

R.S. 54: 4-123 et seq.

December 17, 1968

LEGISLATIVE NOTES ON R.S. 54:4-123 et seq. (Receivership - Property taxes)

L. 1939, Chapter 362 - S125
Introduced February 13 by Stout.
Not amended during passage.
Bill had following statement:

COPY NO. I

This act is a copy of the so-called "Stout Act," except that it omits the preamble and makes the act permanent.

The so-called "Stout Act" was enacted as an emergency measure in 1933 for a period of three years, and in 1936 it was further extended for another period of three years, which will expire in October of this year. The results achieved under this act by municipalities throughout the State have shown that it should be made a part of the permanent law for the collection of taxes, and that is the purpose of this bill.

This act takes effect on the last day for instituting proceedings under the temporary act; proceedings instituted under temporary act before said date may be continued to conclusion under said act.

See also Legislative Notes for App. A:4-1 to -7

MGE/PC

SENATE, No. 125

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 13, 1939

By Mr. STOUT

Referred to Committee on Taxation

AN ACT concerning the collection of taxes, and supplementing Title 54 of the Revised Statutes.

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

1 1. That at any time after any taxes or any installment thereof heretofore
2 or hereafter levied and assessed against real property in any municipality
3 shall have been delinquent for more than six months and remain due and un-
4 paid, the collector or other officer charged with the collection of taxes in such
5 municipality, hereinafter designated the "collector," may, by and with the
6 approval of the governing body of such municipality, and upon five days'
7 notice to the owner, make application to the Court of Chancery by bill or
8 petition to be appointed receiver *ex officio* of the rents and income of such real
9 property for the purpose of collecting and satisfying out of such rents and
10 income the delinquent taxes against such real property, together with the
11 penalties, interest and costs, and such costs and expenses of the receivership
12 as may be adjudged by the court. Such receiver shall not be required to give
13 bond other than his official bond, and shall be appointed only for the purpose
14 of collecting and satisfying the delinquent taxes, penalties, interest and costs
15 and expenses as aforesaid.

1 2. Upon his appointment, the receiver, by and with the approval of the
2 governing body of such municipality, in all cases where the real property in

3 question is encumbered by a first mortgage shall appoint such first mortgagee,
4 if such mortgagee is a proper person and is willing to accept such appoint-
5 ment, as the receiver's agent to collect the rents and income from such real
6 property and manage the same and in all other cases the receiver, by and
7 with the approval of the governing body of such municipality may designate
8 the person in charge or management of such real property or some other
9 competent person as the receiver's agent to collect the rents and income from
10 such real property and manage the same, which mortgagee or other person
11 shall account promptly to the collector for the rents and income so collected;
12 *provided, however,* that if the mortgagee or other person so designated is
13 derelict in collecting or accounting for such rents and income or in the
14 management of such real property, the collector shall apply to the court for
15 the removal of such designated mortgagee or other person, upon notice in
16 writing to him, and the court upon removing such designated mortgagee or
17 other person, in its discretion, may designate another person to collect the
18 rents and income from such real property and manage the same and account
19 to the collector for the rents and income of such real property as aforesaid.

1 3. In any such receivership no fees shall be allowed the receiver or his
2 counsel for acting as such receiver or counsel.

1 4. Upon a proper showing, the receiver may be authorized by the court
2 to pay out of the rents and income collected by him from such real property
3 such expenses in connection with the operation thereof as may be necessary
4 to secure the greatest income therefrom for the payment of the delinquent
5 taxes, penalties, interest and costs and expenses as aforesaid.

1 5. Real property which has been heretofore or may be hereafter sold for
2 the nonpayment of delinquent taxes, shall be subject to the provisions of this
3 act for the purpose of collecting such delinquent taxes, penalties, interest and
4 costs and expenses as aforesaid.

1 6. The bill or petition for the appointment of such receiver shall set
2 forth:

3 (a) that such delinquent taxes remain due and unpaid at the date of
4 filing such bill or petition,

5 (b) that the collector has exercised due diligence to collect such
6 delinquent taxes, and

7 (c) that he verily believes that such real property is income-producing,
8 and that the collection of such delinquent taxes can be made through a
9 receivership of the rents and income from such real property, and

10 (d) whether or not such real property is encumbered by a first mortgage
11 and if so, the name and address of such first mortgagee.

12 The bill or petition shall be verified, and shall be prima facie evidence
13 of the facts therein stated.

1 7. In the event that it is made to appear to the court that the owner or
2 any person interested in such real property has filed an appeal from or is con-
3 testing the taxes assessed and levied against such real property, the court
4 shall limit the amount of taxes to be collected by the receiver to the portion
5 of such delinquent taxes which are not in substantial dispute and, if the
6 parties are unable to agree upon the amount thereof, same shall be ascer-
7 tained by the court directly or by reference to a master, and an order shall
8 be made to stay the collection of the disputed portion of the taxes until the
9 final determination of the proceedings to review said taxes. Thereupon, in
10 the event that such appeal or contest shall be sustained to any part or all
11 of such taxes so collected, the court shall order the collector to pay back and
12 return to such owner or person interested in such real property, such part
13 or all of such taxes so collected to which appeal or contest has been
14 sustained, and in the event that such appeal or contest is not sustained,
15 then the receiver shall proceed to collect from such rents and income any
16 uncollected portion of such delinquent taxes, penalties, interest and costs and
17 expenses as aforesaid.

1 8. Whenever the delinquent taxes against any such real property and the
2 delinquent taxes for which the property has been sold, together with all
3 penalties, interest and costs and expenses as aforesaid, have been fully paid

4 and satisfied out of the rents and income collected by the receiver from such
5 real property, the collector shall apply to the court for his discharge as such
6 receiver and, upon being discharged by order and decree of the court, the
7 receivership proceedings or suit shall abate and the owner or any person
8 interested in such real property, upon presentation to the collector of a cer-
9 tified copy of such order and decree, may receive, as the case may be,
10 receipted tax bills for the payment of such taxes or a certificate of redemp-
11 tion from such tax sale. For good cause shown, the receiver may be dis-
12 charged by the court at any time.

1 9. In all cases where a receiver is in possession of such real property
2 by appointment of the court in a mortgage foreclosure suit or in any suit
3 wherein a receiver is charged with the collection of the rents and income of
4 such real property, and the owner or any person interested therein or the
5 receiver thereof shall fail or refuse to make proper payments to the collec-
6 tor upon delinquent taxes against such real property or delinquent taxes for
7 which such real property has been sold, including penalties, interest and other
8 charges and costs, the collector, at any time during the pendency of any such
9 suit, may intervene by verified petition in such suit and apply to the court
10 for such order or orders as the court may deem proper for the payment of
11 such delinquent taxes, penalties, interest and other charges and costs, in ac-
12 cordance with the priority of lien and right of such taxes, penalties, interest
13 and other charges and costs, as is by law provided for other liens, rights and
14 interests.

1 10. The remedy of collecting delinquent taxes herein provided for shall
2 not be in lieu of or in derogation of any other remedy or remedies for the
3 collection of delinquent taxes, but shall be in addition to all other remedies
4 for such collection.

1 11. This act shall not apply to real property occupied by the owner as
2 his residence and from which he derives no rent or to farm property occupied
3 by the owner thereof and from which he derives no rent.

1 12. This act shall take effect on October tenth, one thousand nine hun-
2 dred and thirty-nine.

STATEMENT

This act is a copy of the so-called "Stout Act," except that it omits the preamble and makes the act permanent.

The so-called "Stout Act" was enacted as an emergency measure in 1933 for a period of three years, and in 1936 it was further extended for another period of three years, which will expire in October of this year. The results achieved under this act by municipalities throughout the State have shown that it should be made a part of the permanent law for the collection of taxes, and that is the purpose of this bill.

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8 petition to be appointed receiver *ex officio* of the rents and income of such real
9 property for the purpose of collecting and satisfying out of such rents and
10 income the delinquent taxes against such real property, together with the
11 penalties, interest and costs, and such costs and expenses of the receivership
12 as may be adjudged by the court. Such receiver shall not be required to give
13 bond other than his official bond, and shall be appointed only for the purpose
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