sale or an Internet auction, the tax sale certificate holder may foreclose without such sale, and the owner and the owner's heirs would have no claim against the holder of the tax sale certificate for any equity in the property. For abandoned properties, no judicial sale or Internet auction would be required and the Superior Court would be authorized to bar any claims to surplus equity as part of a foreclosure action.

The bill also stipulates that the amount received through a judicial sale or the Internet auction would be conclusively presumed to be the fair market value of the property, and if no one bids on the property through a judicial sale or Internet auction, and the owner of the tax sale certificate obtains fee title from the sheriff, it would be conclusively presumed that there is no equity in the property. In the event that the sheriff has not established an Internet auction, the owner or the owner's heirs would only be entitled to a judicial sale.

The bill would require the county sheriff to deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale or Internet auction, after the holder of the tax sale certificate has been paid the redemption moneys, allowable costs, and attorney's fees as set forth by the court in the final judgment of foreclosure, and the sheriff has deducted the costs to the office of the county sheriff of holding the judicial sale or Internet auction. This process would be the exclusive method through which the owner, or the owner's heirs, may claim and receive any surplus funds. The bill defines "surplus funds" as meaning any funds derived from the judicial sale or Internet auction of a property, after the holder of the tax sale certificate has been fully redeemed, and paid moneys due and owing to the holder of the tax sale certificate, and after the costs charged by the sheriff to the holder of the tax sale certificate to conduct the judicial sale or the Internet auction have been withheld.

In the event a premium payment is made by the lienholder to acquire a tax sale certificate for a property that is required to be sold at a judicial sale or Internet auction, the bill would require the premium payment to be refunded to the lienholder provided a writ of execution is sent to the county sheriff to schedule the judicial sale or Internet auction within five years from the date of the tax sale. The premium would not be refunded, however, if the lienholder is the successful bidder at the judicial sale or auction. For any premium payments that are due to escheat to a municipality during tax year 2024, the bill would extend the escheatment for an additional year.

The bill also requires that the notice provided by lien holders to property owners of the intention to file a foreclosure complaint must advise the owner that the owner or the owner's heirs have the right to request a judicial sale or an Internet auction of the property to preserve any equity in the property. The notice would be sent by certified mail to the last known address of each person entitled to redeem the tax sale certificate and the owner's address based upon the last deed of record with the county clerk. The notice would also contain the amount necessary to redeem the outstanding tax sale certificate.

The bill also provides a detailed reimbursement structure for expenses incurred by the lienholder, which are to be certified by the lien holder to the tax collector and added to the amount required to redeem the tax sale certificate. Depending on whether a foreclosure complaint has been filed, the lienholder would be entitled to reimbursement of various expenses related to preparation and litigation of a foreclosure action such as attorney's fees, mailing costs, filing fees, service of process fees, and property search costs.

The bill also provides that the provisions of the bill would apply to any tax lien for which the right of redemption has not been foreclosed as of its effective date.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to:

- change the timeline in which a property owner, or the owner's heirs, whose property is not abandoned and is subject to a tax lien foreclosure, has the right to make written demand to the Superior Court to foreclose the property owner's right to redeem that certificate through a judicial sale of the property as in the manner of a mortgage or an Internet auction through the office of the county sheriff from 45 days after the property owner is served with a foreclosure complaint, to any time prior to the date that the final judgment is entered;
- provide that in the case of a premium paid by a lienholder to a municipality, the premium would be required to be refunded if within five years of the date of the tax sale, the writ of execution is sent to the county sheriff's office to schedule a sheriff's sale of the property; however, if the lienholder is the successful bidder at the judicial sale or Internet auction, the tax collector cannot refund the premium. The amendments also extend by one year a premium that is due to escheat to a municipality in 2024;
- stipulate that the amount received through a judicial sale or Internet auction would be conclusively presumed to be the fair market value of the property. If no one bids on the property through a judicial sale or at an Internet auction, and the owner of the tax sale certificate obtains fee title from the

sheriff, it would be conclusively presumed that there is no equity in the property;

- provide that in the event that the sheriff has not established an Internet auction, the owner or the owner's heirs would only be entitled to a judicial sale;
- require the county sheriff to deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale, or Internet auction, after the holder of the tax sale certificate has been paid the redemption moneys, including allowable costs and attorney's fees, and the sheriff has deducted the costs to the office of the county sheriff of holding the judicial sale or Internet auction. The amendments specify that this process would be the exclusive method through which the owner, or the owner's heirs, may claim and receive any surplus funds;
- define "surplus funds" as meaning any funds derived from the judicial sale or Internet auction of a property, after the holder of the tax sale certificate has been fully redeemed, and paid moneys due and owing to the holder of the tax sale certificate, and after the costs charged by the sheriff to the holder of the tax sale certificate to conduct the judicial sale or the Internet auction have been withheld;
- require that notice provided by a lienholder other than a municipality be provided at least 30 days' notice to the property owner who is entitled to redeem an outstanding tax lien be sent to the owner's address based on the last deed of record with the county clerk, in addition to the person's last known address;
- require that notice provided by lien holders to property owners advise the owner that the owner or the owner's heirs have the right to request a judicial sale or an Internet auction of the property to preserve any equity in the property;
- provide a detailed reimbursement structure for expenses actually incurred by the lien holder for preparation and litigation of a foreclosure action, such as attorney's fees, mailing costs, service of process fees, and property search costs, which costs are required to be certified by the lien holder to the tax collector and added to the amount required to redeem the tax sale certificate;
- permit municipalities that hold a tax sale certificate to file an action to foreclose the right of redemption at the time of a tax sale, and at any time thereafter, for properties that are abandoned pursuant to the "Abandoned Properties Rehabilitation Act," P.L.2003, c.210 (C.55:19-78 et al.);
- authorize the Superior Court to bar claims to surplus equity for abandoned properties;

- exempt abandoned properties from the judicial sale and Internet auction requirements established by the bill; and
- require that the provisions of the bill apply to any tax lien for which the right of redemption has not been foreclosed as of the bill's effective date.

# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## SENATE, No. 2334

with committee amendments

# STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 2334 (1R).

As amended and reported by the committee, the bill would revise the “tax sale law,” R.S.54:5-1 et seq., and the In Rem Tax Foreclosure Act (1948), P.L.1948, c.96 (C.54:5-104.29 et seq.), to bring those laws into compliance with the United States Supreme Court decision in *Tyler v. Hennepin County, Minnesota, et al.*, 143 S. Ct. 1369 (2023) concerning the ability of a property owner, whose right to redeem a tax lien on their property has been foreclosed by the holder of a tax sale certificate, to receive any of the owner’s equity remaining in the property after the tax lien foreclosure.

Under existing State law, the holder of a tax sale certificate, after six months in the case of a municipality holding the tax sale certificate or in the case of the holder of a tax sale certificate on a property that is abandoned, or after two years in the case of a third party lienholder, may file suit in Superior Court to foreclose the right of the property owner to redeem the tax lien. Upon the foreclosure, the lienholder receives title to the property and all of the equity remaining in the property, leaving the former property owner with no funds from the foreclosure with which to purchase another property.

In the *Tyler* decision, the Supreme Court determined that Hennepin County could not keep equity in the property beyond the amount it was owed for overdue property taxes and interest thereon. Under the Court’s ruling, excess equity was considered to be property that could not be taken from the former property owner, consistent with the takings clause restrictions of the 5th Amendment of the United States Constitution.

The bill revises the “tax sale law” and the In Rem Tax Foreclosure Act to require that, except in cases of abandoned property, as that term is defined in P.L.2003, c.210 (C.55:19-78 et seq.), a property owner whose property is subject to a tax lien foreclosure, or that owner’s heirs, have the right to demand, by written request to the Superior Court prior to the date that the final judgment is entered, that the holder of the tax sale certificate foreclose the right to redeem that

certificate in the same manner as a mortgage, through a judicial sale of the property through the office of the county sheriff, or in the alternative, through an Internet auction of the property through the office of the county sheriff. In the event that the owner or the owner's heirs do not demand a judicial sale or an Internet auction, the tax sale certificate holder may foreclose without such sale, and the owner and the owner's heirs would have no claim against the holder of the tax sale certificate for any equity in the property. For abandoned properties, no judicial sale or Internet auction would be required and the Superior Court would be authorized to bar any claims to surplus equity as part of a foreclosure action.

The bill also stipulates that the amount received through a judicial sale or the Internet auction would be conclusively presumed to be the fair market value of the property, and if no one bids on the property through a judicial sale or Internet auction, and the owner of the tax sale certificate obtains fee title from the sheriff, it would be conclusively presumed that there is no equity in the property. In the event that the sheriff has not established an Internet auction, the owner or the owner's heirs would only be entitled to a judicial sale.

The bill would require the county sheriff to deposit with the clerk of the Superior Court any surplus funds derived from the judicial sale or Internet auction, after the holder of the tax sale certificate has been paid the redemption moneys, allowable costs, and attorney's fees as set forth by the court in the final judgment of foreclosure, and the sheriff has deducted the costs to the office of the county sheriff of holding the judicial sale or Internet auction. This process would be the exclusive method through which the owner, or the owner's heirs, may assert a claim to any surplus funds by motion to the Superior Court. The bill defines "surplus funds" as meaning any funds derived from the judicial sale or Internet auction of a property, after the holder of the tax sale certificate has been fully redeemed, and paid moneys due and owing to the holder of the tax sale certificate, and after the costs charged by the sheriff to the holder of the tax sale certificate to conduct the judicial sale or the Internet auction have been withheld.

In the event a premium payment is made by the lienholder to acquire a tax sale certificate for a property that is required to be sold at a judicial sale or Internet auction, the bill would require the premium payment to be refunded to the lienholder provided a writ of execution is sent to the county sheriff to schedule the judicial sale or Internet auction within five years from the date of the tax sale. The premium would not be refunded, however, if the lienholder is the successful bidder at the judicial sale or auction. For any premium payments that are due to escheat to a municipality during tax year 2024, the bill would extend the escheatment for an additional year.

The bill also requires that the notice provided by lien holders to property owners of the intention to file a foreclosure complaint must advise the owner that the owner or the owner's heirs have the right to

request a judicial sale or an Internet auction of the property to preserve any equity in the property. The notice would be sent by certified mail to the last known address of each person entitled to redeem the tax sale certificate and the owner's address based upon the last deed of record with the county clerk. The notice would also contain the amount necessary to redeem the outstanding tax sale certificate.

The bill also provides a detailed reimbursement structure for expenses incurred by the lienholder, which are to be certified by the lien holder to the tax collector and added to the amount required to redeem the tax sale certificate. Depending on whether a foreclosure complaint has been filed, the lienholder would be entitled to reimbursement of various expenses related to preparation and litigation of a foreclosure action such as attorney's fees, mailing costs, filing fees, service of process fees, and property search costs. The bill provides that in the event that all costs and reasonable attorney's fees are not recovered through the judicial sale or Internet auction, the holder of the tax sale certificate would have a first lien paramount to any other lien on any surplus funds and be entitled to apply to the Superior Court to recover any unpaid costs or attorney's fees. The bill requires that the attorney would be required to record a Statewide judgment lien for the outstanding attorney's fees.

The bill also provides that the provisions of the bill would apply to any tax lien for which the right of redemption has not been foreclosed as of its effective date.

#### COMMITTEE AMENDMENTS:

The committee amendments provide the following changes to the bill:

(1) to require that the process set forth in section 3 of the bill would be the exclusive method through which the owner or the owner's heirs may assert a claim to any surplus funds by motion to the Superior Court; and

(2) to require that if all costs and reasonable attorney's fees are not recovered through the judicial sale or Internet auction, and the holder of the tax sale certificate has a first lien paramount to any other lien on any surplus funds and is thereby entitled to apply to the Superior Court to recover any unpaid costs or attorney's fees, the attorney would be required to record a Statewide judgment lien for the outstanding attorney's fees.

#### FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate reduction in annual municipal revenues and have no net impact on county finances.

Municipalities will incur a revenue loss due to two aspect of the bill. First, municipalities will no longer be permitted to retain the full amount of proceeds resulting from the sale of foreclosed property for

which a municipality holds the tax sale certificate. Second, municipalities will be required to refund to the holder of a tax sale certificate the full amount of the premium bid offered by the certificate holder if a property is scheduled for a judicial sale or Internet auction within five years of the date of the tax sale. However, data on the total amount of revenue generated by the sale of foreclosed properties and the amount of premium bids retained by municipalities are not compiled on a Statewide basis, hindering a full accounting of the potential impact of the bill on municipal revenues.

The OLS anticipates that the bill will not have a net impact on county finances because it requires county sheriffs to deduct the costs of holding a judicial sale or an Internet auction from the proceeds of the sale of a property prior to remitting any funds to the property owner, resulting in offsetting county costs and revenues.

# Governor Murphy Takes Action on Legislation

07/10/2024

**TRENTON** – Today, Governor Murphy signed the following bills into law:

**S-2792/A-3697 (Cruz-Perez, Turner/Spearman, Park, Simmons)** - Appropriates \$500,000 from constitutionally dedicated CBT revenues and "2009 Farmland Preservation Fund" to State Agriculture Development Committee for municipal planning incentive grants for farmland preservation purposes

**S-2793/A-3698 (Cruz-Perez, Turner/Reynolds-Jackson, Fantasia, Stanley)** - Appropriates \$1.723 million from constitutionally dedicated CBT revenues and "2009 Farmland Preservation Fund" to State Agriculture Development Committee for grants to certain nonprofit organizations for farmland preservation purposes

**S-2825/A-3906 (Gopal/Peterpaul, Donlon, Flynn)** - Removes time limitation on issuance of additional alcoholic beverage licenses within boundaries of former federal military installations

**S-3192/A-4454 (Diegnan, Moriarty/Freiman, Pintor Marin, DiMaio)** - "Real Estate Consumer Protection Enhancement Act"

**S-3275/A-4448 (Gopal, McKeon/Donlon, Pintor Marin, Wimberly)** - Revises various provisions of film and digital media content production tax credit program

**S-3371/A-4457 (Pou, Singer/Freiman)** - Revises limits for net cash surrender and net cash withdrawal values for certain annuity policies and contracts from \$100,000 to \$250,000

**S-3384/A-4426 (Burzichelli, Schepisi/Katz, Atkins, Drulis)** - Appropriates funds to DEP for environmental infrastructure projects for FY2025

**S-3385/A-4602 (Singleton/Lopez)** - Concerns deadline for municipality to report certain non-residential development fee information

**S-3474/A-4570 (Greenstein/Carter, Speight, Wimberly)** - Appropriates \$10,067,905 to DEP from constitutionally dedicated CBT revenues for grants to certain nonprofit entities to acquire or develop lands for recreation and conservation purposes, and for certain administrative expenses

**A-1677/S-3263 (Lampitt, Bagolie, Stanley/Diegnan, Turner)** - Authorizes extended terms for lease and purchase contracts for electric school buses; permits New Jersey School Boards Association to serve as government aggregator to obtain energy services for local units

**A-3772/S-2334 (McCann Stamato, Sampson, Lopez/Stack, McKnight)** - Revises process for property tax lien holder to foreclose right to redeem property tax lien; allows property owner to protect remaining equity

**A-4046/S-3303 (Pintor Marin, Spearman/Pou, Mukherji)** - Extends certain accommodations for businesses participating in State economic development programs

- A-4425/S-3383 (Ramirez, Spearman, Atkins/Gopal, Mukherji)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for environmental infrastructure projects for FY2025
- A-4458/S-3342 (Sumter, Sampson/Greenstein, Sarlo)** - Establishes exemptions and revises implementation timeline for requirement that newly constructed townhouses be installed with automatic fire sprinkler system
- A-4478/S-3367 (Calabrese, Karabinchak, Wimberly/Burzichelli)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for transportation infrastructure projects for FY2025; makes appropriation
- A-4572/S-3473 (Donlon, Sumter, Drulis/McKeon, Space)** - Appropriates \$101,696,535 from constitutionally dedicated CBT revenues to DEP for local government open space acquisition and park development projects, and for certain administrative expenses
- A-4581/S-3471 (Haider, Sampson, Tully/Mukherji, O'Scanlon)** - Authorizes NJ Infrastructure Bank to expend certain sums to make loans for Community Hazard Assistance Mitigation Program projects for FY 2025
- A-4587/S-3451 (Stanley/Cryan, Pou)** - Increases hours required for individual to obtain licensure as teacher in cosmetology and hairstyling or as massage and bodywork therapist